

populations do not appear to have been included in the proposal. This reviewer recommended that suitable areas in lowlands that still support semi-natural plant communities and that have the potential to be restored should be considered.

Our Response: This rule designates four critical habitat units for *Nerodia ovata* for a total of six populations. In addition, four populations of *N. ovata* occur on the excluded lands at PTA. Three critical habitat units for *Nothocestrum breviflorum* are designated in this rule for a total of nine populations. Four critical habitat units for *Pleomele hawaiiensis* are designated in this rule for a total of nine populations. In addition, excluded Kamehameha Schools land provides habitat for one population of *Pleomele hawaiiensis*. Thus, we have designated habitat for 8 to 10 populations for each of these species as outlined in our recovery plans. We evaluated all suitable habitat identified for each species under consideration in this rule, but are designating only those areas deemed essential for the conservation of these species. Nevertheless, the habitat outside of these areas may contribute to the conservation of these species and are subject to other provisions of the Act.

(11) **Comment:** One peer reviewer did not agree that critical habitat should not be proposed for the seven plant species believed to be extirpated on the island of Hawaii, stating that even if they are believed extirpated, it is possible that some species may be found during future surveys. Even if this is not the case, future restoration efforts for these seven species may be more effective if currently unoccupied habitat on the island of Hawaii is included in designated critical habitat.

Our Response: Critical habitat is not designated for *Cenchrus agrimonoides*, *Ctenitis squamigera*, *Hedyotis cookiana*, *Mariscus pennatifolius*, *Phlegmariurus mannii*, *Phyllostegia parviflora*, and *Plantago princeps* on the island of Hawaii because these species no longer occur on this island, and we are unable to determine habitat essential to their conservation. There is an undocumented report of *Cenchrus agrimonoides* on the island of Hawaii made in 1800. *Ctenitis squamigera* was last collected on the island of Hawaii in 1909, at "Kalua," an indeterminate place name. *Hedyotis cookiana* was last collected on the island of Hawaii in 1816. *Mariscus pennatifolius* has not been seen on the island of Hawaii since the middle of the 1800s. *Phlegmariurus mannii* was last collected on the island of Hawaii in 1949. *Phyllostegia*

parviflora has not been observed on the island of Hawaii since the 1800s. *Plantago princeps* has not been seen on the island of Hawaii since the 1860s. Until these species are rediscovered, we are unable to identify habitat essential to their conservation due to lack of information in the historical record. We chose not to speculate on the needs of these species on the island of Hawaii. Therefore, no change is made to our not prudent determinations here. If these species are rediscovered on the island of Hawaii, we may propose critical habitat for these species at that time.

(12) **Comment:** Several commenters expressed concern over the Service's failure to propose critical habitat for *Cyanea copelandii* ssp. *copelandii* and *Ochrosia kilaeaeensis* "because they have not been seen recently in the wild and no viable genetic material is known to exist." One commenter considered this finding to be the first step in delisting the species.

Our Response: Historically, *Cyanea copelandii* ssp. *copelandii* was found at two sites on the southeastern slope of Mauna Loa, near Glenwood. *Ochrosia kilaeaeensis* is known historically only from Puuwaawaa and at Kipuka Puuulu in Hawaii Volcanoes National Park. Neither of these species have been seen in the wild since 1957 and 1927, respectively. No viable genetic material is known to exist for either species, so there is no possibility of propagation materials for use in restoration efforts. For these reasons, critical habitat is not designated, as it would be of no benefit.

(13) **Comment:** One peer reviewer commented that in order to fully assess the validity of proposed critical habitat, an indication of the uncertainties in the data used in its identification should be included. This would include things such as whether expert opinion, data from surrogate species, or direct quantitative assessments were used and the relative reliability of those data sources. This type of information could then serve as a guide for further data collection and to highlight which critical habitat areas were likely to be modified once new data become available.

Our Response: All data and information on species' status received in preparation of this rule were equally weighted and considered to come from reliable sources. Where discrepancies existed between different data sources, the most current data were used. Changes in this final rule that decrease the boundaries of many units are based on additional information received during the public comment period and in meetings with additional species experts and land managers.

(14) **Comment:** Several commenters stated that they did not concur that the Service used the best available scientific information.

Our Response: In accordance with sections 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, we are required to base critical habitat determinations on the best scientific and commercial data available. The use of information gathered from reliable sources determined which lands were proposed as critical habitat. Based upon newly available information, coordination with landowners and stakeholders, and input received during the public comment period, we have made revisions to the areas designated as critical habitat, which are reflected in this final rule. We are not aware of any reliable information that is currently available to us that was not considered in this designation process.

(15) **Comment:** One commenter noted that there are several listed plants historically known from the Hawaiian Islands that are not included in the proposals; they suggested that the proposals for critical habitat should clearly state that only plants listed from 1990 to 1996 are included. Another commenter expressed concern over the Service's failure to propose critical habitat for *Cyrtandra crenata*. One peer reviewer commented that it was unclear why critical habitat was not proposed for designation on the island of Hawaii for *Caesalpinia kavaensis*, *Abutilon menziesii*, *Argyroxiphium sandwicense* ssp. *sandwicense*, *Lipochaeta venosa*, and *Gardenia brighamii*, especially when *A. sandwicense* ssp. *sandwicense* and *L. venosa* are only known from the island of Hawaii, and the recovery plan for *Gardenia brighamii* calls for the establishment and maintenance of three populations on this island. The same reviewer recommended that the Service discuss why the above species are not included in the action and provide notice of the subsequent action in which critical habitat for these species will be addressed. The reviewer also noted that a discussion of the relationship of other designated critical habitat (e.g., for *Kokia drynarioides*) to the critical habitat proposed in this rule should have been included.

Our Response: The species named by the commenters were not included in the court order in *Conservation Council for Hawaii v. Babbitt*, 2F. Supp. 2d 1280 (D. Haw. 1998) and subsequent stipulations, and therefore were not included in this rulemaking. We may consider critical habitat for these species in the future if warranted and if funding and resources are available.