Comments will be accepted through December 4. 1995.

ADDRESSES: Comments on this notice should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813–570–5312, or Phil Williams, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

NMFS consults on shrimp fishing operations in the southeastern United States that may affect sea turtles listed as threatened or endangered, pursuant to section 7 of the ESA, 16 U.S.C. 1531 et seq. These shrimp fishing operations are managed, in part, under the Gulf of Mexico Shrimp Fishery Management Plan and the South Atlantic Shrimp Fishery Management Plan, both implemented pursuant to the Magnuson Fisheries Management and Conservation Act, 16 U.S.C. 1801 et seq., and the Sea Turtle Conservation Regulations at 50 CFR part 227, subpart D, implemented under the ESA.

Unprecedented sea turtle stranding levels in Texas, Louisiana, and Georgia associated with shrimp fishing during 1994 resulted in a reinitiation of consultation pursuant to 50 CFR 402.16 on shrimp fishing in the southeastern United States. The resulting Biological Opinion (Opinion), issued on November 14, 1994, concluded that continued long-term operation of the fishery under the existing management regime was likely to jeopardize the continued existence of the Kemp's ridley population and prevent the recovery of loggerheads, but identified a reasonable and prudent alternative to allow the fishery to continue while avoiding jeopardy. One of the components of the alternative was to develop an ERP by March 14, 1995, to identify actions NMFS would take to ensure compliance with sea turtle conservation regulations. The ERP also provides internal guidance for the use of future rulemaking in response to elevated sea turtle strandings associated with shrimping in the southeastern United States.

On March 17, 1995, NMFS distributed the ERP widely among all concerned parties, including shrimp industry and environmental organizations for their information and comment. In addition, formal notice of availability for the ERP was published on April 21, 1995 (60 FR 19885).

ERP Implementation and Recent Events

The guidelines in the ERP have been used by NMFS throughout the 1995 shrimping season for its stranding reporting and public notification procedures, for its enforcement efforts, and for the scope, timing and structure of its temporary restrictions on shrimp fishing. While the ERP has served to guide NMFS and apprise the public of when and how restrictions may be imposed by NMFS, justification for these restrictions and changes thereto have been provided concurrently with the restrictions themselves. Any deviations from the ERP guidelines, and the relationship to the ERP, have also been explained with the restrictions.

Temporary requirements were placed on shrimp trawling in nearshore waters along two sections of the Texas and Louisiana coast on April 30, 1995 (60 FR 21741, May 3, 1995), on the Georgia coast on June 21, 1995 (60 FR 32121, June 20, 1995), and on the Georgia and the southern portion of the South Carolina coast on August 11, 1995 (60 FR 42809, August 17, 1995) to conserve sea turtles, especially the endangered Kemp's ridley. These requirements were necessitated by the continued high rates of sea turtle strandings occurring in these areas along with documented shrimping effort. A complete description of the sea turtle stranding events, temporary requirements, and the areas in which they have applied is provided in the temporary requirements (60 FR 21741, May 3, 1995, 60 FR 32121, June 20, 1995, 60 FR 42809, August 17, 1995), and is not repeated here.

In all cases, strandings decreased in those areas where temporary requirements were imposed, indicating that the measures identified in the ERP have been successful at reducing high stranding levels. This is further evidenced by the contrast in the number of Kemp's ridley strandings that occurred on Texas offshore beaches in 1994 and 1995. In the entire state, 48 Kemp's ridleys stranded in April 1995 prior to the implementation of emergency rulemaking, corresponding closely with the 50 ridley strandings reported in Texas during April in 1994. The emergency gear restrictions effective April 30, 1995 were implemented in areas where 42 of these strandings occurred. Although ridley strandings increased drastically to 71 sea turtles during May of 1994, during May of 1995 there were only 17 ridley strandings, despite the slightly later start to the Texas closure (May 15, 1995 versus May 13, 1994). This contrast between years illustrates the

effectiveness of the emergency restriction in arresting ridley mortalities. The decline in mortalities, whether due to the gear modifications and improved turtle exclusion, or to reduced shrimping effort in areas of ridley abundance due to shrimpers leaving the affected areas, was consistent with the intent of the ERP. Implementation of restrictions at other times and in other zones have similarly reduced sea turtle strandings, demonstrating the effectiveness of certain gear restrictions. Cumulative strandings of Kemp's ridleys are considerably lower than 1994. While overall cumulative strandings of all species of sea turtles have been relatively high in 1995, not all of these strandings appear to be the result of shrimp fishing, and further appear to occur over the course of the season rather than episodically. These issues are being considered in additional rulemaking as announced in the Advance Notice of Proposed Rulemaking (ANPR) published on September 13 (60 FR 47544). Through the ANPR, NMFS announced that it is considering proposing regulations that would identify special sea turtle management areas in the southeastern Atlantic and Gulf of Mexico and impose additional conservation measures to protect sea turtles in these areas. Comments received on the ANPR and the revised ERP will be considered in future rulemaking.

Comments on the March 14, 1995 ERP and Temporary Requirements

Since the publication of the ERP and the implementation of temporary requirements referenced above, NMFS has received numerous written comments and has also met with interested constituents to receive oral comments. Some comments were addressed through the temporary requirements cited in the previous section, but are again discussed here in order to present a complete record for decisions relating to the ERP.

Comment. Individual shrimpers and the Texas Seafood Processors Association stated that the prohibition on all try nets without turtle excluder devices (TEDs) is unreasonable for those using small try nets.

Response. NMFS determined that an alternative existed to the try net prohibition that would allow fishermen to work efficiently, while reducing the likelihood of turtle entrapment.

Accordingly, NMFS modified the temporary requirements to allow the use of try nets without TEDs installed if the try nets were smaller than 12 feet (3.6 m) in headrope length and 15 feet (4.6