

these increased risks. First, *Pritchardia affinis* and *Pritchardia schattaueri* do not occur on Federal lands. *Pritchardia schattaueri* is reported on privately owned land that is zoned for agriculture, and 10 of the approximately 12 individuals have been fenced (Mick Castillo, USFWS, pers. comm. 2003). In addition, the privately owned land is currently farmed, with 10 of the plants located in pasture and 2 located in macadamia nut orchards, and this land is unlikely to be developed. *Pritchardia affinis* occurs on State and privately owned lands that are zoned for conservation and agriculture. Since there do not appear to be any actions in the future that would likely involve a Federal agency, designation of critical habitat would not provide any protection to these species that they do not already have through listing alone. If, however, in the future, any Federal involvement did occur, such as through the permitting process or funding by the U.S. Department of Agriculture, the U.S. Department of the Interior, the Corps through section 404 of the Clean Water Act, the U.S. Federal Department of Housing and Urban Development, or the Federal Highway Administration, the actions would be subject to consultation under section 7 of the Act. We acknowledge that critical habitat designation, in some situations, may provide some value to the species, for example, by identifying areas important for conservation and calling attention to those areas in need of special protection. However, for these two species, we believe that the benefits of designating critical habitat do not outweigh the potential increased threats from vandalism or collection. Given all of the above considerations, we determine that designation of critical habitat for *Pritchardia affinis* and *P. schattaueri* is not prudent.

In the final rule for Lanai plants (68 FR 1220, January 9, 2003), we found that critical habitat was prudent for the following 16 multi-island species that also occur on the island of Hawaii: *Adenophorus periens*, *Bonamia menziesii*, *Cenchrus agrimonoides*, *Ctenitis squamigera*, *Diellia erecta*, *Hedyotis cookiana*, *Hibiscus brackenridgei*, *Isodendron pyrifolium*, *Mariscus fauriei*, *Portulaca sclerocarpa*, *Sesbania tomentosa*, *Silene lanceolata*, *Solanum incompletum*, *Spermolepis hawaiiensis*, *Vigna o-wahuensis*, and *Zanthoxylum hawaiiense*. In the final rule for Kauai and Niihau plants (68 FR 9116, February 27, 2003), we found that critical habitat was prudent for the following seven multi-island species that are also found on the island of

Hawaii: *Achyranthes mutica*, *Delissea undulata*, *Flueggea neowawraea*, *Ischaemum byrone*, *Mariscus pennatifolius*, *Phlegmariurus mannii*, and *Plantago princeps*. In the final rule for Maui and Kahoolawe plants (68 FR 25934, May 14, 2003), we found that critical habitat was prudent for the following eight multi-island species that also occur on the island of Hawaii: *Asplenium fragile* var. *insulare*, *Clermontia lindseyana*, *Clermontia peleana*, *Colubrina oppositifolia*, *Gouania vitifolia*, *Hedyotis coriacea*, *Phyllostegia parviflora*, and *Tetramolopium arenarium*.

We examined the evidence available for the other 23 species and have not, at this time, found specific evidence of taking, vandalism, collection, or trade of these species or of similar species. Consequently, while we remain concerned that these activities could potentially threaten these 23 plant species in the future, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and the court's discussion of these regulations, we do not find that any of these species are currently threatened by taking or other human activity, which would be exacerbated by the designation of critical habitat.

In the absence of finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. The potential benefits include: (1) Triggering section 7 consultation in new areas where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the species.

In the case of these 23 species, there would be some benefits to critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely affects critical habitat. Thirteen of these species are reported on or near Federal lands (see Table 1 above), where actions are subject to section 7 consultation. Although many of the species considered in this rule are located exclusively on non-Federal lands with limited Federal activities, there could be Federal actions affecting these lands in the future. While a critical habitat designation for habitat currently occupied by these species would not likely change the section 7 consultation

outcome, since an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat were designated. There may also be some educational or informational benefits to the designation of critical habitat. Educational benefits include the notification of landowner(s), land managers, and the general public of the importance of protecting the habitat of these species and dissemination of information regarding their essential habitat requirements. Therefore, we find that critical habitat is prudent for these 23 plant species: *Argyroxiphium kauense*, *Clermontia drepanomorpha*, *Clermontia pyralaria*, *Cyanea hamatiflora* ssp. *carlsonii*, *Cyanea platyphylla*, *Cyanea shipmanii*, *Cyanea stictophylla*, *Cyrtandra giffardii*, *Cyrtandra tintinnabula*, *Hibiscadelphus giffardianus*, *Hibiscadelphus hualalaiensis*, *Isodendron hosakae*, *Melicope zahlbruckneri*, *Neraudia ovata*, *Nothocestrum breviflorum*, *Phyllostegia racemosa*, *Phyllostegia velutina*, *Phyllostegia warschaueri*, *Plantago hawaiiensis*, *Pleomele hawaiiensis*, *Sicyos alba*, *Silene hawaiiensis*, and *Zanthoxylum dipetalum* var. *tomentosum*.

Methods

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the conservation of *Achyranthes mutica*, *Adenophorus periens*, *Argyroxiphium kauense*, *Asplenium fragile* var. *insulare*, *Bonamia menziesii*, *Cenchrus agrimonoides*, *Clermontia drepanomorpha*, *Clermontia lindseyana*, *Clermontia peleana*, *Clermontia pyralaria*, *Colubrina oppositifolia*, *Ctenitis squamigera*, *Cyanea hamatiflora* ssp. *carlsonii*, *Cyanea platyphylla*, *Cyanea shipmanii*, *Cyanea stictophylla*, *Cyrtandra giffardii*, *Cyrtandra tintinnabula*, *Delissea undulata*, *Diellia erecta*, *Flueggea neowawraea*, *Gouania vitifolia*, *Hedyotis cookiana*, *Hedyotis coriacea*, *Hibiscadelphus giffardianus*, *Hibiscadelphus hualalaiensis*, *Hibiscus brackenridgei*, *Ischaemum byrone*, *Isodendron hosakae*, *Isodendron pyrifolium*, *Mariscus fauriei*, *Mariscus pennatifolius*, *Melicope zahlbruckneri*, *Neraudia ovata*, *Nothocestrum breviflorum*, *Phlegmariurus mannii*, *Phyllostegia parviflora*, *Phyllostegia racemosa*, *Phyllostegia velutina*, *Phyllostegia warschaueri*, *Plantago*