

completed implementation of the refund order. In determining the amount of the refund, the franchise fee overcharge should be offset against franchise fees the operator holds on behalf of the franchising authority for lump sum payment. The interest rate on any refund owed to the operator presumptively shall be 11.25%.

8. Section 76.944 is amended by adding paragraph (c) as follows:

§ 76.944 Commission review of franchising authority decisions on rates for the basic service tier and associated equipment.

* * * * *

(c) An operator that uses the annual rate adjustment method under Section 76.922(e) may include in its next true up under Section 76.922(e)(3) any amounts to which the operator would have been entitled but for a franchising authority decision that is not upheld on appeal.

9. Section 76.957 is revised to read as follows:

§ 76.957 Commission adjudication of the complaint.

The Commission will consider the complaint and the cable operator's response and then determine by written decision whether the rate for the cable programming service or associated equipment is unreasonable or not. In making its determination, the Commission will only review the amount of the rate increase subject to the complaint. If the Commission determines that the rate change in question is unreasonable, it will grant the complaint and may order appropriate relief, including, but not limited to, prospective rate reductions and refunds. If it determines that the rate in question is reasonable, the Commission will deny the complaint.

10. Section 76.960 is revised to read as follows:

§ 76.960 Prospective rate reductions.

Upon a finding that a rate for cable programming service or associated equipment is unreasonable, the Commission may order the cable operator to implement a prospective rate reduction to the class of customers subscribing to the cable programming service at issue.

(a) For an operator that adjusts its rates using the quarterly rate adjustment system pursuant to Section 76.922(d), the Commission's decision regarding a prospective rate reduction shall remain binding on the cable operator for one year unless the Commission specifies otherwise.

(b) For an operator that adjusts its rates using the annual rate adjustment

system pursuant to Section 76.922(e), for one year following the Commission's decision, the operator shall provide the Commission at least 30 days' notice of any proposed change.

[FR Doc. 95-24756 Filed 10-4-95; 8:45 am]
BILLING CODE 6712-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1822

Acquisition Regulation; Approval of Contractor Overtime

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule amends NASA's acquisition regulation in order to authorize the Contracting Officer to approve contractor requests for overtime. This change will allow NASA to give approvals more quickly when overtime is needed.

EFFECTIVE DATE: October 5, 1995.

FOR FURTHER INFORMATION CONTACT: David K. Beck, (202) 358-0482.

SUPPLEMENTARY INFORMATION:

Background

Under 48 CFR 1822.103-4, contractor requests for overtime are approved by the chief of the contracting office, or one level of supervision below. This change authorizes the contracting officer to approve overtime requests.

Impact

The rule was reviewed under the Regulatory Flexibility Act of 1980. NASA certifies that the rule will not have a significant economic impact on a substantial number of small entities. The rule imposes no paperwork burden subject to OMB review under the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1822

Government Procurement.
Tom Luedtke,
Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR part 1822 is amended as follows:

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

1. The authority citation for 48 CFR Part 1822 continues to read as follows:

Authority: 42 U.S.C. 2473 (c)(1).

Subpart 1822.1—Basic Labor Policies

2. Section 1822.103-4 is revised to read as follows:

1822.103-4 Approvals.

The contracting officer is authorized to approve overtime premiums at Government expense. If two or more contracting offices have current contracts at a single facility and approval of overtime by one will affect the performance or cost of contracts of another, the approving contracting officer shall obtain the concurrence of affected contracting officers. If the approving contracting officer cannot obtain agreement within a reasonable time, a decision shall be obtained through the installation's normal management channels. In the absence of evidence to the contrary, a contracting officer may rely on the contractor's statement that approval will not affect performance or payments under any contract of another contracting office.

[FR Doc. 95-24791 Filed 10-4-95; 8:45 am]
BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[I.D. 060995B]

Endangered and Threatened Wildlife; Revised Sea Turtle/Shrimp Fishery Emergency Response Plan

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

ACTION: General statement of policy; request for comments.

SUMMARY: NMFS has revised, and is publishing herein, the Sea Turtle/Shrimp Fishery Emergency Response Plan (ERP) that describes NMFS' policy to ensure compliance with the sea turtle conservation regulations promulgated under the Endangered Species Act (ESA) and provides guidance for the use of future rulemaking in response to elevated sea turtle strandings associated with shrimping in the southeastern United States. The ERP has been revised in response to comments on the ERP and the receipt of new technical information. This notice contains a revised ERP in its entirety and invites public review and comment.

DATES: The revised ERP describes NMFS' policy effective October 4, 1995.

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

m) in footrope length, effective May 12, 1995 (60 FR 26691, May 18, 1995). While this modification has been made in all temporary restrictions, the ERP is now being revised as well to reflect this change.

Comment. The requirement to use a shortened flap over the escape opening results in excessive shrimp loss.

Response. NMFS gear experts conducted underwater investigations on a top-opening hard TED with a shortened webbing flap and determined that it would not result in any significant shrimp loss. Furthermore, shrimp retention in TED-equipped nets can be maximized by use of an accelerator funnel which helps propel shrimp through TED grids and away from the turtle escape opening.

However, NMFS has received numerous complaints from the shrimp industry about perceived loss of shrimp. Further, unlike 1994, NMFS has documented a high compliance rate with gear requirements, and therefore, believes that the shortened flap requirement should be re-evaluated on a case by case basis, but retains the shortened webbing flap requirement as part of the potential restrictive measures under the ERP.

Comment. The Texas Shrimp Association (TSA) and the National Fisheries Institute (NFI) objected to the manner in which NMFS prepared and implemented the ERP. NFI and TSA asserted that the process of preparation precluded meaningful industry participation, circumvented requirements under the Administrative Procedure Act, and imposed TED use restrictions without adequate time for shrimpers to adjust. TSA proposed an alternative to the ERP to limit inshore and nearshore fishing activity, with the stated objective of relieving pressure from incidental capture in areas where turtles are concentrated.

Response. The ERP was required by the November 14, 1994 Opinion in order to ensure that sea turtle mortalities attributable to shrimp fishing were not likely to jeopardize the species. The Opinion required that the ERP be developed by March 14, 1995, in order that NMFS have time to compile and analyze historic stranding data and still have a plan prior to the start of the 1995 shrimping season. The ERP does not modify the existing sea turtle conservation regulations nor does it have any binding effect on the public. The existing regulations already provide authority for emergency temporary action (such as TED use restrictions) to prevent unauthorized takings of sea turtles. The temporary restrictions implemented this season were based on the authority of 50 CFR 227.72(e)(6),

and justification for these actions were contained in the record for each one.

The ERP simply provides guidance on when and how NMFS will exercise its discretion in implementing such temporary measures under this existing regulatory authority. The ERP was widely distributed upon its completion in March and is published herein in its entirety for public review and comment. The TSA alternative proposal to limit inshore and nearshore fishing activity to protect turtles, if implemented, would involve major changes to current conservation measures and would be subject to the rulemaking process. TSA has submitted its proposal as a petition for rulemaking under the APA, and NMFS is reviewing this petition in the context of an ANPR (60 FR 47544, September 13, 1995).

Comment. The Georgia Fisherman's Association (GFA) objected to the temporary restrictions in Georgia, particularly the prohibition on the use of bottom-shooting, hard TEDs and requested NMFS to rescind this restriction. The Sea Turtle Restoration Project of Earth Island Institute (EII) and NFI also urged NMFS to modify its temporary restriction as requested by GFA. GFA asserted that shrimpers were having problems with top-shooting hard TEDs because they lose shrimp, gather debris, are less effective at excluding turtles, and they twist and roll when installed with floats.

NMFS has also received verbal reports from Georgia fishermen that debris accumulates in the top-opening TEDs, thus hindering the release of turtles. GFA agreed that the banning of soft TEDs was warranted as they are not as effective as hard TEDs, but GFA stated that the simultaneous ban on soft TEDs and bottom-opening hard TEDs would make analysis of the relative contributions of the two gear types to sea turtle mortality and strandings impossible.

Response. Fishermen in the Atlantic have generally not used top-opening hard TEDs in recent years and may be having particular difficulty adapting to a new gear type. NMFS has investigated shrimpers' complaints and has had gear specialists working with Georgia shrimpers during the imposition of the temporary restrictions.

Gear specialists have been able to resolve problems associated with switching hard TEDs from bottom-opening to top-opening and in the installation of flotation devices to prevent nets from twisting. No problems with clogged top-opening TEDs which would trap sea turtles have been observed. NMFS specialists have also noted that as shrimpers become familiar

with the gear changes they can fish effectively. In spite of the ability of NMFS gear specialists to resolve the alleged problems with top-opening hard TEDs experienced by individual shrimp fishermen in Georgia, NMFS has continued to receive complaints on the temporary prohibition of the use of bottom-opening hard TEDs, the strongly preferred gear choice for many Georgia fishermen.

A preliminary analysis of recent strandings and compliance rates following the July 15, 1995 opening of Texas offshore waters to shrimping indicates that strandings were highest in areas where the use of soft TEDs was prevalent. In two areas in Texas where strandings were low, no difference in stranding rates could be distinguished based on the differing proportions of the fleet using top- versus bottom-opening hard TEDs. Although other factors, particularly the distribution of shrimping effort, may have contributed to the observed stranding patterns in Texas, the data suggested that prohibiting the use of soft TEDs would provide more effective protection for sea turtles than prohibiting the use of bottom-opening hard TEDs. Therefore, NMFS implemented only the soft TED and try net restrictions described in the ERP in Georgia and South Carolina in response to elevated sea turtle strandings (60 FR 42809, August 17, 1995). This approach was intended to protect sea turtles and to help determine the effectiveness of each restriction. However, strandings in waters off Georgia and South Carolina in the week following the implementation of these restrictions, met or exceeded the indicated incidental take levels (ITLs) established for those areas. Consequently, NMFS is re-evaluating its recent restrictions and may prohibit the use of bottom-opening hard TEDs and require the use of shortened webbing flaps over escape openings should high levels of strandings continue in these areas.

Comment. The National Biological Survey (NBS), U.S. Department of the Interior, recommended that shrimp statistical Zone 21 be included in the interim special management area. NBS stated that a review of the stranding database shows that this area documents larger than average Kemp's ridley strandings when compared to the upper Texas Coast or Louisiana. NBS also asserted that Zone 21 was difficult to survey and therefore, strandings may go undocumented. NBS felt that the additional two weeks that would be required to implement restrictions in Zone 21 may jeopardize the survival of the Kemp's ridley.

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 prejudice 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

identified as the cause of strandings. While actual strandings in any zone in any week may meet or exceed the levels identified as the indicated take levels, this does not necessarily mean that the incidental take level for the shrimp fishery has been met or exceeded for purposes of section 7 of the ESA and that consultation is required to be reinstated pursuant to 50 CFR 402.16. Rather, NMFS must consider whether there are other natural or human sources of mortality other than shrimping that can be conclusively identified; strandings as a result of such sources will not be used in calculating whether the incidental take level for the shrimp fishery has been met or exceeded.

NMFS has established ITLs by identifying the weekly average number of sea turtle strandings documented in each NMFS statistical zone for the last 3 years, 1992-94, while special consideration was given for anomalous years. In Texas, Louisiana, and Georgia, where strandings were anomalously high in 1994, the years 1991-93 were used to determine historical levels. In addition, the 1993 strandings of over 100 small Kemp's ridleys in a small section of Louisiana have been excluded from the averages due to the anomalous nature of that event. The weekly average was computed as a 5-week running average (2 weeks before and after the week in question) to reflect seasonally fluctuating events such as fishery openings and closures and turtle migrations. The ITL for each zone was set at 2 times the weekly 3-year stranding average. For weeks and zones where the historical average is less than one, the ITL has been set at two strandings. Table 1 contains the ITLs for each week and statistical zone, except for Zones 1-3, 6-17, 21, and 24, because the ITL is 2 for all weeks in these zones (note: there is no Zone 22 or 23).

Stranding Notification Procedures

Sea Turtle stranding information is reported to the NMFS National Stranding Coordinator by the Sea Turtle Stranding and Salvage Network (STSSN). During 1995, STSSN State Coordinators submit weekly reports and contact the STSSN National Coordinator immediately if strandings approach or exceed historical averages. The STSSN National Coordinator will contact NMFS Southeast Regional Office, Protected Species Branch, and the NMFS National Sea Turtle Coordinator (NSTC) upon receipt and evaluation of information suggesting that strandings are elevated to near historical levels. The STSSN National Coordinator will be responsible for forwarding information

regarding the strandings to the NMFS Southeast Regional Office.

This early notification by STSSN State Coordinators will not necessarily initiate management actions, but will serve as notification that stranding levels are approaching levels that may require implementation of management measures in the ERP. Implementation of the ERP is defined below under A for interim special management areas and B for areas outside of the interim special management areas.

Public Notification Procedures

Summaries of stranding reports, enforcement activities and other activities implementing the requirements of the November 14, 1994 BO will continue to be forwarded regularly via fax to NMFS laboratories, port samplers and enforcement agents, Coast Guard Districts, state fishery agencies, STSSN State Coordinators, Sea Grant agents, and industry and environmental organizations. Additionally, any emergency rulemaking will be announced through press releases and will be broadcast on the NOAA Weather Radio, immediately upon filing of the regulation for public inspection at the Office of the Federal Register.

Emergency Response Plan (ERP) Procedures

A. *Interim Special Management Areas*

Data collected by the STSSN provide information regarding the species composition, nearshore distribution, and mortality of sea turtles. Stranding data illustrated by statistical zones identify two areas of historically high Kemp's ridley strandings including much of Texas and Louisiana, and the coast of Georgia and northeast Florida. Although few strandings have been reported in statistical zones of low STSSN effort in Louisiana, in-water research, including telemetry and mark/recapture efforts, and historical data, have illustrated the importance of Louisiana waters (as well as those of Texas) as Kemp's ridley habitat.

Historical stranding levels indicate that NMFS can anticipate elevated Kemp's ridley strandings within these two areas. These areas therefore require elevated scrutiny and protection under this Plan to reduce the impacts of the shrimp fishery on Kemp's ridleys. The Northern Gulf Interim Special Management Area includes waters off Louisiana and Texas seaward of the COLREGS line within NMFS statistical zones from (and including) Zone 13 through Zone 20 out to 10 nautical miles (nm) (18.5 km). The Atlantic

Interim Special Management Area includes waters off Georgia and northeast Florida seaward of the COLREGS line within NMFS statistical Zones 30 and 31 out to 10 nm (18.5 km).

Through the section 7 consultation process, other activities within the special management areas are also being reviewed, including hopper dredging, oil and gas activities, permitted power boat races, military operations and federally managed fisheries. During 1995, observers will be deployed during these activities as needed.

Elevated Enforcement Within the Interim Special Management Areas

In 1995, from April 1 through November 30, members of a trained TED law enforcement team will coordinate with the Coast Guard, local NMFS and state enforcement agents to investigate compliance with TED regulations in the Interim Special Management Areas. Throughout this period, members of the TED law enforcement team (in addition to local NMFS enforcement personnel) will be deployed in the Interim Special Management Areas, including at least one in the Atlantic Interim Special Management area.

Implementation of Emergency Rules Within the Special Management Areas

Reports of elevated stranding levels, as described below, in any statistical zone within the Interim Special Management Areas may result in implementation of emergency rulemaking for the NMFS statistical zone of elevated strandings, and contiguous statistical zones or portions of contiguous statistical zones, as necessary. The precise geographic scope of the area requiring such measures will be defined in the rule. Within the Interim Special Management Areas, regulations restricting shrimping will be implemented when 75 percent or more of the weekly ITL is reached for 2 consecutive weeks, or when the Assistant Administrator for Fisheries, NOAA (AA), in consultation with the Director, Southeast Region, NMFS (Regional Director), the Southeast Enforcement Division Special Agent in Charge (SAC), the Southeast General Counsel Senior Enforcement Attorney (SEA) and the Protected Resources Office Director (OD), determines that other factors including noncompliance or high nearshore shrimping effort require additional management measures. Any restrictions necessary within the Interim Special Management Areas will result in emergency rulemaking pursuant to the regulations under 50 CFR 227.72(e)(6). Justification for the rulemaking will be included in

the Federal Register notice, and will include the best readily available information on:

- a. Affected area;
- b. Current and historical strandings, shrimp landings and shrimping effort (if available). Any unusual aspect of the strandings will be identified (e.g., species composition, size classes, and carcass anomalies);
- c. Enforcement efforts with emphasis on boardings and compliance;
- d. Other mortality factors if any, and unusual environmental conditions, with an evaluation of their significance; and
- e. Any fishing practices or gear types that may be contributing to the strandings (e.g., percent soft TEDs as determined from enforcement boardings).

Restrictions on the fishery will include any or all of the following:

1. The use of soft TEDs described in 50 CFR is prohibited.
2. The use of hard TEDs with bottom escape openings and special hard TEDs with bottom escape openings is prohibited. Approved hard TEDs and special hard TEDs must be configured with the slope of the deflector bars upward from forward to aft and with the escape opening at the top of the trawl.
3. The use of try nets with a headrope length greater than 12 ft (3.6 m) or a footrope length greater than 15 ft (4.6 m) is prohibited unless a NMFS-approved top-opening, hard TED or special hard TED is installed when the try nets are rigged for fishing. Try nets with a headrope length 12 ft (3.6 m) or less and a footrope length 15 ft (4.6 m) or less would be exempt from the TED-use requirement in accordance with 50 CFR 227.72 (e)(2)(ii)(B)(1).
4. The use of a webbing flap that completely covers the escape opening in the trawl is prohibited. Any webbing that is attached to the trawl, forward of the escape opening, be cut to such a length that the trailing edge of such webbing does not approach to within 2 inches (5.1 cm) of the posterior edge of the TED grid. The requirements for the size of the escape opening would be unchanged.

These restrictions will be implemented through emergency rulemaking pursuant to the regulations under 50 CFR 227.72(e)(6), and will remain in effect for 30 days. Changes to the restrictions, or to the size and extent of the area covered by the restrictions, and any extension of the restrictions may be required through additional 30-day rules. All restrictions will be predicated on ensuring protection to sea turtles.

Area Closures Within the Special Management Areas

Two consecutive weeks of elevated strandings, at 75 percent or more of the ITL after implementation of an emergency rule restricting shrimp fishing, will result in area closures from the COLREGS line, out to 10 nm (18.5 km) within the statistical zone of elevated strandings, and contiguous statistical zones or portions of contiguous zones, as necessary. Area closures will be implemented through emergency rulemaking notices pursuant to 50 CFR 227.72(e)(6), and will remain in effect for 30 days. Changes to the size and extent of the area closure, and any extension of the closure, may be required through additional 30-day rules.

Decision Not to Implement Restriction or Closures Within Special Management Areas

The Regional Director, in consultation with the SAC, SEA, and the OD, may make a determination that emergency rulemaking is not necessary despite stranding levels reaching or exceeding 75 percent of the ITL for 2 consecutive weeks within the Interim Special Management Areas. This determination will be summarized in a Memorandum for the Record, and must receive the concurrence of the AA. The Memorandum for the Record will include the information listed in a. through e., above, must demonstrate that sea turtle mortalities appear to be due to sources other than shrimping, and must identify actions that can be taken immediately to reduce nearshore mortalities.

B. Areas Outside of the Interim Special Management Areas

(Zones 1 through 11, 21 through 29, and 32 through 36)

The STSSN National Coordinator, with assistance from PSB staff and the NSTC as requested, will be responsible for communicating with the STSSN State Coordinators to evaluate local conditions and mortality factors present in the statistical zones of elevated strandings. The best available information will be solicited and reviewed through communication with appropriate NMFS laboratories as well as state and local marine scientists and managers. The local NMFS enforcement agent, Coast Guard and state enforcement agency may also be asked to increase enforcement efforts within statistical zones of elevated strandings.

A consensus Decision Memorandum to the RD will be prepared by PSB staff, the STSSN National Coordinator, and

the NSTC regarding whether further action is warranted in any statistical zone within which strandings remain elevated above historical levels for 1 month. The Decision Memorandum must be timely and contain the following best readily available information:

- a. Affected area;
- b. Current and historical strandings, shrimp landings and shrimping effort (if available). Any unusual aspect of the strandings will be identified (e.g., species composition, size classes, and carcass anomalies);
- c. Enforcement efforts with emphasis on boardings and compliance;
- d. Other mortality factors if any, and unusual environmental conditions, with an evaluation of their significance;
- e. Identification of any fishing practices or gear types that may be contributing to the strandings (for e.g., percent soft TEDs as determined from enforcement boardings); and
- f. Recommended further actions, if any, which may include continued investigation, elevated enforcement, or implementation of emergency regulations restricting shrimping or closing areas. Restrictions if necessary, will be consistent with those described within the discussion of the interim special management areas under A., above.

The Regional Director, in consultation with the SAC, SEA, and the OD, will make a determination regarding further action within 48 hours of receipt of the Decision Memorandum. Actions contrary to those recommended in the Decision Memorandum must be summarized in a Memorandum for the Record, and receive the concurrence of the AA. Continued elevated strandings reaching or exceeding 75 percent of the ITL for more than 2 consecutive weeks after restrictions are taken, as noted in item f. under B. and listed in A., may result in area closures from the COLREGS line, out to 10 nm (18.5 km) within the statistical zone of elevated strandings, and contiguous zones or portions of contiguous zones, as necessary.

Request for Comments

Any emergency rulemaking that may be necessary to implement the ERP will be implemented pursuant to 50 CFR 227.72(e)(6) and the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* Since NMFS received comments on the rule establishing 50 CFR 227.72(e)(6) in 1992, and since full opportunity for public comment may not exist if temporary restrictions must be implemented on an emergency basis, NMFS is requesting comments on this

Table 1.—SEA TURTLE INDICATED TAKE LEVEL (ITL) FOR SHRIMP FISHERY STATISTICAL ZONES

[Zones 1–3, 6–17, 21, and 24 are not included in the table because the ITL is 2 for all weeks in these Zones. There is no Zone 22 or 23.]

Southeast Atlantic		Zone 29	Zone 30	Zone 31	Zone 32	Zone 33	Zone 34	Zone 35	Zone 36
Week	Week Period	ITL	ITL	ITL	ITL	ITL	ITL	ITL	ITL
1	1/1–1/7	2	2	2	2	2	2	2	2
2	1/8–1/14	2	2	2	2	2	2	2	2
3	1/15–1/21	2	2	2	2	2	2	2	2
4	1/22–1/28	2	2	2	2	2	2	2	2
5	1/29–2/4	2	2	2	2	2	2	2	2
6	2/5–2/11	2	2	2	2	2	2	2	2
7	2/12–2/18	2	2	2	2	2	2	2	2
8	2/19–2/25	2	2	2	2	2	2	2	2
9	2/26–3/4	2	2	2	2	2	2	2	2
10	3/5–3/11	2	2	2	2	2	2	2	2
11	3/12–3/18	2	2	2	2	2	2	2	2
12	3/19–3/25	2	2	2	2	2	2	2	2
13	3/26–4/1	4	2	2	2	2	2	2	2
14	4/2–4/8	5	3	2	2	2	2	2	2
15	4/9–4/15	5	5	2	2	2	2	2	2
16	4/16–4/22	5	5	2	2	2	2	2	2
17	4/23–4/29	5	6	3	3	2	3	2	2
18	4/30–5/6	5	9	5	3	3	3	2	2
19	5/7–5/13	4	11	7	5	4	3	2	2
20	5/14–5/20	4	11	7	6	4	5	3	2
21	5/21–5/27	4	11	8	8	4	5	4	2
22	5/28–6/3	4	11	8	8	4	5	4	2
23	6/4–6/10	4	9	7	9	4	7	5	2
24	6/11–6/17	3	8	6	8	4	7	5	2
25	6/18–6/24	2	7	6	7	5	6	3	2
26	6/25–7/1	2	6	6	6	6	6	2	2
27	7/2–7/8	2	7	5	5	7	6	2	2
28	7/9–7/15	2	8	6	4	9	4	2	2
29	7/16–7/22	2	7	5	4	9	4	2	2
30	7/23–7/29	3	8	5	4	8	3	2	2
31	7/30–8/5	3	9	4	3	7	2	2	2
32	8/6–8/12	4	7	4	3	5	2	2	2
33	8/13–8/19	4	6	5	3	4	2	2	2
34	8/20–8/26	3	7	6	3	3	2	2	2
35	8/27–9/2	3	7	5	4	3	2	2	2
36	9/3–9/9	2	6	5	4	3	2	2	2
37	9/10–9/16	2	5	5	3	4	2	2	2
38	9/17–9/23	2	4	3	2	3	2	2	2
39	9/24–9/30	2	2	2	2	3	2	2	2
40	10/1–10/7	2	2	2	2	2	2	2	2
41	10/8–10/14	2	2	2	2	2	2	2	2
42	10/15–10/21	2	2	2	2	2	3	4	4
43	10/22–10/28	2	2	2	2	2	4	5	4
44	10/29–11/4	3	2	2	2	2	4	7	4
45	11/5–11/11	3	2	2	2	2	4	11	4
46	11/12–11/18	3	2	2	2	2	4	11	4
47	11/19–11/25	2	2	2	2	2	3	10	2
48	11/26–12/2	2	2	2	2	2	2	9	2
49	12/3–12/9	2	2	2	2	2	2	6	2
50	12/10–12/16	2	2	2	2	2	2	2	2
51	12/17–12/23	2	2	2	2	2	2	2	2
52	12/24–12/31	2	2	2	2	2	2	2	2

[FR Doc. 95–24608 Filed 10–4–95; 8:45 am]

BILLING CODE 3510–22–W

50 CFR Part 672

[Docket No. 950509041–5041–01; I.D. 100295A]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 62 of the Gulf of Alaska

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

ACTION: Modification of closure.

SUMMARY: NMFS is changing the date on which directed fishing for pollock is prohibited in Statistical Area 62 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the fourth quarterly allowance of total allowable catch (TAC) for pollock in this area.