

C. *Mail*: EPA-R03-OAR-2009-0547, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2009-0547. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air

Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814-2308, or by e-mail at powers.marilyn@epa.gov.

Dated: September 18, 2009.

William C. Early,
Acting Regional Administrator, Region III.
[FR Doc. E9-23500 Filed 9-28-09; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2009-0199; FRL-8963-7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Determination of Clean Data for the 1997 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: EPA is reopening the comment period for a notice of proposed rulemaking (NPR) published on July 31, 2009 (74 FR 38161). In the NPR, EPA proposed to determine that the Baltimore, Maryland portion of the Hagerstown-Martinsburg nonattainment areas for the 1997 National Ambient Air Quality Standard (NAAQS) fine particulate (PM_{2.5}) have clean data for the 1997 PM_{2.5} NAAQS. EPA received comments from EarthJustice requesting that the 2009 monitored data referred to in the proposed rule be made available as part of the record and that the proposed rule either be revised or the comment period reopened to allow the public to consider the data. EPA is, therefore, reopening the comment period and including the data that was relied upon for the proposed clean data determination as well as the 2009 monitored data. The data relied upon by EPA is now provided in a Technical Support Document which is included in the record for this rulemaking. EPA is reopening the comment period through October 29, 2009. All comments received on or before October 29, 2009 will be entered into the public record and considered by EPA before taking final action on the proposed rule.

DATES: Written comments must be received on or before October 29, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-

R03-OAR-2009-0199 by one of the following methods:

A. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail*: fernandez.cristina@epa.gov.

C. *Mail*: EPA-R03-OAR-2009-0199, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2009-0199. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Jacqueline Lewis, (215) 814-2037, or by e-mail at lewis.jacqueline@epa.gov.

Dated: September 18, 2009.

William C. Early,

Acting Regional Administrator, Region III.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R6-ES-2009-0037]
[92210-1117-0000-B4]

Endangered and Threatened Wildlife and Plants; 12-month Finding on a Petition To Revise Critical Habitat for *Eriogonum pelinophilum* (Clay-Loving Wild Buckwheat)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our 12-month finding on a petition to revise critical habitat for *Eriogonum pelinophilum* (clay-loving wild buckwheat) under the Endangered Species Act of 1973, as amended (Act). After a thorough review of all available scientific and commercial information, we find that revisions to critical habitat for *E. pelinophilum* are warranted but precluded by other priorities. Given this finding, we intend to initiate rulemaking when we complete the higher priorities and we have the necessary resources to do so.

DATES: The finding announced in this document was made on September 29, 2009.

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov>. Supporting documentation we used to prepare this finding is available for public inspection, by appointment during normal business hours at the U.S. Fish and Wildlife Service, Western Colorado Ecological Services Office, 764 Horizon

Drive, Building B, Grand Junction, CO 81506-3946, by telephone at 970-243-2778; or by facsimile at 970-245-6933.

FOR FURTHER INFORMATION CONTACT: Patty Gelatt, Acting Western Colorado Supervisor, Fish and Wildlife Service, Western Colorado Ecological Services Office, 764 Horizon Drive, Building B, Grand Junction, CO 81506-3946, by telephone at 970-243-2778; or by facsimile at 970-245-6933. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339. Please include "Eriogonum pelinophilum scientific information" in the subject line for faxes and emails.

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(D)(ii) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition containing substantial scientific and commercial information that indicates revisions to critical habitat may be warranted, we make a finding within 12 months of the date of receipt of the petition and publish a notice in the **Federal Register** indicating how we intend to proceed with the requested revision.

Background

Previous Federal Actions

We proposed to list *Eriogonum pelinophilum* as an endangered species in 1983, and we proposed critical habitat at the same time (48 FR 28504; June 22, 1983). We published the final rule designating the species as endangered in 1984, along with a final critical habitat designation (49 FR 28562; July 13, 1984). Critical habitat, as designated in 1984, encompassed 119.8 acres (ac) (48.5 hectares (ha)), which was then the entire known range of the species (49 FR 28562; July 13, 1984).

On July 24, 2006, we received a petition dated July 17, 2006, from the Center for Native Ecosystems, the Colorado Native Plant Society, and the Uncompahgre Valley Association (collectively referred to here as the petitioners) requesting that we amend the critical habitat designation for *Eriogonum pelinophilum* (Center for Native Ecosystems *et al.* 2006, p. 1). The petition clearly identified itself as a petition and included the requisite identification information that 50 CFR 424.14(a) requires. The petition contained a species and habitat description for *E. pelinophilum*, a description of previous Federal actions, a section addressing statutory requirements for *E. pelinophilum*, a description of the various populations and their status, a section addressing threats to *E. pelinophilum*, and recommendations regarding critical

habitat for the species. Potential threats discussed in the petition include destruction and modification of habitat, herbivory, and inadequate regulatory mechanisms.

On September 29, 2006, we acknowledged the receipt of the petition but stated that given staff and budget limitations we could not work on the administrative finding at that time (Service 2006, *in litt.*). On November 13, 2006, we received a letter dated November 9, 2006, from the petitioners notifying us of their 60-day intent to sue for our failure to make a 90-day finding for *Eriogonum pelinophilum* (Center for Native Ecosystems 2006, *in litt.*). On March 3, 2008, the petitioners filed suit with the United States District Court for the District of Colorado for our failure to make a 90-day finding for the species (Center for Native Ecosystems 2008). On September 25, 2008, a settlement agreement was reached whereby the Service agreed to submit a 90-day finding to the **Federal Register** by June 15, 2009, and, if the petition was considered substantial, submit a 12-month finding to the **Federal Register** by September 21, 2009 (U.S. Department of Justice 2008). This 12-month finding evaluates the status of existing critical habitat as stipulated in the settlement.

We published our 90-day finding regarding the petition to revise critical habitat for *Eriogonum pelinophilum* on June 22, 2009 (74 FR 29456). We determined the petition presented substantial information indicating that revising critical habitat for *E. pelinophilum* under the Act may be warranted, thus initiating this 12-month finding (74 FR 29456; June 22, 2009). We have fully considered all information received in response to information requested in our 90-day finding.

This 12-month finding discusses only those topics directly relevant to the revisions of existing critical habitat for *Eriogonum pelinophilum*. We also are in the process of preparing a 5-year review for *E. pelinophilum* where we are conducting a more thorough review of the species' status (73 FR 58261; October 6, 2008).

Species Information

Eriogonum pelinophilum was first collected near Hotchkiss, Colorado, in Delta County in 1958 (Reveal 2006, p. 1). The species was first recognized as its own taxon in 1969, and officially described in 1973 (Reveal 1969, pp. 75-76; 1973, pp. 120-122). No other locations were identified until 1984 (Colorado Natural Areas Program (CNAP) 1986, p. 1).