

hawaiiense within the historical range for these multi-island species.

These modifications resulted in the reduction from 9,462 ha (23,382 ac) to 5,933 ha (14,661 ac). This unit was renamed Kauai 11—*Alectryon macroccus*—a, Kauai 11—*Alsinidendron lychnoides*—a, Kauai 11—*Alsinidendron lychnoides*—b, Kauai 11—*Alsinidendron viscosum*—c, Kauai 11—*Alsinidendron viscosum*—a, Kauai 11—*Alsinidendron viscosum*—b, Kauai 11—*Alsinidendron viscosum*—c, Kauai 11—*Alsinidendron viscosum*—d, Kauai 11—*Bonamia menziesii*—b, Kauai 11—*Chamaesyce halemanui*—a, Kauai 11—*Chamaesyce halemanui*—b, Kauai 11—*Delissea rivularis*—a, Kauai 11—*Diellia erecta*—a, Kauai 11—*Diellia pallida*—b, Kauai 11—*Dubautia latifolia*—a, Kauai 11—*Dubautia latifolia*—b, Kauai 11—*Dubautia latifolia*—c, Kauai 11—*Euphorbia haeleeleana*—c, Kauai 11—*Exocarpos luteolus*—b, Kauai 11—*Exocarpos luteolus*—d, Kauai 11—*Exocarpos luteolus*—e, Kauai 11—*Flueggea neowawraea*—c, Kauai 11—*Gouania meyenii*—c, Kauai 11—*Isodendron laurifolium*—b, Kauai 11—*Kokia kauaiensis*—a, Kauai 11—*Lipochaeta fauriei*—a, Kauai 11—*Lipochaeta micrantha*—b, Kauai 11—*Lobelia niihauensis*—a, Kauai 11—*Melicope haupuensis*—c, Kauai 11—*Melicope knudsenii*—b, Kauai 11—*Melicope pallida*—a, Kauai 11—*Munroidendron racemosum*—d, Kauai 11—*Myrsine linearifolia*—c, Kauai 11—*Myrsine linearifolia*—e, Kauai 11—*Nothocestrum peltatum*—a, Kauai 11—*Nothocestrum peltatum*—b, Kauai 11—*Nothocestrum peltatum*—c, Kauai 12—*Nothocestrum peltatum*—d, Kauai 11—*Phyllostegia knudsenii*—a, Kauai 11—*Phyllostegia waimeae*—a, Kauai 11—*Phyllostegia waimeae*—b, Kauai 11—*Phyllostegia wawrana*—c, Kauai 11—*Platanthera holochila*—a, Kauai 11—*Poa mannii*—b, Kauai 11—*Poa sandwicensis*—a, Kauai 11—*Poa siphonoglossa*—a, Kauai 11—*Poa siphonoglossa*—b, Kauai 11—*Pteralyxia kauaiensis*—f, Kauai 11—*Remya kauaiensis*—a, Kauai 11—*Remya kauaiensis*—d, Kauai 11—*Remya kauaiensis*—e, Kauai 12—*Remya kauaiensis*—f, Kauai 11—*Remya montgomeryi*—b, Kauai 11—*Remya montgomeryi*—c, Kauai 11—*Schiedea helleri*—a, Kauai 11—*Schiedea helleri*—b, Kauai 11—*Schiedea helleri*—c, Kauai 11—*Schiedea kauaiensis*—b, Kauai 11—*Schiedea membranacea*—a, Kauai 11—*Schiedea spergulina* var. *spergulina*—b, Kauai 11—*Schiedea stellarioides*—a, Kauai 11—*Schiedea stellarioides*—b, Kauai 11—*Solanum sandwicense*—a,

Kauai 11—*Solanum sandwicense*—b, Kauai 11—*Spermolepis hawaiiensis*—a, Kauai 11—*Stenogyne campanulata*—a, Kauai 11—*Xylosma crenatum*—a, Kauai 12—*Xylosma crenatum*—b, and Kauai 11—*Zanthoxylum hawaiiense*—a.

Niihau A

This unit was proposed as critical habitat for two species, *Brighamia insignis* and *Cyperus trachysanthos*. We excluded the proposed critical habitat for the multi-island species *Cyperus trachysanthos*. This area is not essential for the conservation of *Cyperus trachysanthos* because it is more degraded than other areas and is not managed for the conservation of this species, and there are at least 10 other locations that have been designated to meet the recovery goal of 8 to 10 populations throughout its historical range on Kauai and proposed on other islands.

The area designated as critical habitat for the Kauai and Niihau endemic species *Brighamia insignis* provides habitat within its historical range for one population.

This modification resulted in the reduction from 282 ha (697 ac) to 144 ha (357 ac). This unit was renamed Niihau 1—*Brighamia insignis*—a.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) The specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and, (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. “Conservation,” as defined by the Act, means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as “* * * the direct or indirect alteration that

appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.” The relationship between a species survival and its recovery has been a source of confusion to some in the past. We believe that a species’ ability to recover depends on its ability to survive into the future when its recovery can be achieved; thus, the concepts of long-term survival and recovery are intricately linked. However, in the March 15, 2001, decision of the United States Court of Appeals for the Fifth Circuit (*Sierra Club v. U.S. Fish and Wildlife Service et al.*, 245 F.3d 434) regarding a not prudent finding the Court found our definition of destruction or adverse modification as currently contained in 50 CFR 402.02 to be invalid. In response to this decision, we are reviewing the regulatory definition of adverse modification in relation to the conservation of the species.

In order to be included in a critical habitat designation, the habitat must first be “essential to the conservation of the species.” Critical habitat designations identify, to the extent known, using the best scientific and commercial data available, habitat areas that provide essential life-cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Section 4 requires that we designate critical habitat for a species, to the extent such habitat is determinable, at the time of listing. When we designate critical habitat at the time of listing or under short court-ordered deadlines, we may not have sufficient information to identify all the areas essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Within the geographic areas occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have some of the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be