Response. NMFS is investigating, as a requirement of the November 14, 1994 Opinion, which areas should require special management considerations, due to high turtle abundance or important nesting or foraging habitats. Upon identification of such areas, NMFS will propose management measures to mitigate the effects of intensive shrimping pulses.

Comment. The Center for Marine Conservation (CMC), EII, and the Houston Audubon Society and Help **Endangered Animals-Ridley Turtles** (HEART) supported in general the temporary conservation requirements to reduce turtle strandings as a reasonable compromise that allows shrimping to continue in a manner that is compatible with turtle conservation. However, EII felt that the ERP, in general, was too weak to provide for strong and clear trigger mechanisms that would prevent 1994's high level of strandings. EII asserted that the accuracy of the indicated take levels (ITLs) established in the ERP were questionable. While recognizing the difficulty of accurately determining stranding levels in inshore waters, CMC noted that these waters are very important to turtles and urged that the temporary restrictions be imposed as necessary. HEART urged that the temporary restrictions be made permanent, describing a number of gear problems associated with soft TEDs. bottom-shooting TEDs and try nets. CMC and EII noted (as did NBS in the previous comment) that a 3-4 week waiting period to implement area closures is unacceptable for the Kemp's ridley; that it cannot tolerate another mass mortality event such as occurred in 1994. EII urged that NMFS issue a regulation that automatically implements gear restrictions or closures. Finally, CMC and EII urged that sufficient resources be devoted to monitor strandings, especially in Louisiana, where monitoring has been inadequate, but where fishing activity may have shifted with area gear restrictions in Texas.

Response. NMFS recently published an ANPR (60 FR 47544, September 13, 1995) to consider rulemaking identifying which areas should require special management considerations, due to high turtle abundance or important nesting or foraging habitats. Upon identification of such areas, NMFS will propose permanent management measures to mitigate the effects of intensive shrimping pulses. This action could also include bays and estuaries that are important to turtles and shrimping. Also, NMFS is considering, as a separate rulemaking, whether to propose severe restrictions on the use of

soft TEDs, which have been repeatedly implicated as being ineffective at excluding turtles, often because of poor installation or maintenance.

The ERP was designed to, among other things, identify NMFS plans to respond to high sea turtle strandings during 1995 through emergency rulemaking. A permanent management regime will be put forth as a proposed rule and the public provided ample opportunity for comment. Many elements of the ERP may be superseded once permanent rules are in place, by the 1996 shrimping season. The ERP is based on the best available scientific information gained through recent gear trials, the scientific literature on sea turtle biology and extensive discussions with gear and turtle scientists. In addition, the ERP (including the identified restrictions, and the indicated take levels) was presented at meetings with scientists and industry and comments were received.

However, the NMFS Opinion issued on November 14, 1994 calls for an Expert Working Group (EWG) to be convened to identify the level of mortality that can be sustained by sea turtle populations, to determine the level of mortality reflected by strandings, and to identify an acceptable stranding level. NMFS convened the EWG in Miami June 26-28, 1995 to review the Opinion and available data bases including those upon which the Opinion and the ERP are based. This expert working group consisted of sea turtle population biologists and life history experts including experts nominated by the shrimp industry and environmental community. As a result of this initial meeting, NMFS is completing additional data analyses which will be reviewed by the EWG in the next scheduled meeting in November.

In addition, because of concerns expressed by some in industry and the environmental community, NMFS has undertaken an extensive technical review of the stranding triggers in the ERP. This review is planned to be completed in the next several weeks and NMFS plans to review its results with representatives of the shrimp industry and environmental community. If these analyses result in new trigger numbers, they will be included in subsequent publications of the revised ERP for public review.

NMFS is also concerned that strandings be monitored accurately and comprehensively both on inshore and offshore facing beaches. NMFS increased its support for the monitoring of strandings, including in Louisiana, where there had previously been little or no coverage.

Revision of the Emergency Response Plan

NMFS continues to review the ERP and has revised it as a result of public comments received and new technical information obtained. The ITLs, which were not available when the ERP was adopted in March, are published as part of the revised ERP. This ERP is NMFS' policy to ensure compliance with sea turtle conservation regulations and to respond to sea turtle stranding events. The revised ERP, in its entirety, follows.

The Sea Turtle/Shrimp Fishery Emergency Response Plan

In developing this ERP, NMFS reviewed stranding data, as well as other information, that resulted in identification of certain areas that NMFS believes provide important habitat for Kemp's ridleys, and that, as part of the ERP, will be subject to continuous elevated scrutiny. These areas are identified in the ERP, and will allow NMFS to more efficiently conduct its enforcement operations under this plan. Identification of these areas in the ERP does not foreclose nor prejudge the identification of areas requiring special sea turtle management considerations, required as one of the components of the reasonable and prudent alternative within one year of the date of issuance of the Opinion, which will be subject to rulemaking procedures, including prior notice and opportunity to comment. Other activities within the special management areas, including hopper dredging, oil and gas activities, permitted power boat races, military operations and federally managed fisheries, are reviewed via the section 7 process of the ESA, but may also be reviewed during these rulemaking procedures, as necessary.

Indicated Take Levels

The Opinion is accompanied by an incidental take statement, pursuant to section 7(b)(4)(i) of the ESA, that specifies the impact of incidental taking on the species. The incidental take statement provides two levels to identify the expected incidental take of sea turtles by shrimp fishing. The incidental take levels are based upon either documented takes or indicated takes measured by stranding data. Stranding data are considered an indicator of lethal take in the shrimp fishery during periods in which intensive shrimping effort occurs and there are no significant or intervening natural or human sources of mortality other than shrimping conclusively