

New information is highlighted in gray.

### **10.2.5.3 Other Gill Net Issues**

#### **Issue**

Consider possible alterations to the current gill net attendance (modified no-trawl) area along the eastern Pamlico Sound based on public comments received during FMP process.

#### **Background**

During the public comment period for Amendment 1 to the North Carolina Red Drum FMP gill net fishers expressed concerns over the need for possible changes to the small mesh gill net attendance line along the eastern Pamlico Sound. Three separate issues were raised: 1) modifications to the current small mesh gill net attendance line along the Outer Banks and 2) small mesh gill net attendance requirements under the Pamlico Sound Gill Net Restricted Area and 3) consideration for exemptions to small mesh attendance for deepwater areas within the attendance line where red drum discards are minimal.

Gill netters fishing water bodies in eastern Pamlico Sound between Rodanthe and Gull Island requested a slight modification to the current gill net attendance line to allow for additional areas to be fished with small mesh gill nets without requiring that they be attended. Gill netters fishing in the area of Hatteras requested consideration for allowing unattended small mesh gill nets in a region near Olivers Reef if attendance was extended into November. The Northeast Advisory Committee voted unanimously to request that NCDMF review these requests as part of the FMP process. Additionally, at the April 2008 MFC meeting, the fishermen from the areas of Hatteras and Ocracoke requested the DMF and the MFC consider allowing some deep water small mesh gill netting with unattended nets in areas within the attendance line.

The current small mesh gill net attendance line (modified “No Trawl”) along the Outer Banks region is designed to protect the shallow grass beds to the east while allowing fishers to set nets in deep water areas to the west (Figure 1). The protected area to the east of the line includes shallow shoals and flats often characterized by dense SAV (submerged aquatic vegetation, i.e. eelgrass, widgeon grass, etc.), and is the primary habitat for sub-legal red drum along the Outer Banks. The current small mesh gill net attendance line in this area was developed and modified by the NCDMF from the “No Trawl” line as listed in the current rules. Later modifications were made, based on public comment, in areas where the “No Trawl” line extended further out into the sound than necessary, possibly putting commercial fishers in the direct path of working trawlers and outside of productive deep water fishing grounds. The DMF considered the recommendations of local fishers in developing the gill net attendance line and then made some additional modifications in order to straighten the line to relieve some of the difficulty in enforcement.

#### **Discussion**

##### **1) Modifications to the current small mesh gill net attendance line along the Outer Banks**

During the 2001 Red Drum FMP process, modifications were made in response to concerns raised by commercial fishers along the ‘Outer Banks’ during the development of the

current small mesh gill net attendance line,. The contention among these fishers was that the original attendance area along the ‘Outer Banks’ extended to far offshore outside shallow areas, unnecessarily forcing gill net fishers into less productive and potentially hazardous conditions created by the deeper water. Modifications made addressed the majority of the concerns raised and were considered a successful compromise in the approved plan. During the process of developing Amendment 1 to the NC Red Drum FMP, additional concerns were raised in the areas of Rodanthe to Gull Island and in the area of Hatteras, near Oliver Reef. NCDMF investigated the proposed changes and is recommending to the NCMFC that the following changes can be made without any substantive increase in red drum discards.

#### Area 1: Rodanthe to Gull Island

Gill netters fishing the area from Rodanthe to Gull Island have requested the straightening of the attendance line along the area from just south of Rodanthe channel to Gull Island (Figure 1; Area 1). This rule change would require the removal of a single point along the current gill net attendance line. Changing the line in this manner affords additional access to productive fishing ground to the west of the line during the attendance period. The change also makes it easier for gill netters in this area to know they are in compliance with the rule by making it straight and therefore more easily discerned on the water. The area to the west of this modified change consists primarily of habitat that is deeper than where sub-legal red drum are typically captured and is not likely to result in any substantive increase in discards.

#### Area 2: Hatteras, near Oliver Reef

Gill netters fishing in this region requested that the attendance line be moved inshore from its current location to allow for additional access to deep water fishing grounds where attendance would not be required. NCDMF investigated the area and is recommending that an additional area of deep water along Oliver Reef be excluded from the attendance line (Figure 44; Area 2). The modification to the rule would extend the current attendance line inshore from Beacon “36” to Beacon “35” along Rollinson Channel where it would then run southwesterly to a “Danger” Beacon offshore of Austin Reef before merging back with the current line. These changes would only exclude deep water habitat and it has the added advantage of being clearly marked by visible beacons on the water.

## 2) Small Mesh Gill Net Attendance Requirements under the Pamlico Sound Gill Net Restricted Area

During 2000, the Pamlico Sound Gill Net Restricted Area (PSGNRA) was established by National Marine Fisheries Service (NMFS) and created a permanent closure of Pamlico Sound to large mesh gillnets (> 4 ¼ in. stretch mesh, FR Vol. 67, No 173 56931) from September 1 to December 15 each year. The PSGNRA was established due to increased observations of sea turtle strandings, and subsequent observed gillnet interactions in 1999 along the Outer Banks (Gearhart 2001). NCDMF pursued and received a Section 10 Incidental Take Permit along the mainland side and Outer Banks of Pamlico Sound to allow a limited, shallow water gillnet fishery to continue to operate. The permit establishes conditions (e.g., restricted fishing areas,

reporting requirements and observer coverage) that must be met in order for the fishery to continue.

Habitat Conservation Plans (HCPs) within Section 10 Incidental Take Permit (ITP) requires an extensive monitoring program in permitted area which has been in place since 2000. The primary goal each year in the management of the PSGNRA is to monitor and reduce sea turtle interactions in commercial gillnets with the assumption that these will result in decreased sea turtle strandings in Pamlico Sound from September through December of each year. Fishery management measures within HCPs restrict areas, seasons, gear, mandate observer coverage, and require weekly reporting. These actions protect sea turtles, allow a limited shallow water gillnet fishery, and characterize catch, effort, and bycatch along the Outer Banks and mainland side of Pamlico Sound from September through December of each year.

One of the conditions of the current Section 10 ITP is that all small mesh gill nets fished within the permitted area must be attended from September 15 through October 31 of each year. This condition increases the attendance areas beyond those established by the 2001 NC Red Drum FMP along the Outer Banks and forces fishermen out into deeper water during this period. NCDMF has requested and the NMFS has agreed to allow NCDMF to manage small mesh gill nets in this area through the current rule passed as part of the 2001 NC Red Drum FMP.

### 3) Consideration for exemptions to small mesh attendance for deepwater areas within the attendance line.

The current attendance line, as previously stated, was designed to minimize the mortality associated with sub-legal red drum discards in the small mesh gill net fishery during the months when discard rates and mortality are the highest. Several changes have been made to the existing attendance line at the request of the public. Modifications, when made, have been allowed in the past because the areas being excluded were not deemed as areas where red drum interactions typically occur with gill nets. DMF has documented habitat types that are commonly associated with red drum abundance along the Outer Banks region. The primary factor associated with the presence of sub-legal red drum is shallow depth, although submerged aquatic vegetation and close proximity to a shoreline tend to also be important. DMF data indicate that red drum bycatch is highest in gill nets set in shallow water (<3 ft) and can be significantly reduced by >90% when compared to nets set at depths of 6 feet or greater.

Gill netters asked DMF and MFC to consider allowing unattended gill nets to be set in existing deep water habitats within the current attendance line. Based on comments received, the majority of the small mesh effort in these areas would be directed at menhaden, bluefish, trout and sea mullet in depths of 6 to 12 feet of water. Criteria for opening these areas would be an average minimum depth of at least 6 feet in an area that is easily distinguished. Small deep sloughs surrounded by shallow habitat would not be suitable candidates due to the difficulty in enforcing and the increased potential for red drum interactions.

The primary area of concern expressed during public comment was for the deep water habitat located between Rollinson Channel and Cape Channel. These areas of deep water fall within the current attendance line. NCDMF staff investigated this area to determine if significant deep water areas existed that could be delineated without the inclusion of significant shallow water habitat. The conclusion of this investigation was that while significant areas of deep water are present, there are also significant areas of shoals and submerged aquatic vegetation. There was no apparent way to delineate an area of deep water habitat without the

inclusion of considerable shallow water habitat. A second consideration, allowing unattended gill nets to be set at a minimum depth (i.e. 7 ft), was not considered enforceable.

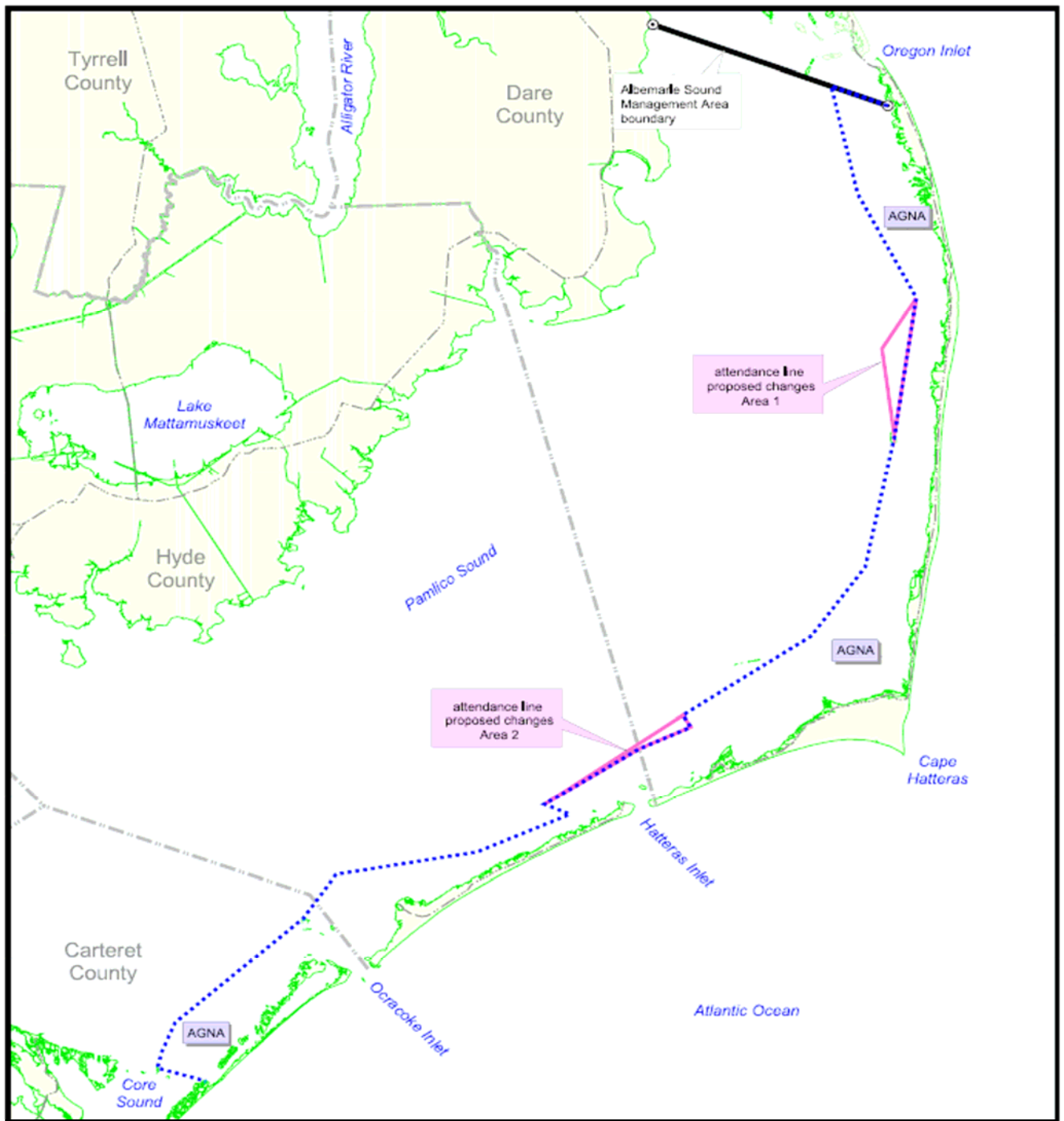


Figure 1. Map of the current gill net attendance area along the Outer Banks. The black-dashed line denotes the modified attended gill net area (AGNA) along the Outer Banks of Pamlico Sound. Proposed changes to “Area 1” near Rodanthe and “Area 2” behind Hatteras would allow for additional deep water areas to be fished outside the attendance area.

## Current Authority

North Carolina Fisheries Rules for Coastal Waters (15A NCAC)  
03J.0103 Gill Nets, Seines, Identification, Restrictions  
03R.0112 Attended Gill Net Areas

## Management Options/Impacts

- (+ potential positive impact of action)
- (- potential negative impact of action)

### 1) No Action/Maintain current small mesh attendance line

- + Reduced bycatch of undersized red drum
- + Maintain established areas for attendance
- Potential economic burden for fishers
- More difficult to enforce/more difficult for gill netters to comply

### 2) Modify current attendance line in 15A NCAC 03R0.112 (b)(2) between Rodanthe and Gull Island striking the point along the attendance line at the location described as 'west of Salvo' and located at 35° 32.6000' N - 75° 31.8500' W.

- + Increased area for small mesh gill nets to be set unattended
- + More protected from elements of open waters
- + Deeper area with less likelihood of red drum bycatch
- + Straight line easier to discern and enforce
- Potential that some additional red drum discards may occur

### 3) Modify current attendance line in 15A NCAC 03R0.112 (b)(2) in the area of Oliver Reef, near Hatteras.

- + Increased area for small mesh gill nets to be set unattended
- + More protected from elements of open waters
- + Deeper area with less likelihood of red drum bycatch
- + Line easier to discern and enforce due to use of existing beacons
- Potential that some additional red drum discards may occur

### 4) Consider exempting large deepwater areas within the current attendance area along the Outer Banks.

- + Increased area for small mesh gill nets to be set unattended
- + More protected from elements of open waters
- Very difficult to enforce
- Potential for some increased red drum discards

## **Management Recommendation**

**DMF and RDAC - Modify current attendance line in 15A NCAC 03R0.112 (b)(2) between Rodanthe and Gull Island striking the point along the attendance line at the location described as 'west of Salvo' and located at 35° 32.6000' N - 75° 31.8500' W.**

**MFC Preferred Management Option – Endorsed DMF and RDAC**

### **Additional Recommendation for Consideration (MFC Action needed):**

**DMF - Modify current attendance line in 15A NCAC 03R0.112 (b)(2) in the area of Oliver Reef, near Hatteras.**

Other actions being taken by NCDMF:

For the period of September 1 to October 31, NCDMF has asked NMFS to consider allowing the gill net attendance line established in 15A NCAC 03R0.112 (b)(2) to be the area where small mesh gill net attendance is required as opposed to the PSGNRA that is currently being used. Current indications from NMFS is that DMF will be allowed to make this change without violating the current Section 10 ITP issued by NMFS.