

(k) The Department of Justice may dismiss or stay proceeding on an agency protest if a protest on the same or similar basis is filed with a protest forum outside the Department of Justice.

(End of Clause)

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 232

[FRA Docket No. PB-9, Notice No. 9]

[RIN 2130-AB22]

Two-Way End-of-Train Telemetry Devices and Certain Passenger Train Operations

AGENCY: Federal Railroad Administration (FRA).

ACTION: Notice of withdrawal of previously issued and published notice of proposed rulemaking.

SUMMARY: FRA is withdrawing the notice of proposed rulemaking (NPRM) regarding two-way end-of-train telemetry devices and certain passenger train operations issued on December 29, 1997 and published in the **Federal Register** on January 5, 1998. See 63 FR 195. FRA inadvertently issued and published the NPRM prior to the completion of executive branch review of the document and is consequently withdrawing the proposal at this time. FRA intends to reissue an NPRM on two-way end-of-train telemetry devices and certain passenger train operations upon the completion of the review process.

FOR FURTHER INFORMATION CONTACT: James Wilson, Motive Power and Equipment Division, Office of Safety, RRS-14, FRA, 400 Seventh Street, S.W., Stop 25, Washington, D.C. 20590 (telephone 202-632-3367), or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, RCC-12, FRA, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20590 (telephone 202-632-3178).

Issued in Washington, DC, on January 6, 1998.

Jolene M. Molitoris,
Administrator.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Reclassification of a Candidate Taxon: *Clematis hirsutissima* var. *arizonica* (Arizona Leatherflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of candidate taxon reclassification.

SUMMARY: In this document, the U.S. Fish and Wildlife Service (Service) provides the explanation for a change in the status of *Clematis hirsutissima* var. *arizonica* (Arizona leatherflower), a plant taxon that is under review for possible addition to the Lists of Endangered and Threatened Wildlife and Plants under the Endangered Species Act of 1973, as amended (Act). Because it no longer meets the Act's definition of "species," this taxon is being removed from candidate status at this time.

ADDRESSES: Questions concerning this notice should be submitted to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mail Stop 452 ARLSQ, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species (see **ADDRESSES** section) (telephone: 703/358-2171).

SUPPLEMENTARY INFORMATION:

Background

Candidate taxa are those taxa for which the Service has on file sufficient information to support issuance of a proposed rule to list under the Act. In addition to its annual review of all candidate taxa, the Service has an ongoing review process, particularly to update taxa whose status may have changed markedly. The results of this review indicate that the plant taxon *Clematis hirsutissima* var. *arizonica* (A. Heller) R.O. Erickson (Arizona leatherflower) should be removed from candidate status. This notice provides the specific explanation for the reclassification of this taxon.

It is important to note that candidate assessment is an ongoing function and changes in status should be expected. Taxa that are removed from the candidate list may be restored to candidate status if additional information supporting such a change becomes available to the Service. Requests for such information were

issued by the Service most recently in the plant and animal candidate notice of review published in the **Federal Register** on September 19, 1997 (62 FR 49398).

The Service has included *Clematis hirsutissima* var. *arizonica* in the last five candidate notices of review for plants published in the **Federal Register**. The taxon was included as a category 2 candidate in the September 27, 1985 (50 FR 39526), notice of review. Prior to 1996, category 2 taxa were defined as under consideration for possible addition to the Federal Lists of Endangered and Threatened Wildlife and Plants, but for which conclusive data on biological vulnerability and threats were not currently available to support a proposed rule. *Clematis hirsutissima* var. *arizonica* was included as a category 1 candidate in the February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144), notices of review. Category 1 candidates were defined as those taxa for which the Service had on file sufficient information on biological vulnerability and threats to support the preparation of listing proposals, but issuance of the proposed rule was precluded by other pending listing proposals of higher priority. On February 28, 1996, the Service published a notice of review (61 FR 7596) that discontinued the designation of category 2 candidates. *Clematis hirsutissima* var. *arizonica* was listed as a candidate in that notice of review, as well as in the September 19, 1997 (62 FR 49398), notice of review.

Finding

Clematis hirsutissima var. *arizonica* (Arizona leatherflower) was considered to be restricted to certain limestone soils in northern Arizona and possibly New Mexico. However, the results of a recently completed floristic review of the genus *Clematis* in North America (Pringle 1997) show no clear differences between *C. hirsutissima* var. *arizonica* and *C.h.* var. *hirsutissima* with respect to such features as the width of the leaflet lobes and the degree of spreading of the leaves, both of which had been considered distinguishing characteristics of *C.h.* var. *arizonica*. Pringle's review indicates that *C.h.* var. *arizonica* should be placed in synonymy under *C.h.* var. *hirsutissima*. The Service is now removing *Clematis hirsutissima* var. *arizonica* from candidate status, because it no longer meets the Act's definition of "species."

Clematis hirsutissima var. *hirsutissima* is a widespread taxon, known from nine western states (Pringle 1997), and is not in danger of extinction within the foreseeable future. The taxon