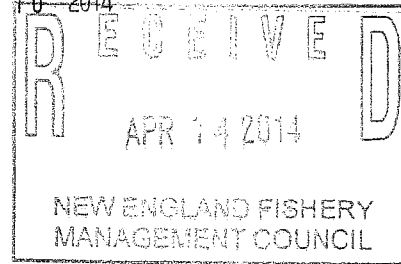




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

APR 10 2014



Thomas A. Nies, Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Re: Request to consider making boundary of turtle chain mat regulation consistent with turtle deflector dredge (TDD) boundary in the scallop fishery

Dear Mr. Nies:

Staff from the Greater Atlantic Regional Fisheries Office and the Northeast Fisheries Science Center met recently to discuss the Council's request, dated February 11, 2014, that we align the chain mat boundary with the turtle deflector dredge (TDD) boundary to reduce confusion and regulatory complexity. As you know, the chain mat and TDD regulations were developed and implemented separately. The analysis for both these regulations was based on fishery observer, sea turtle satellite tracking, and strandings data, as well as the bycatch estimates, available during the development of the requirements. In consideration of your request, we have again looked at the data available at the time of the analyses as well as more recent observer and satellite tracking data. We believe that there may be an option, described below, that allows us to align the chain mat boundary with the TDD boundary while maintaining the conservation benefit provided in the current chain mat area.

The spatial extent of the chain mat requirements was based on the distribution of sea turtles, scallop dredge fishing effort, observed take of sea turtles in the fishery, and sea turtle bycatch estimates south of 41° 9' N latitude. During the development of these requirements, we considered a north-south longitudinal line at 70° 20' W. longitude (similar to the eastern boundary for the TDD at 71° W.) to separate the mid-Atlantic sea scallop fishing area from the Southern New England area. At that time, no sea turtle takes had been observed in the scallop dredge fishery outside the mid-Atlantic region. However, the distribution of sea turtles does overlap with sea scallop dredge fishing in areas east of this line. Furthermore, in August 2005, a Kemp's ridley was captured on southern Georges Bank by scallop dredge gear, indicating that takes in this area are possible. Therefore, while we expected that takes of sea turtles on southern Georges Bank would be rare, we chose to be conservative and require the chain mat modified gear on all dredge vessels fishing south of 41° 9' N latitude. The regulations implementing the chain mat requirements (71 FR 50263) were published on August 25, 2006. Since chain mats have been required in this area since September 25, 2006, any takes in the dredge bag since that date are less likely to have been observed as the use of the chain mat would prevent most turtles from entering the bag and being brought on-board. While we expect the takes to be rare east of 70° 20' W longitude, the chain mats do provide a conservation benefit in terms of increased survival to turtles in that they reduce injuries associated with being captured in the dredge bag.

cc: Cornish, DB (4/17)



Together, the use of chain mats and TDDs increase the conservation benefit to turtles, because the chain mat reduces the impact to turtles from interactions occurring in the water column and the TDD reduces impacts to turtles from interacting with the dredge frame on the bottom. It is important to us to maintain the level of conservation benefit that is being achieved through the use of both the chain mats and the TDD in this fishery. In reviewing your letter and the most recent data, we believe that there may be an option that allows us to align the chain mat boundary with the TDD boundary while maintaining the conservation benefit provided in the current chain mat area. In reviewing the recent bycatch estimates, observer data through 2013, sea turtle satellite telemetry data, and fishing effort data, we believe a similar conservation benefit could be achieved in aligning the chain mat line to the current TDD boundary provided that both the chain mat and TDD requirements were in place through November each year. While no takes in sea scallop dredge gear have been observed in November, there have been takes in other bottom gears (i.e., trawl and gillnet) fishing from Delaware Bay south. There has also been one take observed off New York, just east of 71° W. longitude, in November. Turtle distribution does overlap with fishing effort in the southern part of the scallop fishery during November, and takes in this area are possible.

As mentioned above, any sea turtles captured south of the chain mat line in recent years are less likely to have been observed as the gear prevents the animal from being brought on-deck. Monitoring is necessary to ensure that sea turtle bycatch in this area remains a rare event, particularly if sea turtle distributions change in response to environmental or oceanographic changes.

While we understand the advantages of aligning the temporal and spatial extents to reduce regulatory complexity and potential confusion, we do want to maintain the level of conservation benefit to sea turtles from the current regulations. Aligning both the spatial extent, by moving the chain mat line to 71° W. longitude, and temporal extent, by extending the TDD requirement through November, would be one way to maintain the conservation benefit while still reducing the complexity and confusion. We do not want to be less conservative than the current requirements by lessening the conservation benefits of these gear modifications, but are happy to work with your staff to consider the option presented above or any other options identified that would result in the conservation benefit to sea turtles being maintained. If this approach is acceptable, we would like to set up a meeting to discuss how best to implement the changes. If you would like to discuss this further, please contact David Gouveia, Marine Mammal and Sea Turtle Coordinator, at 978-281-9280.

Sincerely,



John K. Bullard
Regional Administrator

Ecc: Keane, Gouveia (PRD)
Christopher (SFD)
Murray (NEC PSB)



New England Fishery Management Council

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E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

February 11, 2014

Mr. John Bullard
Regional Administrator
NMFS, Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

RE: Consider making boundary of turtle chain mat regulation consistent with turtle deflector dredge (TDD) boundary in the scallop fishery

Dear John:

The Council met on January 28-30, 2014 in Portsmouth, NH and discussed a handful of issues related to the scallop fishery. By consensus, the full Council requests that NMFS consider modifying the boundary for the turtle chain mat requirement in the scallop fishery to be consistent with the boundary used for the turtle deflector dredge.

By consensus, the Council draft a letter to NMFS requesting they reconsider the Endangered Species Act (ESA) ruling on the turtle chain mat line to be consistent with the turtle deflector dredge boundary.

This issue was recently raised at a Scallop Advisory Panel meeting in November 2013. The Scallop Advisors explained that if the boundaries were consistent for both turtle related requirements in the scallop fishery it would reduce confusion and regulatory complexity. The turtle chain mat requirement was adopted by NMFS under ESA in 2006, and it requires all scallop dredges south of 41°9'N to have a turtle chain mat between May-November. The turtle deflector dredge was implemented under Framework 23, and since May 2013 all scallop dredges over 10 feet 6 inches are required to use a TDD between May-October in all waters west of the 71°W line (*See Figure 1 attached*).

While the Council was developing Framework 23, the issue of making these boundaries consistent came up several times. But the Council process cannot consider modifications to the chain mat regulations since those were promulgated under ESA. Because this issue came up again from the scallop industry through the Advisory Panel, the Council requests that NMFS explore whether these boundaries can be made consistent.

When the Council considered a boundary and season for the turtle deflector dredge requirement it considered a range of data sources including: observed turtle takes from all fishing gears from Northeast Fisheries Observer Program data; scallop fishing effort from Vessel Trip Reports; satellite data from live sea turtles offshore; strandings data of dead turtle discards recovered onshore; and projections of when and where turtle bycatch is expected based on Murray 2011. Section 4.3.1 of Framework 23 includes a summary of all these data. Overall, these data suggest that turtles are most likely to be present in areas that overlap with the scallop fishery in the Mid-Atlantic between May and October. There is more uncertainty in the data available relative to the month of November, but some sources suggest there would be some level of overlap during that month as well.

Section 5.3.1.3 summarized the potential impacts of the different boundaries considered in Framework 23 for the turtle deflector dredge. Framework 23 did not consider 41°9N as a potential boundary, but it did consider a similar boundary a little farther south. This section explains that almost all observed takes of sea turtles in the scallop fishery have occurred west of 71°W, except for two Kemp's Ridley sea turtles that occurred on Georges Bank, north of both boundaries (*see Figure 1*). The majority of observed turtle takes that have occurred east of 71°W have been with other gear types (pelagic longline and pelagic drift net). Both these gear types are no longer in use and these were in waters deeper than 100 fathoms; which is deeper than the scallop fishery works. Therefore, while 41°9N includes more waters east of 71°W, there is limited scallop fishing in areas that have had observed takes of sea turtles with other fishing gears.

As for the season, Framework 23 considered three different season options (July-October, May-October and May-November). Section 5.3.1.4 of Framework 23 summarized several sources of information including predicted interaction rates and satellite data. The predicted interaction rates from Murray 2011 were relatively high between July and October (*see Figure 2*). In addition, based on satellite tag information from approximately 40 turtles from 2009-2011, tagged turtles primarily overlapped with the scallop fishery between June-October (*see Figure 3*). Some turtles overlapped with the scallop fishery during the month of May. And in November there were some turtles north of Cape Hatteras, NC in the beginning of the month, but most are farther south during that month. The majority of the scallop fishery operates north of 37°N; therefore, the amount of potential overlap with turtles in November based on these data is limited.

The Council requests that NMFS review this information and reconsider the turtle chain mat regulations promulgated under ESA to make them consistent with the turtle deflector dredge regulations that are based on more recent data. Please contact me if you have questions.

Sincerely,



Thomas A. Nies
Executive Director

References:

Murray, 2011. Sea turtle bycatch in the U.S. sea scallop (*Placopecten magellanicus*) dredge fishery, 2001-2008. Fish. Res. 107:137-146.

Figure 1 – Boundaries of turtle related measures in the scallop fishery overlaid with all observed turtle takes in all fishing gear types and scallop effort (2010 VTR).

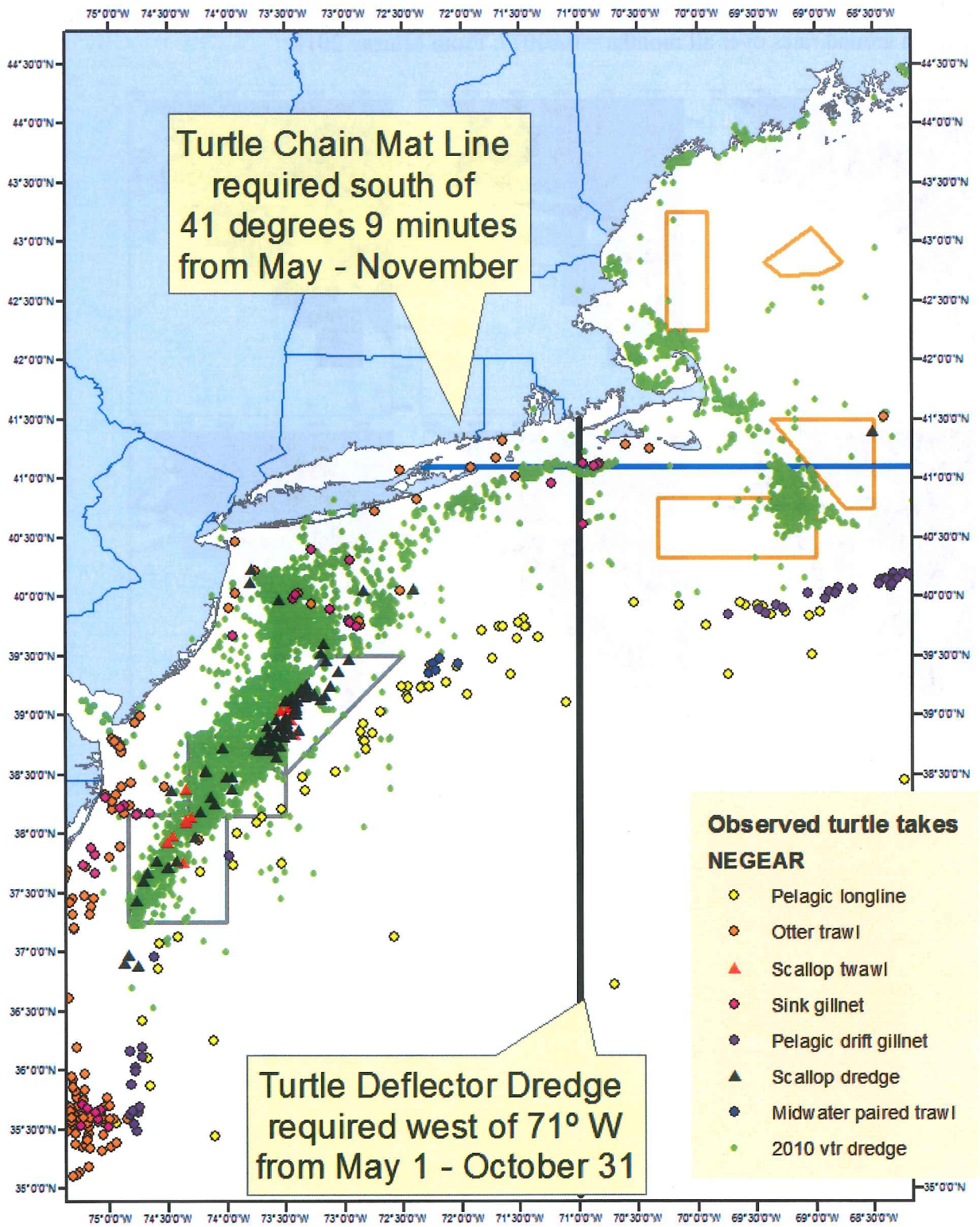


Figure 2 – Distribution over 30' squares of average predicted interaction rates without chain mats on VTR dredge trips, 2001-2008. Squares with fewer than 10 VTR trips have been excluded. The 50m, 70m, and 200m bathymetry lines are shown. From north to south, the Hudson Canyon Access Area, Elephant Trunk, and Delmarva scallop management areas are represented by the black rectangles. Median standard deviation around rates over all months = 0.00077. From Murray 2011.

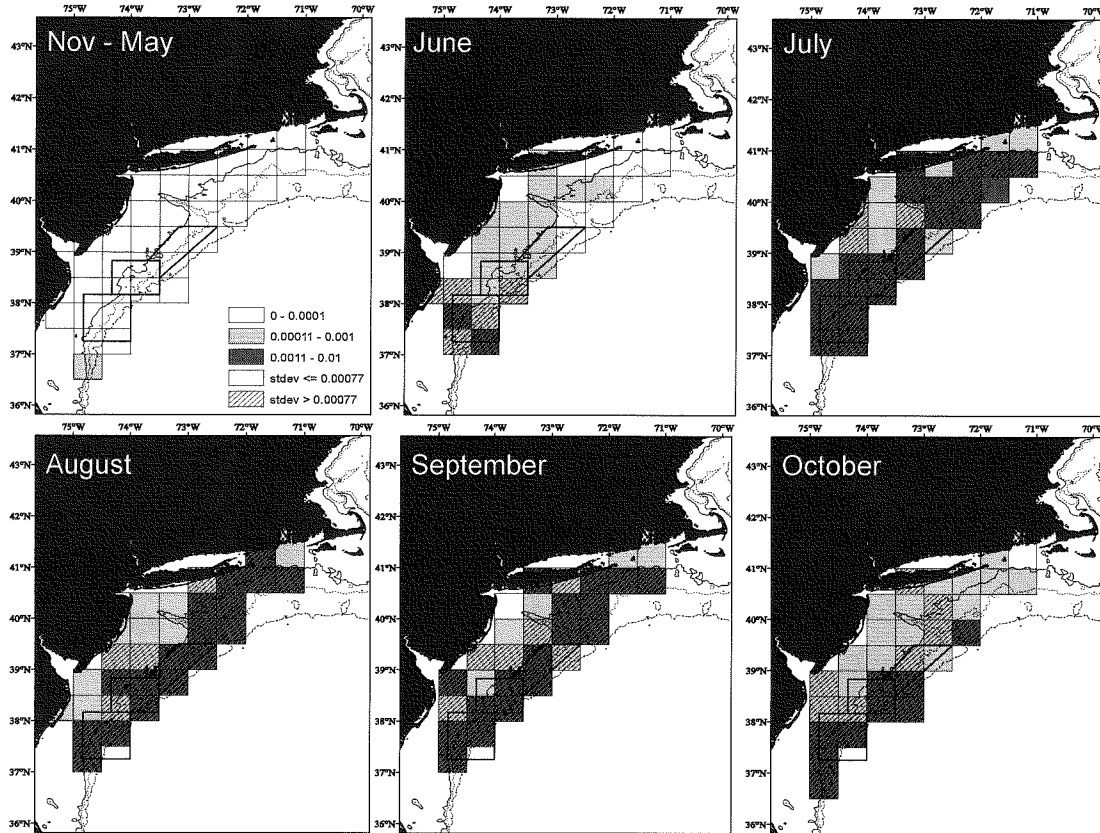
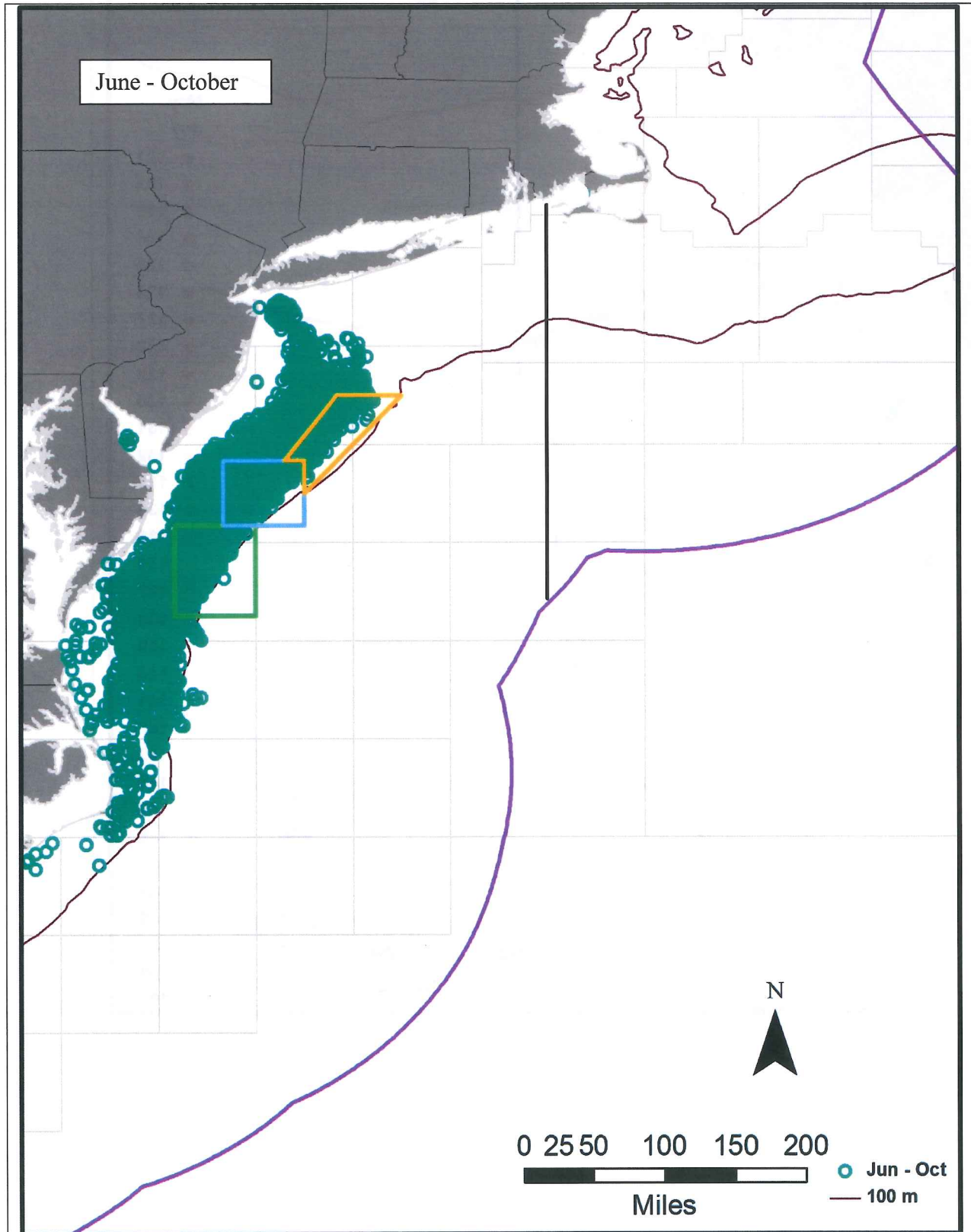
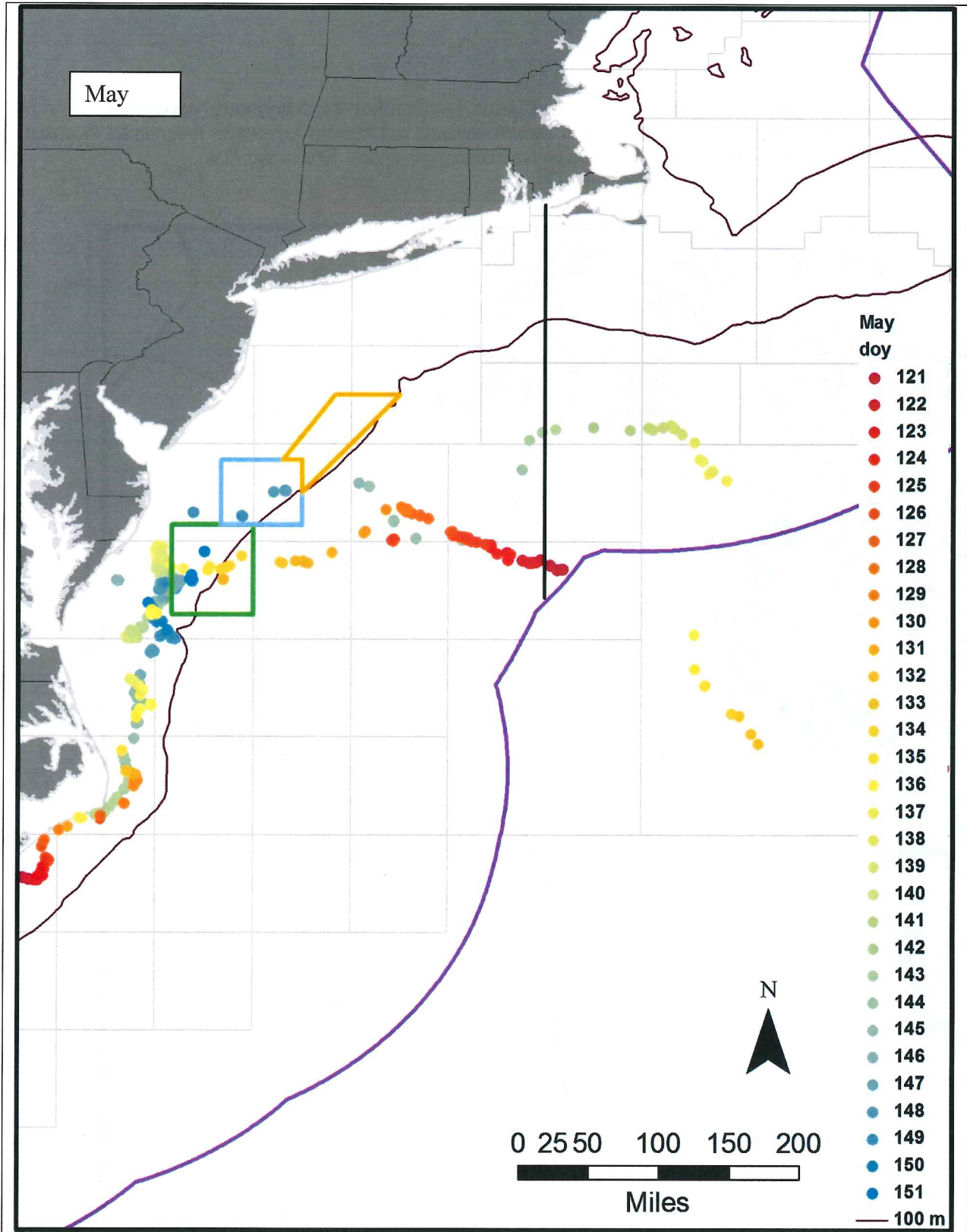


Figure 3 – Location of tagged turtles in the Northeast (June 1 – October 31; May; and November)

Source: About 40 turtles have been tagged by Coonamessett Farm Foundation and Atlantic Assessment Program for Protected Species (AMAPPS project) in 2009-2011. “Good” location points summarized in these figures and 71W.





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