

compliance costs incurred by those governments. If EPA complies with consulting, E. O. 12875 requires EPA to provide to the OMB description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communication from the governments and a statement supporting the need to issue the regulations. In addition, E. O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from this action. Accordingly, the requirement of E. O. 12875 do not apply to this rule.

Executive Order 13084—Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance cost incurred by the tribal governments. If, EPA complies with consulting, E. O. 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian governments. The State of Louisiana is not authorized to implement the RCRA hazardous waste program in Indian country. This action

has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

Executive Order 13132—Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications". "Policies that have federalism implications" is defined in the E. O. to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of E.O. 13132, EPA may not issue a regulation that has federalism implications, that impose substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implication. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132, because it affects only one State. This action simply approves Louisiana's proposal to be authorized for updated requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, as result of this action, those newly authorized provisions of the State's program now apply in the State of Louisiana in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized State provisions, as opposed to being subject to both Federal and State regulatory requirements. Thus, the requirements of section 6 of the E.O. do not apply.

List of Subjects in 40 CFR Part 271

Environmental protection,
Administrative practice and procedure,

Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 9, 2000.

Jerry Clifford,

Acting, Regional Administrator, Region 6.

[FR Doc. 00-4648 Filed 2-25-00; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF00

Endangered and Threatened Wildlife and Plants; Delisting of the Dismal Swamp Southeastern Shrew (*Sorex longirostris fisheri*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, remove the Dismal Swamp southeastern shrew (*Sorex longirostris fisheri* Merriam) from the List of Endangered and Threatened Wildlife. The Dismal Swamp southeastern shrew was listed as a threatened species in 1986 under the Endangered Species Act of 1973, as amended (Act). New data confirm that this species is more widely distributed than previously believed, is fairly abundant within its range, occurs in a wide variety of habitats, and is genetically secure. We conclude that the data supporting the original classification were incomplete and that the new data confirm that removing the Dismal Swamp southeastern shrew from the List of Endangered and Threatened Wildlife is warranted.

EFFECTIVE DATE: February 28, 2000.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Virginia Field Office, U.S. Fish and Wildlife Service, P.O. Box 99, 6669 Short Lane, Gloucester, VA 23061.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Schulz at the above address, telephone 804/693-6694, extension 127, or facsimile 804/693-9032.

SUPPLEMENTARY INFORMATION:

Background

The Dismal Swamp southeastern shrew is a small, long-tailed shrew with a brown back, slightly paler underparts, buffy feet, and a relatively short, broad nose (Handley 1979a). It weighs 3 to 5 grams and measures up to 10 centimeters in length. The species was first described as *Sorex fisheri* by C.H. Merriam (Merriam 1895). Merriam's description was based on four specimens trapped near Lake Drummond, Virginia, by A.K. Fisher of the U.S. Department of Agriculture's Bureau of Biological Surveys. Rhoads and Young (1897) captured a specimen in Chapanoke, Perquimans County, North Carolina, that seemed intermediate between *S. fisheri* and the southeastern shrew (*Sorex longirostris* Bachman) (Handley 1979b). Jackson (1928) subsequently reduced *S. fisheri* to a subspecies of *S. longirostris*. Three subspecies of southeastern shrew are now recognized—*Sorex longirostris eionis*, which occurs in the northern two-thirds of peninsular Florida (Jones *et al.* 1991); *S. l. fisheri*, which occurs in southeastern Virginia and eastern North Carolina; and *S. l. longirostris*, which occurs in the rest of the range that extends through eastern Louisiana, eastern Oklahoma, and Missouri, then eastward through central Illinois and Indiana, southern Ohio, and Maryland. Jones *et al.* (1991) examined the taxonomic status of these three subspecies and verified substantial size differences. Jones *et al.* (1991) found that *S. l. eionis* was significantly larger in four cranial measurements when compared with the other two subspecies; *S. l. fisheri* was significantly larger in one cranial and one external measurement; and *S. l. longirostris* had a relatively short palate and rostrum, narrow skull, and short foot and tail. This study confirmed the subspecific status of *S. l. fisheri*.

Apart from a litter of five young found in a nest in the Dismal Swamp in 1905, little is known about reproduction or other life history features of *Sorex longirostris fisheri* (Handley 1979b). However, more is known about the life history of other *Sorex* species, and this information may apply to *S. l. fisheri*. *Sorex longirostris* reproduces from March through October, and two litters are likely born each year, with one to six young produced per litter (Webster *et al.* 1985). Nests are shallow depressions lined with dried leaves and grasses and are usually associated with rotting logs (Webster *et al.* 1985). Young shrews grow rapidly and are almost adult size when they leave the nest (Jackson 1928). *Sorex longirostris* forage on spiders,

crickets, butterfly and moth larvae, slugs, snails, beetles, centipedes, and vegetation (Webster *et al.* 1985, Whitaker and Mumford 1972). Little information is available about the daily activity patterns of *S. longirostris*. They forage intermittently throughout the day and night in all seasons, seem to be most active after rains and during periods of high humidity, and do much of their foraging in the leaf litter or in tunnels in the upper layers of the soil (Jackson 1928).

The Dismal Swamp, the type locality for *Sorex longirostris fisheri*, is a forested wetland with a mosaic of habitat types located in southeastern Virginia and adjacent North Carolina. Within the Dismal Swamp, *S. l. fisheri* has been found in a variety of habitat types, including recent clearcuts, regenerating forests, young pine plantations, grassy and brushy roadsides, young forests with shrubs and saplings, and mature pine and deciduous forests (Padgett 1991, Rose 1983). *Sorex longirostris fisheri* has also been collected in utility line rights-of-way. The highest densities of *S. l. fisheri* occur in early successional stage habitats and the lowest densities in mature forests (Everton 1985), although mature forests are likely to be important to the survival of the shrew during periods of drought or fire. Densities of southeastern shrews in early successional stage habitats are 10 to 30 per hectare (Rose 1995).

Until recently, the distribution of *Sorex longirostris fisheri* was considered coincidental with the historical boundaries of the Dismal Swamp (Handley 1979a, Hall 1981, Rose 1983). After collection of the original type series, additional *S. l. fisheri* specimens were collected from similar habitats in the Dismal Swamp between 1895 and 1902. Prior to 1980, only 20 specimens of *S. l. fisheri* were known. In 1980, 15 *S. longirostris fisheri* were collected in pitfall traps in Suffolk, Virginia, from the northwest section of the Great Dismal Swamp National Wildlife Refuge (Refuge) located in North Carolina and Virginia (Rose 1981).

From December 1980 through July 1982, researchers established 37 pitfall grids in Currituck and Gates Counties, North Carolina and the Cities of Chesapeake, Suffolk, and Virginia Beach and Isle of Wight and Surry Counties, Virginia (Rose 1983). This trapping produced 24 specimens from 10 populations classified as *Sorex longirostris fisheri*, 62 specimens from 9 populations classified as intergrades, and 30 specimens from 7 populations classified as *S. l. longirostris*. Three grids each contained one specimen

classified as *S. l. longirostris*, while the remaining specimens were classified as *S. l. fisheri*. Rose (1983) determined that *S. l. fisheri* was associated with the Dismal Swamp proper, except for a population north of the Refuge and another population east of the Refuge. A narrow zone of hybridization (these populations contained specimens that represent the parent stocks and individuals that may be hybrids) was found to border the Dismal Swamp running approximately north/south along its western edge and running northwest/southeast adjacent to the southeastern corner of the Refuge. *Sorex longirostris longirostris* was found to the east and west of the Dismal Swamp with distinctive populations of *S. l. longirostris* occurring within 20 miles of the Dismal Swamp border (Rose 1983). The results of this analysis indicated that the largest *Sorex* were located within the Refuge and the smallest *Sorex* were located at greater distances from the Refuge, with specimens of intermediate size on the margins of the Refuge. This finding suggested that interbreeding of the two subspecies might be occurring, particularly at the margins of the Refuge. Rose (1983) tentatively recommended that *S. l. fisheri* be listed as threatened primarily because of the potential for contact and interbreeding with *S. l. longirostris*. "If widespread, this interbreeding can result in an alteration of the gene pools of both subspecies in the zone of contact, and the integrity of both subspecies may be lost in the extreme" (Rose 1983).

Additional study of *Sorex* was conducted from October 1986 through June 1989, focusing within the Refuge but also including outlying areas of the historical Dismal Swamp (Padgett 1991). Particular emphasis was placed on determining whether the nominate subspecies might be expanding into the remaining Dismal Swamp proper and interbreeding with *Sorex longirostris fisheri*. Padgett's (1991) study indicated that *S. l. fisheri* was restricted to the historic Dismal Swamp and that no strong evidence existed that *S. l. longirostris* was using roadways to enter the interior of the Refuge. Between 1989 and 1991, Erdle and Pagels (1991) collected shrews to further delineate the distributions of *S. l. fisheri* and *S. l. longirostris* in Virginia. Sampling was conducted in much of the historic Dismal Swamp east of the Refuge and north of the Virginia-North Carolina State line. Shrews referable to both taxa and intergrades were represented in the 26 *Sorex* trapped. These findings supported the hypothesis that *S. l.*

longirostris might be moving into areas of the historical Dismal Swamp. During the 1990s, many additional areas were surveyed within the historical Dismal Swamp in Virginia; the specimens found were referable to *S. l. fisheri* or *S. l. longirostris* or were of intermediate size.

Although researchers had significant information on the distribution of *Sorex longirostris fisheri* in Virginia, knowledge of the species in North Carolina was sparse. In the early 1980s, D.W. Webster from the University of North Carolina-Wilmington collected *Sorex longirostris* from southeastern North Carolina (D.W. Webster, pers. comm. 1997). Using the existing range maps for *S. longirostris*, Webster determined the specimens were *S. l. longirostris*. In the late 1980s, Webster collected *S. longirostris* from Beaufort County, North Carolina and realized that those specimens looked the same as those collected from southeastern North Carolina. Still using the existing range maps (Webster, pers. comm. 1997), assumed these specimens were *S. l. longirostris*. Webster (1992) summarized historical locations of *S. l. fisheri* in North Carolina, indicating collection of *S. l. fisheri* from Camden, Currituck, and Gates Counties, and that *S. l. fisheri* probably inhabits parts of Chowan, Pasquotank, and Perquimans Counties. Webster continued to collect shrews from coastal North Carolina throughout the early 1990s (D.W. Webster, pers. comm. 1997).

In January 1994, Webster visited the Smithsonian's National Museum of Natural History and compared his specimens, collected from southeastern North Carolina and Beaufort and Gates Counties, North Carolina, to the specimens at the Smithsonian. He realized that his specimens were of the same size as the voucher specimen for *Sorex longirostris fisheri* from Lake Drummond, the type locality. Charles O. Handley, at the time curator of mammals for the museum, agreed with Webster that these shrews were referable to *S. l. fisheri* based on size. Based on that information, Webster hypothesized that the "dividing line" between *S. l. fisheri* and *S. l. longirostris* may be somewhere between Wilmington, North Carolina and Charleston, South Carolina.

In May 1994, Webster visited the North Carolina State Museum of Natural Sciences and found a series of relatively large *Sorex longirostris* (not identified to subspecies) from Croatan National Forest (Jones, Craven, and Carteret Counties) in North Carolina (U.S. Fish and Wildlife Service 1995). He presumed that this series of shrews was

S. l. fisheri based on his trip to the Smithsonian (D.W. Webster, pers. comm. 1997). The State museum also had specimens of southeastern shrews from Chowan, Bladen, and Brunswick Counties that Webster assumed were *S. l. fisheri* (D.W. Webster, pers. comm. 1997). In May and June 1994, Webster collected *S. longirostris* near the town of Warsaw in Duplin County, midway between Wilmington and Raleigh, North Carolina. He determined that these specimens were referable to *S. l. fisheri* (D.W. Webster, pers. comm. 1997).

Webster *et al.* (1996a, 1996b) compared *Sorex longirostris* specimens from east-central and southeastern North Carolina to specimens from the Dismal Swamp. They also examined specimens from Charleston County, South Carolina (near the type locality for *S. l. longirostris*), and Citrus County, Florida (the type locality for *S. l. eionis*), and representative samples of *S. longirostris* from throughout the southeastern United States. They concluded that *S. l. fisheri* is much more widespread and ubiquitous than previously believed. Webster's group undertook an analysis of physical characteristics to better delineate the geographic distribution of *S. l. fisheri* in Virginia and North Carolina. This analysis used 626 *S. longirostris* from the southeastern United States (15 from Florida, 375 from North Carolina, 159 from Virginia, and the remaining 77 from Alabama, the District of Columbia, Indiana, Kentucky, Maryland, Mississippi, Missouri, South Carolina, and Tennessee). The analysis included six cranial measurements, palatal length, and braincase length. If available from specimen tags, the total specimen length, tail length, hind foot length, and weight were also used. Head and body length or the difference between total length and tail length were determined where possible. Significant geographic variation occurred in all cranial measurements; samples from southeastern Virginia, eastern North Carolina, and southern Georgia and Florida had much larger cranial characteristics than samples from elsewhere in the range. The significant geographic variation in external measurements and weight typically followed the same pattern. A two-dimensional plot of the samples formed three clusters: (1) shrews from Georgia and Florida that have longer and overall much wider crania; (2) shrews from southeastern Virginia and eastern North Carolina that have longer crania with relatively narrower rostra; and (3) shrews from elsewhere in the range that were smaller in all cranial

measurements. This plot explained 93.2 percent of the total morphometric variation exhibited in *S. longirostris* crania. Shrews from the piedmont and mountains of Virginia and North Carolina were more similar to specimens from the Mississippi and Ohio River basins than they were to those from the mid-Atlantic coast.

Webster *et al.* (1996a, 1996b) established 84 survey sites in a wide range of habitats throughout North Carolina and Virginia to ensure that both *Sorex longirostris longirostris* and *S. l. fisheri* would be captured. Of the 84 sites, 49 (58.3 percent) were located in abandoned fields and powerline rights-of-way that were dominated by herbaceous vegetation typical of early stages of succession. The other 35 sites (41.7 percent) were dominated by arborescent vegetation, including such forest types as longleaf pine/turkey oak, pocosin/bay, Atlantic white cedar, shortleaf pine, riparian hardwood, and cove hardwood. The researchers collected 18 species of small mammals, and *S. longirostris* was the most abundant and ubiquitous. The researchers divided survey sites into two groups, those occurring in the newly delineated range of *S. l. fisheri* and those occurring in the newly delineated range of *S. l. longirostris*. Within each the results were similar. Within its geographic distribution, *S. l. fisheri* was the most abundant small mammal, or shared that distinction with other species at 31 of the 84 sites sampled. *Sorex longirostris fisheri* was especially abundant in forested habitats in and adjacent to the Refuge, comprising 84 percent of the specimens taken. The only habitat sampled where *S. l. fisheri* was absent was xeric longleaf pine/turkey oak. Both taxa were found in a wide range of habitat types and moisture regimes, from early successional to mature second-growth forest and from well-drained uplands to seasonally inundated wetlands. Webster (1996a, 1996b) concluded that " * * * even the smallest specimens from relatively dry, upland sites in the Dismal Swamp region clearly are assignable to *S. l. fisheri*."

Gurshaw (1996) examined allozyme variability in specimens of the southeastern shrew from North Carolina and Virginia to identify characters that differentiate *Sorex longirostris fisheri* and *S. l. longirostris* and to determine if there are similarities between shrews from the Dismal Swamp region and the coastal plain of southeastern North Carolina. She found that shrews from the coastal plain of southeastern North Carolina grouped most closely with those from the Dismal Swamp. The

author found an allele in the shrews from the coastal plain that represents a genetic distinction from *S. l. longirostris*. Distribution of this allele appeared to follow the Fall Line, the boundary between the piedmont plateau and upper coastal plain in the southeastern United States.

Webster *et al.* (1996a, 1996b) concluded that *Sorex longirostris fisheri* “* * * has a much broader geographic distribution than previously believed, extending from southeastern Virginia to southeastern North Carolina along the outer coastal plain. In Virginia, all specimens examined from Isle of Wight County, the City of Chesapeake, and the City of Virginia Beach are referable to *S. l. fisheri*, whereas those from Surry, Sussex, and Southampton Counties are assignable to *S. l. longirostris*. In North Carolina, *S. l. fisheri* is distributed throughout the coastal counties as far south as New Hanover, Brunswick, and Columbus Counties.” Since the conclusion of that study, *S. l. fisheri* has been documented in Hyde County, North Carolina (D.W. Webster, pers. comm. 1997). No trapping for *S. l. longirostris* has been conducted in Onslow, Martin, Pamlico, or Bertie Counties, North Carolina (D.W. Webster, pers. comm. 1997). Webster (pers. comm. 1997) does not have any records of *S. l. fisheri* from Pasquotank County, although surveys were conducted there in 1995. At the time of listing, Pasquotank County was listed as a county of occurrence for *S. l. fisheri*, however, the literature cited does not support this designation.

At the time of listing, *Sorex longirostris fisheri* was believed to occur in only two cities in Virginia and four counties in North Carolina. *Sorex longirostris fisheri* is now known to occur in Beaufort, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Currituck, Dare, Duplin, Gates, Greene, Hyde, Jones, Lenoir, New Hanover, Pender, Perquimans, Robeson, Scotland, Tyrrell, and Washington Counties in North Carolina and Chesapeake, Suffolk, and Virginia Beach Cities and Isle of Wight County in Virginia. Information gaps still exist in the distribution of *S. l. fisheri* in North Carolina and potentially South Carolina. Jones *et al.* (1991) noted a sample of *Sorex* specimens from coastal South Carolina that appeared to be similar to *S. l. fisheri*, but substantiation is needed regarding the taxonomy of these specimens.

Previous Federal Action

On December 30, 1982, in our Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47

FR 58454), we designated the Dismal Swamp southeastern shrew as a category 2 candidate species, meaning that a proposal to list the subspecies as threatened or endangered was possibly appropriate, but that substantial biological data were not available at that time to support such a proposal. Rose (1981, 1983) and Everton (1985) conducted pre-listing status surveys that documented large shrews within the Refuge, small shrews outside the Refuge, and intermediate-sized shrews near the Refuge boundaries.

On July 16, 1985, we published a proposed rule to list the Dismal Swamp southeastern shrew as a threatened species (50 FR 28821). The final rule to list the species was published in the **Federal Register** on September 26, 1986 (51 FR 34422), and became effective on October 27, 1986. The reasons for listing the Dismal Swamp southeastern shrew were habitat loss and alteration and possible loss of genetic integrity through interbreeding with *S. l. longirostris*.

In the early 1990s, a group of biologists from Virginia held meetings to discuss information and issues related to the recovery of the Dismal Swamp southeastern shrew. Initially, most of the effort was focused in Virginia because of the development pressure occurring there. In 1992, biologists from North Carolina were included in the group. The Service then convened an official recovery team, and held the first meeting in February 1993.

The recovery team completed a draft recovery plan in July 1994, and we published a notice of availability for the plan in the **Federal Register** (59 FR 37260). The recovery plan was finalized on September 9, 1994, and updated on June 13, 1995.

In March 1995, based on questions raised by D.W. Webster about the shrew's distribution and taxonomy, the Virginia Department of Game and Inland Fisheries and the Service funded studies to determine if large shrews are distributed from the Dismal Swamp region southward throughout the coastal plain of North Carolina, and if the large shrews from coastal North Carolina are similar to *S. l. fisheri* from near the type locality. A combination of morphometric and genetic analyses was proposed to answer these questions. The results of the morphological and genetic analyses that followed are discussed in detail in the Background section of this rule.

In May 1996, we received reports on morphometric variation among the three *Sorex longirostris* subspecies (Webster *et al.* 1996a) and protein electrophoresis and allozymic variation between *S. l. fisheri* and *S. l. longirostris* (Gurshaw

1996) and sent this information to the recovery team members. The recovery team convened in June 1996 to discuss the two reports. The consensus of the team was that the results of both the morphological and genetic analyses conclusively show that *S. l. fisheri* is widely distributed along the coastal plain of southeastern Virginia and eastern North Carolina at least as far south as Wilmington, North Carolina; that *S. l. fisheri* uses a wide variety of habitat types; and that *S. l. fisheri* is not in danger of genetic swamping by *S. l. longirostris*. However, the team agreed that the reports should undergo independent peer review before further action was taken and sent them to reviewers in June 1996. Reviewers who responded concurred with the conclusions of the authors and supported delisting. Based on comments provided by recovery team members, the Service, and peer reviewers, the original manuscripts were revised (Moncrief 1996, Webster *et al.* 1996b).

Federal involvement with the Dismal Swamp southeastern shrew after listing has included surveys for new locations and informal and formal consultations under section 7 of the Act for activities involving a Federal action occurring in suitable habitat within the historical Dismal Swamp. No biological opinion reflecting a conclusion that a project could result in the extinction of this species has ever been issued.

We published a proposed rule to remove the shrew from the List of Endangered and Threatened Wildlife in the **Federal Register** on October 21, 1998 (63 FR 56128).

Summary of Comments and Recommendations

In the October 21, 1998, proposed rule (63 FR 56128) and associated notifications, we invited all interested parties to submit factual reports or information that might contribute to the development of a final rule. We also contacted appropriate State and Federal agencies, county governments, scientific organizations, members of the recovery team, and other interested parties and asked them to comment. We published legal notices soliciting comments in one North Carolina newspaper, *The Wilmington Journal*, on November 5, 1998. Legal notices were also published in two Virginia newspapers, *The Virginian-Pilot* and *The Suffolk News-Herald*, on November 1, 1998.

Ten individuals or organizations submitted comment letters. Two peer reviewers supported the delisting, and one of the reviewers provided additional pertinent information that was incorporated into the final rule. The

Virginia Department of Game and Inland Fisheries; U.S. Army Corps of Engineers, Wilmington District; Isle of Wight County, Virginia; and the North Carolina Department of Environment and Natural Resources, Division of Parks and Recreation, and North Carolina Natural Heritage Program supported the delisting. The Virginia Department of Conservation and Recreation, Hampton Roads Planning District Commission (representing Cities of Chesapeake, Suffolk, and Virginia Beach), and Virginia Department of Environmental Quality had no comment. The Virginia Department of Agriculture and Consumer Services stated that delisting would have no adverse impacts on their regulatory responsibilities. We received no additional written or oral comments during the comment period.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we have determined that the Dismal Swamp southeastern shrew should be removed from the List of Endangered and Threatened Wildlife. Procedures found at section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424) were followed. Regulations at 50 CFR 424.11 require that certain factors be considered before a species can be listed, reclassified, or delisted. These factors and their application to the Dismal Swamp southeastern shrew (*Sorex longirostris fisheri* Merriam) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Extensive habitat alteration has occurred within the area historically occupied by the Dismal Swamp. At the beginning of the twentieth century, the Dismal Swamp occupied 2,000 to 2,200 square miles (mi²) (5,200 to 5,700 square kilometers (km²)). Currently, less than 320 mi² (830 km²) of the historical Dismal Swamp remain, 189 mi² (490 km²) of which are protected within the Refuge and the Great Dismal Swamp State Park in North Carolina. Remnants of the historical Dismal Swamp outside Refuge and State Park boundaries and land beyond the historical Dismal Swamp boundaries are disappearing due to development associated with the rapid growth of the Hampton Roads metropolitan area of southeastern Virginia. Agricultural and silvicultural conversions (especially in North Carolina) also contribute significantly to habitat loss. Habitat loss was a primary reason for listing the Dismal Swamp

southeastern shrew, considered at the time to be endemic to the historical Dismal Swamp. However, because the species is now known to occur across a much larger area and in a wider variety of habitats, this threat is not as significant as was believed at the time of listing.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* At present, the only known method for studying or monitoring the Dismal Swamp southeastern shrew involves lethal collection with pitfall traps. Researchers have been permitted to take individuals of the species to gain an understanding of its taxonomy, ecology, and distribution. However, because the Dismal Swamp southeastern shrew has a high reproductive potential and a rapid maturation rate, limited collection of individuals is not considered detrimental to healthy populations. Utilization for commercial, recreational, or educational purposes is not known to occur.

C. *Disease or predation.* Southeastern shrews are subject to some predation, most frequently by owls, snakes, opossums, and domestic cats and dogs (French 1980, Webster et al. 1985). The number of dead shrews found in woods and on roads suggests that many predators reject the shrew, probably because of the bad taste associated with their musk glands (French 1980). We have no evidence that predation or disease is a significant threat to the Dismal Swamp southeastern shrew.

D. *The inadequacy of existing regulatory mechanisms.* Wetland habitats for the Dismal Swamp southeastern shrew will continue to receive protection indirectly under Section 404 of the Clean Water Act, which requires the Department of the Army, Corps of Engineers to regulate certain activities affecting "waters of the United States," including wetlands. Delisting the Dismal Swamp southeastern shrew removes Federal prohibitions against take and activities involving a Federal action that would jeopardize the continued existence of the species. However, because of its wide distribution and use of a wide variety of habitats, the removal of these protections afforded by the Act will not pose a significant threat to the Dismal Swamp southeastern shrew.

The Dismal Swamp southeastern shrew is listed as threatened by the State of Virginia. Virginia's Endangered Species Act of 1972, as amended (Code of Virginia Section 29.1-564-568), prohibits the taking, transportation, processing, sale, or offer for sale of endangered and threatened species except as permitted. The Virginia

Department of Game and Inland Fisheries provides general protection to wildlife through State law Section 29.1-521, which prohibits their possession and capture, including the attempt to capture, take, kill, possess, offer for sale, sell, offer for purchase, purchase, deliver for transportation, transport, cause to be transported, receive, export, import in any manner or in any quantity except as specifically permitted.

The Dismal Swamp southeastern shrew is listed as threatened by the State of North Carolina. The species is protected by North Carolina general statute Article 25, section 113-337, which makes it unlawful to take, possess, transport, sell, barter, trade, exchange, export, or offer for sale, barter, trade, exchange, or export, or give away for any purpose including advertising or other promotional purpose any animal on a protected wild animal list, except as authorized according to the regulations of the North Carolina Wildlife Resources Commission.

All States have the option of retaining the Dismal Swamp southeastern shrew on their various lists. Both the States of Virginia and North Carolina support the delisting. The State of North Carolina plans to delist the Dismal Swamp southeastern shrew (H. LeGrand, North Carolina Natural Heritage Program, pers. comm. 1997). However, because of its wide distribution and use of a wide variety of habitats, the removal of State protection will not constitute a significant threat to the species.

E. *Other natural or manmade factors affecting its continued existence.* One of the reasons for listing the Dismal Swamp southeastern shrew was concern regarding the possible loss of genetic integrity through interbreeding with the nominate subspecies. Gurshaw (1996) examined allozyme variability in specimens of the southeastern shrew from North Carolina and Virginia. She found an allele in the shrews from the coastal plain that represents a genetic distinction from *Sorex longirostris longirostris* and that appeared to follow the Fall Line. The author stated, "A cline for this allele may be shifted in the direction of dispersal in proportion to the direction of gene flow through barriers such as the Fall Line and population size. If the populations containing [this] allele are small, they will not have as many individuals dispersing* * * and gene flow may be restricted (Endler, 1977). In this study, however, the opposite appears to be happening. Populations with [this allele] are widespread in eastern North Carolina and southeastern Virginia, with gene flow carrying [this] allele above the

Fall Line in central North Carolina." She concluded that genetic swamping within the Dismal Swamp region was not evident.

Webster *et al.* (1996a, 1996b) found that intergradation between *Sorex longirostris fisheri* and *S. l. longirostris* is evident in specimens from the inner coastal plain of Virginia and North Carolina. The zone of intergradation is relatively narrow in Virginia and relatively wide in North Carolina, commensurate with the relative size of the inner coastal plain. Shrews from samples immediately to the east and west of the present Dismal Swamp were slightly smaller than shrews from the Dismal Swamp in cranial and external measurements. Padgett *et al.* (1987) noted this trend. However, when compared with specimens from throughout the range of the species, these shrews are referable to *S. l. fisheri*.

The following summarizes available information regarding potential environmental contaminant threats to the Dismal Swamp southeastern shrew throughout its range. In 1987 and 1989, we conducted a preliminary study (Ryan *et al.* 1992) within the Refuge to determine if contaminants were impacting fish and small mammals. All water (metal-laden leachate and groundwater) draining the Suffolk City Landfill, at the time a federally designated Superfund site, enters the Refuge. This landfill received industrial and domestic wastes, including 30 tons of organophosphate pesticides in the 1970s. Numerous automobile junkyards border the Refuge to the north and drain into the Dismal Swamp and the Refuge. Oil, grease, metals, polycyclic aromatic hydrocarbons (PAHs) and alkanes (PAHs and alkanes are components of petroleum products) are common constituents of junkyard and roadway runoff. Agricultural fields to the north and west of the Refuge contribute surface runoff that may contain residual herbicides, insecticides, and fungicides.

Our study (Ryan *et al.* 1992) included analyses for contaminant residues in the short-tailed shrew (*Blarina brevicauda*). Short-tailed shrews trapped near the East Ditch displayed elevated levels of lead, mercury, and several organochlorine pesticides. The lead levels for short-tailed shrews exceeded normal ranges and fell within the range for lead toxicosis according to Ma (1996). Small mammal lead toxicosis symptoms may include neurological dysfunction, reproductive disorders (including stillbirths), liver and kidney failure, etc. Apart from overt symptoms, asymptomatic effects may occur at lower levels and have significant effects on animal behavior, yet be difficult to

evaluate and/or document. Ryan *et al.* (1992) found that mercury levels for short-tailed shrews collected at East Ditch, Badger Ditch, Railroad Ditch, and Pocosin Swamp were elevated in comparison to levels for short-tailed shrews collected from the study reference location and other sites within the Refuge. The mercury levels reported for short-tailed shrews, although elevated when compared within study area sites, were below those levels reported in the literature as causing observed adverse effects.

Organochlorine pesticide levels of short-tailed shrews from the East Ditch were higher than those reported from all other study sites. However, the levels were below those documented in the literature for observed adverse effects. In summary, there may be a contaminant concern for the Dismal Swamp southeastern shrew near the East Ditch of the Refuge. However, no contaminant analysis has been conducted on Dismal Swamp southeastern shrews, although we have recommended further monitoring related to this issue.

Small mammals tend to have limited ranges, and, therefore, elevated levels of contaminants found in shrews from one location cannot be interpreted as a condition for shrews throughout the Refuge or range. Land uses such as agriculture, transportation, and urbanization with increased impervious surfaces contribute measurable levels of contaminants to the environment, and many persistent contaminants are passed through the food web. However, we do not have any information indicating that contaminants pose a significant threat to the continued existence of the Dismal Swamp southeastern shrew.

Regulations at 50 CFR 424.11(d) state that a species may be delisted if (1) it becomes extinct, (2) it recovers, or (3) the original data for classification were in error. We have determined that the original data for classification of the Dismal Swamp southeastern shrew as a threatened species were in error. However, it is important to note that the original data for classification constituted the best available scientific and commercial information available at the time and were in error only in the sense that they were incomplete. Because *Sorex longirostris* from the Dismal Swamp were originally classified as *S. l. fisheri* based on morphological measurements from a limited number of specimens, and because specimens from areas bordering the Dismal Swamp did not have similar morphological measurements, taxonomists logically concluded that only the largest specimens were *S. l.*

fisheri. Since the early 1900s, scientists have assumed that small-sized shrews were *S. l. longirostris*, resulting in erroneous classification of shrews found outside, and sometimes within, the historical Dismal Swamp boundaries. Therefore, the perception of a restricted range for *S. l. fisheri* was not a misinterpretation on the part of the Service, but a longstanding scientific assumption. At the time of listing, no other interpretation could be reasonably construed from the available data. We conclude that the data supporting the original classification were incomplete and that removal of *S. l. fisheri* from the List of Endangered and Threatened Wildlife is warranted.

The listing of the Dismal Swamp southeastern shrew as a threatened species was based on the best information available and was therefore a valid decision at the time. The data leading to a better understanding of *S. longirostris* taxonomy were derived incrementally as a direct result of the recovery program, and no preceding shrew research anticipated the outcome of the final morphometric and genetic analyses. The dual effort to increase the base of available information while addressing the perceived threats to this subspecies was thus both legally and scientifically justified up to the point when new information yielded a significant change in the knowledge of the Dismal Swamp southeastern shrew's status.

We have 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 remove the Dismal Swamp southeastern shrew from the List of Endangered and Threatened Wildlife because the shrew no longer meets the definition of "threatened" under section 3 of the Act and, therefore no longer requires the protection afforded by the Act.

In accordance with 5 U.S.C. 553(d), we have determined that this rule relieves an existing restriction and good cause exists to make this rule effective immediately. Delay in implementation of this delisting would cost government agencies staff time and monies on conducting section 7 consultation on actions that may affect a species no longer in need of protection under the Act. Relieving the existing restriction associated with this listed species will enable Federal agencies to minimize any further delays in project planning and implementation for actions that may affect the Dismal Swamp southeastern shrew.

Effects of the Rule

This action results in the removal of the Dismal Swamp southeastern shrew from the List of Endangered and Threatened Wildlife. Federal agencies are no longer required to consult with us to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of this species. There is no designated critical habitat for this species. Federal restrictions on taking no longer apply. The 1988 amendments to the Act require that all species that have been delisted due to recovery be monitored for at least 5 years following delisting. The Dismal Swamp southeastern shrew is being delisted due to new information. Therefore we do not intend to monitor the species. We believe that sufficient habitat will remain over the long term to allow for the continued viability of this species. Within the Refuge and the Great Dismal Swamp State Park in North Carolina, management will continue to focus on restoring the hydrological regime to as close to historical conditions as possible, and efforts are being made to restore or maintain the habitat mosaic through forestry practices, all of which will benefit the shrew.

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, require that Federal agencies obtain approval from OMB before collecting information from the public. Implementation of this rule will not involve any information collection requiring OMB approval under the Paperwork Reduction Act.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Executive Order 12866

This rule is not subject to review by the OMB under Executive Order 12866.

References Cited

A complete list of all references cited herein is available upon request from the Virginia Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Cynthia A. Schulz (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter 1, title 50 Code of Federal Regulations, as follows:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

2. Section 17.11(h) is amended by removing the entry for “Shrew, Dismal Swamp southeastern, *Sorex longirostris fisheri*” under “MAMMALS” from the List of Endangered and Threatened Wildlife.

Dated: January 18, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–4531 Filed 2–25–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 00119015–0015–01; I.D. 022200C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Not Participating in Cooperatives that are Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels not participating in cooperatives that are catching pollock for processing by the inshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the interim A/B season allocation of pollock total

allowable catch (TAC) specified for vessels not participating in cooperatives that are catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI will be reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 22, 2000, until 1200 hrs, A.l.t., June 10, 2000.

FOR FURTHER INFORMATION CONTACT:

Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(i)(D)(3) and the 2000 TAC amounts for pollock in the Bering Sea subarea (65 FR 4220, January 28, 2000), the A/B season allocation of pollock TAC specified to the vessels not participating in cooperatives catching pollock for processing by the inshore component in the Bering Sea subarea is 11,968 metric tons.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A/B season allocation of pollock TAC specified to the vessels not participating in cooperatives that are catching pollock for processing by the inshore component in the Bering Sea subarea will be reached. Therefore, the Regional Administrator is establishing the A/B season allocation of pollock TAC as the directed fishing allowance (§ 679.20(a)(5)(i)(D)(2)). In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for pollock by vessels not participating in cooperatives that are catching pollock for processing by the inshore component in the Bering Sea subarea.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent exceeding the A/B season