

## 50 CFR Part 17

**Endangered and Threatened Wildlife and Plants; Endangered Status for *Clematis socialis***

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines a plant, *Clematis socialis* (Alabama leather flower), to be an endangered species under the authority contained in the Endangered Species Act of 1973, as amended (Act). *Clematis socialis* is only known from two sites in St. Clair and Cherokee Counties, Alabama. Threats to this species include herbicide application and mechanical disturbances associated with clearing and maintaining highway rights-of-way, and potential land use changes. This determination of *Clematis socialis* to be an endangered species implements the protection provided by the Act.

**EFFECTIVE DATE:** October 27, 1986.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dennis B. Jordan (See ADDRESSES section) at 601/965-4900 or FTS 490-4900.

**SUPPLEMENTARY INFORMATION:****Background**

*Clematis socialis*, a member of the family Ranunculaceae, was first collected in 1980 in St. Clair County, Alabama and was described in 1982 by Dr. Robert Kral. The most distinctive features are its rhizomatous habit and formation of dense clones with erect stems reaching 0.2-0.3 meters (7-12 inches) in height. Leaves are variable from the base to the apex of the stem. The lowermost leaves are scalelike,

median leaves are simple, and upper leaves are 3- to 5-foliolate. The flowers, which bloom from April to May, are solitary, urn to bell-shaped, and blue-violet in color. The fruits are aggregates of achenes. *Clematis socialis* superficially resembles the more widespread *Clematis crispa*, but can be distinguished by its erect stems, rhizomatous nature, solitary flowers, and lack of tendrils (Kral 1982, 1983).

*Clematis socialis* is only known from two sites in northeast Alabama in St. Clair and Cherokee Counties. Attempts to locate additional populations have been unsuccessful. At both sites the plants are rooted in sticky, silty clay amid grass-sedge vegetation along highway rights-of-way. In St. Clair County the plants also occur in contiguous pine-hardwood bottoms. The St. Clair County site has been repeatedly disturbed, and many of the plants have been destroyed through heavy vehicular traffic associated with timbering on the private land and clearing of the right-of-way. The continued existence of this species is also threatened by encroaching residential development and herbicide application.

On September 27, 1985 (50 FR 39525), the Service published a new plant notice of review, which included *Clematis socialis* as a category-1 species. Category-1 species are those for which data in the Service's possession indicate listing is warranted. The Service published a proposed rule to list *Clematis socialis* as an endangered species on December 6, 1985 (50 FR 49970).

**Summary of Comments and Recommendations**

In the December 6, 1985, proposed rule (50 FR 49970) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Gadsden Times* on December 27, 1985. Four comments were received and no public hearing was requested or held. The Alabama

Forestry Commission had no specific comments on the proposal but offered to assist the Service in the recovery effort if *Clematis socialis* was listed. Two conservation organizations and one other interested party provided comments in support of the proposal.

**Summary of Factors Affecting the Species**

After a thorough review and consideration of all information available, the Service has determined that *Clematis socialis* should be classified as an endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Clematis socialis* (Alabama leather flower) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species occurs on a roadside right-of-way and in the adjacent woodland in St. Clair County, Alabama; there are less than 50 clones and these are all restricted to 0.4 hectare (1 acre). Recently, diseased pines were removed from the site and, even though the opening of the canopy may have been beneficial, it is not known how many plants were lost by mechanical disturbances when the timber was removed. The second population consists of only a few clones on a highway right-of-way in Cherokee County, Alabama. Due to its proximity to highways, *Clematis socialis* has suffered repeated disturbances in association with right-of-way maintenance, including herbicide application, mowing, and scraping. The viability of this species has been additionally affected by erosion from adjacent roadside banks in St. Clair County. This erosion has caused many of the plants in the right-of-way to be covered by a thick layer of silt, in addition to changing the texture and drainage properties of the soil.

*Clematis socialis* is imminently threatened by encroaching residential development in St. Clair County. The

private property on which this species occurs has been divided into individual lots and contiguous areas are rapidly being developed. Other land uses that are evident in the surrounding area are forest management and pasturing for cattle. Proper protection and management plans are needed for this species.

**B. Overutilization for commercial, recreational, scientific, or educational purposes.** Due to the limited distribution and small population size of *Clematis socialis*, indiscriminate collecting of any nature could seriously affect this species and perhaps result in its extinction. Kral (1982, 1983) indicates that this species has excellent horticultural potential. Publicity regarding its rarity could generate such a demand.

**C. Disease or predation.** This species is not known to be threatened by disease or predation.

**D. The inadequacy of existing regulatory mechanisms.** There are no State or Federal laws protecting *Clematis socialis* or its habitat. The Endangered Species Act would provide protection for this species through Section 9 and the recovery process.

**E. Other natural or manmade factors affecting its continued existence.** *Clematis socialis* is extremely vulnerable because of its restricted range and low numbers. Any natural or human-induced disturbance could seriously affect its viability and even cause extinction. Furthermore, due to the limited number of individuals, there is a small pool of genetic variability, which reduces the ability of this species to adapt to stress.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Clematis socialis* as endangered. Endangered status is appropriate due to the species' restricted range and the multiplicity of threats facing it and its habitat. Critical habitat is not being determined for reasons discussed in the following section.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Clematis socialis* at this time. Publishing a detailed description and map of this species' habitat might stimulate public interest and make this

species more vulnerable to taking by collectors (See factor "B" in the "Summary of Factors Affecting the Species"). Also, collecting of listed plants is not prohibited by the Endangered Species Act, except from land under Federal jurisdiction. No benefit would be derived from designating critical habitat, since the landowners are aware of the locations and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not be prudent or beneficial to determine critical habitat for *Clematis socialis* at this time.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act have been revised and published at 51 FR 19926; June 3, 1986. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. The only possible Federal involvement with *Clematis socialis* at this time would be possible Federal funds or other Federal involvement with the highway rights-of-way maintenance. Highway maintenance crews are working cooperatively with the Service at both sites to find rights-of-way maintenance techniques that are compatible with protecting the *Clematis*.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62 and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permits Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### References Cited

- Kral, R. 1982. A new *Clematis* from northeastern Alabama. *Rhodora* 84:285-291.
- Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the South. USDA, Forest Service, Technical Publication R8-TP2, pp 409-412.

#### Author

The primary author of this final rule is Ms. Cary Norquist (see **ADDRESSES** section) at 601/965-4900 or FTS 490-4900.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

**Regulation Promulgation**

**PART 17—[AMENDED]**

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. Amend § 17.12(h) by adding the following, in alphabetical order under

Ranunculaceae, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

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(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Ranunculaceae—Buttercup Family:						
<i>Clematis socialis</i> .....	Alabama leather flower .....	U.S.A. (AL).....	E	245	NA	NA

Dated: September 12, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

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