

Hawaii 10—*Solanum incompletum*—a and Hawaii 11—*Solanum incompletum*—b

We are designating two critical habitat units for *Solanum incompletum*, a short-lived perennial. Both units currently are unoccupied by this species. Each unit is essential to the conservation of the species because it supports habitat that is necessary for the establishment of additional populations in order to reach recovery goals. These units contain habitat features that are essential for this species including, but not limited to, dry to mesic forest, diverse mesic forest, and subalpine forest. Each unit is geographically separated from other critical habitat for this multi-island species within its historical range in order to reduce the likelihood of all recovery populations being destroyed by one naturally occurring catastrophic event. The two units we are designating for *S. incompletum* in this rule provide habitat for a total of four populations, each with 300 mature, reproducing individuals. Lands at the PTA that we are excluding from designation in this rule provide habitat for five additional populations (see “*Analysis of Impacts Under 4(b)(2)*”). In addition, habitat for one population of *S. incompletum* is in the area we excluded from critical habitat designations on Lanai (68 FR 1220, January 9, 2003).

Hawaii 10—*Solanum incompletum*—a: This unit contains no named natural features, it is entirely in the Kiholo watershed, and is completely within the Puuwaawaa Wildlife Sanctuary; provides habitat for 3 populations of 300 individuals of *S. incompletum*; and is currently unoccupied.

Hawaii 11—*Solanum incompletum*—b: This unit contains no named natural features, it is entirely in the Waiaha watershed, and is completely within the Honuaulu Forest Reserve; provides habitat for 1 population of 300 individuals of *S. incompletum*; and is currently unoccupied. This unit provides the southernmost critical habitat within the species’ historical range.

Hawaii 4—*Vigna o-wahuensis*—a through Hawaii 4—*Vigna o-wahuensis*—c

We are designating three critical habitat units for *Vigna o-wahuensis*, a short-lived perennial. None of the units is currently occupied. Each unit provides habitat for 1 population of 300 mature, reproducing individuals of *V. o-wahuensis*. Each unit is essential to the conservation of the species because it supports habitat that is necessary for the

establishment of additional populations in order to reach recovery goals. These units contain habitat features that are essential for this species including, but not limited to, *Dodonaea viscosa* lowland dry shrubland. Each unit is geographically separated from other critical habitat for this multi-island species in order to reduce the likelihood of all recovery populations being destroyed by one naturally occurring catastrophic event. We previously designated critical habitat for three populations of *V. o-wahuensis* on Oahu (68 FR 35949, June 17, 2003), and for one population on Maui (68 FR 25934, May 14, 2003). The four units for *V. o-wahuensis* that we are designating in this rule provide habitat for a total of four populations.

Hawaii 4—*Vigna o-wahuensis*—a: This unit contains most of Puu Pa cinder cone and lies in the Pohakuloa watershed in the southwest and in the Waikoloa/Waiulaula watershed in the northeast.

Hawaii 4—*Vigna o-wahuensis*—b: This unit contains most of the Holoholoku cinder cone and lies completely within the Pohakuloa watershed. This unit provides the easternmost critical habitat within the species’ historical range.

Hawaii 4—*Vigna o-wahuensis*—c: This unit contains the upper portions of an unnamed cinder cone in the Pohakuloa watershed. This unit provides the southernmost critical habitat within the species’ historical range.

Hawaii 10—*Zanthoxylum dipetalum* ssp. *tomentosum*—a

We are designating one critical habitat unit for *Zanthoxylum dipetalum* ssp. *tomentosum*, a long-lived perennial. The unit contains Puu Ike, Puu Paha, and Puuwaawaa and is in the Kiholo watershed. This unit provides habitat for 7 populations of 100 mature, reproducing individuals of the *Z. dipetalum* ssp. *tomentosum* and is currently occupied by 8 to 10 individuals. It contains habitat features that are essential for this species including, but not limited to, *Metrosideros polymorpha* dominated montane mesic forest, often on aa lava. This unit is essential to the conservation of *Z. dipetalum* ssp. *tomentosum* because it supports an extant colony of this island-endemic species and includes habitat that is important for the expansion of the present population, which is currently considered nonviable. Although we do not believe enough habitat currently exists to reach the recovery goal of 8 to 10 populations for this island-endemic species, this

unit is of an appropriate size so that each of the seven potential recovery populations within the unit is geographically separated enough to avoid their destruction by one naturally occurring catastrophic event. No other critical habitat for this species is designated on the island of Hawaii.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal action agency must enter into consultation with us. Section 7(a)(4) of the Act requires Federal agencies (action agency) to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in the destruction or adverse modification of proposed critical habitat. Destruction or adverse modification of critical habitat occurs when a Federal action directly or indirectly alters critical habitat to the extent that it appreciably diminishes the value of critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are directly affected by the designation of critical habitat only if their actions occur on Federal lands; require a Federal permit, license, or other authorization; or involve Federal funding.

Regulations at 50 CFR 402.16 require Federal agencies to reinstate consultation on previously reviewed actions under certain circumstances, including instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement, or control has been retained or is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide “reasonable and prudent alternatives” to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be