



Mid-Atlantic Fishery Management Council

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Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman
Christopher M. Moore, Ph.D., Executive Director

November 25, 2019

Royce and Gregory Wingerter
53 Smullen Street
Sayreville, NJ 08872

Dear Royce and Gregory,

I apologize for the delay in responding to your letter dated October 8, 2019. Your letter requests that the Mid-Atlantic Fishery Management Council (Council) consider opening certain artificial reefs currently designated as Special Management Zones (SMZs) to fixed gear such as fish pots/traps during the winter. According to the process outlined in the federal regulations, the Council would not initiate consideration of this change without first receiving a request to do so from the State of New Jersey.

The relevant sections of the regulations are included on the next page. Specifically, the regulations state that the first step in obtaining SMZ status is for the U.S. Army Corps of Engineers permit holder for the artificial reef to request that the Council consider SMZ status. In this case, the permit holder is the State of New Jersey. The same process should be followed for a change in SMZ status, such as the change you suggest.

Sincerely,

A handwritten signature in black ink that reads "C. Moore". The signature is written in a cursive, slightly stylized font.

Christopher M. Moore
Executive Director

CC: Luisi, Elliott, Cimino, Beaty

Code of Federal Regulations

Title 50 - Wildlife and Fisheries

Volume: 12

Date: 2018-10-01

Original Date: 2018-10-01

Title: Section A§ 648.148 - Special management zones.

Context: Title 50 - Wildlife and Fisheries. CHAPTER VI - FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE. PART 648 - FISHERIES OF THE NORTHEASTERN UNITED STATES. Subpart I - Management Measures for the Black Sea Bass Fishery.

§ 648.148 Special management zones.

(a) *General.* The recipient of a U.S. Army Corps of Engineers permit for an artificial reef, fish attraction device, or other modification of habitat for purposes of fishing may request that an area surrounding including the site be designated by the MAFMC as a special management zone (SMZ). The MAFMC may prohibit or restrain the use of specific types of fishing gear that are not compatible with the purpose of the artificial reef or fish attraction device or other habitat modification within the SMZ. The establishment of an SMZ will be effected by a regulatory amendment pursuant to the following procedure: An SMZ monitoring team comprised of members of staff from the MAFMC, NMFS Greater Atlantic Regional Fisheries Office, and NMFS Northeast Fisheries Science Center will evaluate the request in the form of a written report.

(1) *Evaluation criteria.* In establishing an SMZ, the SMZ monitoring team will consider the following criteria:

(i) Fairness and equity;

(ii) Promotion of conservation;

(iii) Avoidance of excessive shares;

(iv) Consistency with the objectives of Amendment 9 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, the Magnuson-Stevens Act, and other applicable law;

(v) The natural bottom in and surrounding potential SMZs; and

(vi) Impacts on historical uses.

(2) The MAFMC Chairman may schedule meetings of MAFMC's industry advisors and/or the SSC to review the report and associated documents and to advise the MAFMC. The MAFMC Chairman may also schedule public hearings.

(3) The MAFMC, following review of the SMZ monitoring team's report, supporting data, public comments, and other relevant information, may recommend to the Regional Administrator that an SMZ be approved. Such a recommendation will be accompanied by all relevant background information.

(4) The Regional Administrator will review the MAFMC's recommendation. If the Regional Administrator concurs in the recommendation, he or she will publish a proposed rule in the **Federal Register** in accordance with the recommendations. If the Regional Administrator rejects the MAFMC's recommendation, he or she shall advise the MAFMC in writing of the basis for the rejection.

(5) The proposed rule to establish an SMZ shall afford a reasonable period for public comment. Following a review of public comments and any information or data not previously available, the Regional Administrator will publish a final rule if he or she determines that the establishment of the SMZ is supported by the substantial weight of evidence in the record and consistent with the Magnuson-Stevens Act and other applicable law.



Gregory Wingerter
Brothers
53 Smullen
Street Sayreville, NJ 08872

October 8, 2019

Mike Luisi, Chairmen
Mid-Atlantic Fisheries Management Council
800 North State St. 201

732-763-1679

Dear Mr. Luisi and Council Members:

I am writing this letter with great urgency. This is in response to the closing of New Jersey reefs, and Federal reefs.

First, I would like to introduce myself. I Gregory and my brother Royce Wingerter own and operate the Lobster boat, Brother's. We have been lobstermen since 1966, vessel number 6779611. We have seen many changes in our industry.

The first of these that I would like to mention is beach replenishment from Sandy Hook, south down past Lovilette. It has been devastating to the very few of us left that lobster. Lobsters no longer track along Sandy Hook and south. We have lobster fished these areas our entire lives. After being forced off the reefs, we attempted to go back to the Sandy Hook area. There is positively no lobster since beach replenishment started. I know this to be a fact since we heavily fished the Sandy Hook area after the first year of beach replenishment along Sandy Hook south. We no longer catch lobster. We then moved south and concentrated our efforts for fishing on the Sea Girt reef and the Axel Carson reef. We have fished these reefs continually since they were first constructed. Our many years fishing these reefs has been successful. They have continually afforded us to make a living, and support our families. along with only a few other

Lobstermen.

Many things come into play when we discuss the reefs. When we were forced off the inshore Axel Carlson reef in 2015 we moved north of the Axel Carlson, and in 2016-2017 we did good. But to our dismay heavy beach replenishment started inside both the Sea Girt and Axel Carlson reefs. Guess what happened? We now have the same situation; little or no lobster. We saw the same thing happen many years ago in the Sandy Hook Area.

I would like to say that for the 2019 season, we prepared to fish the Sea Girt reef, and were informed it is now closed to lobster fishing.

Respectfully, I understand the reefs were closed because of gear conflict. The only thing I can say in our defense is that why after all these years, our living has been taken away from us because of so called gear conflict. I would also say there are only a few of us left who lobster these areas. Since we use sinking rope, we rarely get fishing hooks or anchors in our gear. We get anchors and hooks in our gear to a great degree on open bottom when sport fishermen tie to our gear or fish on top of our buoys.

Continuing, I would like to add that the few of us who fish the reefs were never informed of these meetings taking place on the issue of closing them to lobster fishing. I would also like to add in 2015, we were issued a summons for being on Axel Carlson. We had never been informed nor invited to any meetings concerning these reefs when we could have had input on the outcome.

We know that Axel Carlson is a State reef, and Sea Girt is a Federal reef. Also, we were informed when we were finally invited to attend a State meeting that the real reason for closing the State reefs was because the Federal Government

threatened to cut off funding for the expansion and construction of new reefs if lobster fishing continued. Where confused, is it a gear conflict, federal funding, or a combination of both?

Had we been informed about meetings concerning the reefs, where we make a living, we most certainly would have attended. Gentlemen, I urge you to please reconsider the closure of these reefs. These reefs are absolutely vital to our survival.

Since the reefs, our main source for lobster were closed, the following has happened along with beach replenishment: We now are on the verge of complete collapse. We can no longer stay up on safety gear, boat maintenance, pay for dockage, gear maintenance, and mostly provide the love and care for our families.

There is nothing more discouraging than not being able to take care of your family. When we started this business, we were poor. We worked hard to move ahead, and unless something good happens, we will wind up with nothing but a useless business. I have spoken to the two other lobstermen in our area about a proposal, if it could be considered. If we could reach a compromise and at least let us have full access to the State and Federal reefs during the winter, when no one is fishing there. I believe that December through April, when lobster prices are good, would give us at least a fighting chance to survive. This would eliminate gear conflict.

Gentlemen, I cannot urge you enough to please reconsider your decision, and make this compromise, and allow us to continue a way of life.

In closing, I would like to say that we spoke to Jeffrey Brust, a research scientist in New Jersey's Department of Fish and

Wildlife. He said that if the government would open the Federal reefs in the winter to lobstering without cutting federal funding for building and expansion of State reefs, they would allow us to fish State reefs in the winter.

We anxiously await some clarity and some desperately needed help.

With All Sincerity,

Royce Wingerter

Gregory Wingerter

Royce and Gregory Wingerter

Brothers

*Person we spoke to
at state meeting } →*



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION



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