

# Directed Sustainable Fisheries, Inc.

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Robert K. Mahood, Executive Director  
South Atlantic Fishery Management Council  
4055 Faber Place Drive, Suite 201  
North Charleston, South Carolina 29405

SGAmend17APH@safmc.net

November 18, 2009

Re: Proposed Amendment 17A for the Atlantic Red Snapper (*Lutjanus campechanus*)

To: Robert K. Mahood,

Directed Sustainable Fisheries, Inc. (DSF, Inc.) thanks the South Atlantic Fishery Management Council (SAFMC) for an opportunity to provide this final written comment on behalf of the Southeastern Fisheries Association (SFA), East Coast Fisheries Section (ECFS). The ECFS membership have serious concerns about the Proposed Amendment 17A Atlantic red snapper measures to the Snapper-Grouper Fishery Management Plan (FMP). The Snapper-Grouper FMP includes the Atlantic red snapper in the SAFMC managed complex of 73 different species of reef fish.

The Atlantic red snapper fishing industry in the SAFMC region consists of the commercial, the for-hire and the private recreational sectors. The three "catch sectors" with the SAFMC Amendment 17A choices should select the Amendment 17A Status Quo Alternatives for two main reasons. The first is that most Snapper-Grouper FMP Amendment 17A Alternatives are fiscal poison for fishing communities from Florida to North Carolina causing a devastating economic impact. The second is the government science for red snappers lacks credibility in the current form rendering it as "not the best scientific information available".

Since it is relevant to this Amendment 17A action, the DSF, Inc. is going to resubmit for the written record the DSF, Inc. July 2009 red snapper Interim Rule comment as an exhibit.<sup>1</sup>

The SAFMC and the National Marine Fisheries Service (NMFS) should be reprimanded by our United States (US) Government for trying to destroy so many US fishing communities. They depend on inadequate scientific assessment results which do not resemble the reality seen at the side of these boats that show an increasing catch per unit of effort (CPUE) in recent decades.<sup>2</sup> This is without commenting about the US economy issues nationwide effecting business communities and families. We do not want the NMFS and the SAFMC to devastate our lives with their extreme choices, we want them to prevent that outcome.

The US Congress and US Executive Branch need to protect the US fishing infrastructure as well as the fish. The 1976 Magnuson Act was originally designed to protect our domestic fishing resources from foreign fishing. Now the Magnuson-Stevens Reauthorized Act is being

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<sup>1</sup> DSF, Inc. Exhibit 1: July 30, 2009 Red Snapper Interim Rule submitted to NMFS SERO with fourteen exhibits

<sup>2</sup> DSF, Inc. Exhibit 2: Florida Sportsman November 2009 issue, Volume 42 No. 11, Page 43 Special Report by Dr. Raymond E. Waldner and Dr. Thomas C. Chesnes titled "Catch Studies Indicate More Red Snapper Since 1992" Catch rate information also referenced by Karl Wickstrom editorial at:  
[http://www.floridasportsman.com/confron/openers/professors\\_expose\\_science\\_0911/index.html](http://www.floridasportsman.com/confron/openers/professors_expose_science_0911/index.html)

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used to eliminate domestic fishing. Why does Congress and the US Department of Commerce let this happen to so many small businesses on the waterfront?

Amendment 17A choices are currently based on the SouthEast Data, Assessment and Review (SEDAR) stock assessment modeling results for Atlantic red snapper known as SEDAR 15. The SEDAR 15 final report is dated February 2008 and was revised in March 2009. Why did an increase of nearly 100 additional pages take place? Why such a lack of working and reference documents to be found on the SEDAR 15 website as compared to the SEDAR 07 website links for the Gulf red snapper assessment? Why were there no red snapper fishermen participating in SEDAR 15, especially from the area where the most red snapper are caught, East Coast Florida? The same is true about the Snapper Grouper Advisory Panel, a general lack of representation.

The ECFS employed Dr. Frank J. Hester, a veteran fisheries scientist to examine the SEDAR 15 final report bona fides. Dr. Hester's initial findings were included in his May 2009 report<sup>3</sup> prepared for the SFA ECFS. Subsequently the "Hester Report" was printed in the SAFMC June Briefing Book<sup>4</sup> and then presented twice<sup>5</sup> by Dr. Hester at the SAFMC meeting held June 7-12 in Stuart, Florida. The first presentation to the SAFMC Scientific and Statistical Committee (SSC) scientists<sup>6</sup> was with no questions being asked of Dr. Hester. Some people felt that this academic snub of Dr. Hester was premeditated. The next day when Dr. Hester presented the same information to the entire Council some questions were asked of Dr. Hester about his May 2009 report results.

Dr. Hester found that the SEDAR 15 assessment workshop had depended on information that the SEDAR 15 data workshop participants suggested not to be utilized in the Atlantic red snapper modeling. These are the US Fish and Wildlife Surveys (FWS) for 1960, 1965 and the 1970 National Marine Fisheries Service (NMFS) Survey<sup>7</sup>. Having disregarded the SEDAR 15 data workshop advice, the SEDAR 15 assessment workshop participants created an unfished population for Atlantic red snapper beginning at the end of World War II to set as a rebuilding benchmark goal to work towards recreating.

NMFS scientists have failed to correct the differences found between the SEDAR 15 modeling results as compared with the NMFS 1970 FWS Survey.<sup>8</sup> On October 07, 2009, Dr.

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<sup>3</sup> "Independent Report on Red Snapper in SEDAR 15" by Frank J. Hester PhD, dated May 08, 2009

<sup>4</sup> DSF, Inc. Exhibit 3: SAFMC hyperlink to "Independent Report on Red Snapper in SEDAR 15" by Frank J. Hester PhD, dated May 08, 2009 in June 2009 Briefing Book found at:

[http://www.safmc.net/Portals/6/Meetings/Council/BriefingBook/Jun09/SSC/A26\\_RScomment.pdf](http://www.safmc.net/Portals/6/Meetings/Council/BriefingBook/Jun09/SSC/A26_RScomment.pdf)

<sup>5</sup> Presented on June 08, 2009 to the SAFMC SSC and June 09, 2009 to the SAFMC

<sup>6</sup> In fact just earlier in the same SSC meeting a NMFS employee of Dr. Roy Crabtree named Dr. Nick Farmer was making a presentation about closing more areas to fishing to achieve the desired reductions and was laughing throughout his presentation. Dr. Farmer also was discussing confidential head boat information and made a remark about the "sneaky people in the back of the room" implying the Fishing Industry. Complaints were made about his presentation and words.

<sup>7</sup> The 1970 Survey was conducted by NMFS instead of the FWS as had been done with the 1960 & 1965 Surveys with SEDAR 15 links for each reference document found at:

<http://www.sefsc.noaa.gov/sedar/download/SEDAR%2015-RD08.pdf?id=DOCUMENT>

<http://www.sefsc.noaa.gov/sedar/download/SEDAR%2015-RD09.pdf?id=DOCUMENT>

<http://www.sefsc.noaa.gov/sedar/download/SEDAR%2015-RD10.pdf?id=DOCUMENT>

<sup>8</sup> DSF, Inc. Exhibit 4: Dr. Frank J. Hester reply dated October 07, 2009 to the Dr. Erik Williams response dated October 06, 2009 in reply to the September 01, 2009 Dr. Hester rebuttal of the NMFS Internal Review of the May 08, 2009 "Hester Report"

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Hester replied to Dr. Williams' October 06, 2009 response<sup>9</sup> with the facts<sup>10</sup> from the sensitivity runs shown in table form as:

Year	1965	1970
SAR Total Numbers Caught (1000's fish)	229	628
FWS Total Numbers Caught (1000's fish)	598	1797
S37 Total Numbers Caught (1000's fish)	599	958
S38 Total Numbers Caught (1000's fish)	591	860
S39 Total Numbers Caught (1000's fish)	307	847

Dr. Hester further wrote in the October 07, 2009 reply to Dr. Williams that:

*"The first two rows show the problem; The Stock Assessment Report model estimates that based on the FWS weight data that 229-thousand red snapper were caught by recreational anglers in 1965 and 629-thousand were caught in 1970. The FWS row is the count of the numbers of red snapper caught in those two years: 598-thousand and 1.77- million respectively.*

*The following three rows are the result of using different assumptions about selectivity. S37 (and S38 in part) use my selectivity curve. S37 by chance, results in a very good match with the FWS numbers for 1965 and it improves on, but falls well short of the nearly 2-million fish in the FWS 1970 report.*

*Three general conclusions can be drawn:*

- 1) Using a dome shaped selectivity curve improves the match between the model prediction and the FWS data.*
- 2) The estimates for 1970 are still well below the level of the FWS data suggesting that perhaps that the problem with the FWS data is intractable, or that recruitment is highly variable.*
- 3) If the FWS data are to be considered the best scientific basis for estimation of early recreational catches and in turn the SFA bench marks, the discrepancies between catch weights and catch numbers need to be resolved or the FWS data not included in the assessment as was the original recommendation by the Data Workshop.*

*On the basis of 3) above, I maintain my opinion that the bench marks have to be considered undetermined until this matter is resolved. SAR-1 does not provide any measure of uncertainty for the assessment, only (now) 39 sensitivity runs and a production model that likely all fall within the true range of uncertainty associated with the assessment. However, that is not my current concern. What is my point is that the model uses the FWS data to set the benchmarks. We both agree that it is most desirable to have any management decisions based on the best scientific information available. If the FWS data is the considered to be best available scientific information available, the model should be able provide a reasonable fit to all the catch weights and catch numbers in the FWS data. At present this is not the case. When the revision has been done, or the FWS removed from consideration, the assessment needs to be redone and bench marks revised if necessary."*

The SAFMC had Dr. Williams present the NMFS Internal Review<sup>11</sup> at the September 15, 2009 Charleston, South Carolina SAFMC meeting. Dr. Williams did not reveal to the SAFMC

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<sup>9</sup> DSF, Inc. Exhibit 5: Dr. Erik Williams response dated October 06, 2009 to the September 01, 2009 Dr. Hester rebuttal of the NMFS Internal Review of the May 08, 2009 "Hester Report"

<sup>10</sup> DSF, Inc. Exhibit 6: Dr. Hester wrote another email to Dr. Williams on September 08, 2009 requesting a second time the numbers from the sensitivity runs 37, 38 and 39. Later that same day Dr. Bonnie Ponwith emailed the sensitivity results to Dr. Hester

<sup>11</sup> DSF, Inc. Exhibit 7: NMFS August 2009 Internal Review of the May 08, 2009 "Hester Report"

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Dr. Hester's September 01, 2009 rebuttal of the Internal Review<sup>12</sup> during his presentation. In fact, DSF, Inc. circulated the September 01, 2009 "Hester Rebuttal" of the NMFS Internal Review via an email to "Dr. Erik Williams et al"<sup>13</sup> requesting that the Hester attachment "be considered at the SAFMC meeting in Charleston, SC during September 14-18, 2009" but that consideration was never shown by the SAFMC.

On October 06, 2009, Dr. Williams emailed Dr. Hester a response to the September 01, 2009 Hester Internal Review rebuttal. In the response Dr. Williams wrote the following:

*"Dear Dr. Hester,*

*Thank you for clarifying some of the points in the document "Red Snapper in the U.S. Atlantic: Sensitivity analyses using dome-shaped selectivity for recreational sectors." Given your statements about the values in your hypothesized selectivity curve, I concur that the sentence reading "Dr. Hester's selectivity curve assumes no fish over age 10 are caught in the fishery.." is incorrect. For the sake of brevity on this issue, I trust my acknowledgement of that fact in this letter will suffice in lieu of an independent statement of correction to the SEFSC document."*

As of the date of this Amendment 17A written comment, Dr. Erik Williams and/or the NMFS have not responded to the October 07, 2009 Dr. Hester reply to Dr. Williams, nor has Dr. Williams submitted a correction of the SEFSC document to the SAFMC.

The NMFS Southeast Regional Office (SERO) Regional Administrator (RA) Dr. Roy Crabtree confirmed that the NMFS will conduct a SEDAR stock assessment update for Atlantic red snapper after June 2010 when the 2009 reef fish landings are finally assembled by NMFS for assessment purposes.

We believe that no further regulatory changes should take place until the new Atlantic red snapper assessment process is completed as promised at a minimum by the NMFS SERO RA. Even though Dr. Crabtree states publicly that it would take Congress to change the "overfishing" circumstances, we believe that is not accurate when the NMFS has not provided the "best scientific information" possible.

A full benchmark stock assessment for Atlantic red snapper with an independent review separate from the NMFS and the Center of Independent Experts (CIE) should be scheduled as soon as possible instead of an update to the preexisting SEDAR 15 flawed science.

Mr. Mahood, during 2002 you submitted a written response to follow-up questions by the United States (US) Commission on Ocean Policy.<sup>14</sup> In that document you responded that for the 73 snapper grouper complex species managed by the Council that there were ONLY 3 species that had enough data existing to conduct a biomass based stock assessment as mandated by the

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<sup>12</sup> DSF, Inc. Exhibit 8: Dr. Hester September 01, 2009 rebuttal of the NMFS August 2009 Internal Review of the "Hester Report"

<sup>13</sup> DSF, Inc. Exhibit 9: September 01, 2009 email from DSF2009@aol.com to Dr. Erik Williams et al [including Dr. Crabtree, Dr. Ponwith, Bob Mahood and many other recipients] with subject line "Dr. Frank Hester reply to Dr. Erik Williams attached", circulating the Dr. Hester September 01 reply to the August 17, 2009 email to Bob Jones from the NMFS with the subject line "Selectivity Analyses" with the August 12, 2009 NMFS Internal Review of the May 2009 Dr. Hester report on SEDAR 15 of red snapper

<sup>14</sup> DSF, Inc. Exhibit 10: March 29, 2002 "Response to Follow-Up Questions from the U.S. Commission on Ocean Policy for Testimony of Robert K. Mahood Before the Commission on January 15, 2002"  
[http://oceancommission.gov/meetings/jan15\\_16\\_02/answers/mahood\\_answers.pdf](http://oceancommission.gov/meetings/jan15_16_02/answers/mahood_answers.pdf)

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1996 Sustainable Fisheries Act (SFA). Mr. Mahood, has data driven biomass based assessments changed your comment about these same 73 snapper grouper species in seven years?

Amendment 17A management measures for red snapper also threaten to diminish access to the Amendment 17B nine species experiencing "overfishing" in the SAFMC/NMFS plan, as well as prevent access in certain areas and times to the other 63 species found in the Snapper Grouper FMP complex of 73 total species of reef fish.

The National Research Council (NRC) found fault with the Marine Recreational Fisheries Statistical Survey (MRFSS) in a 2006 independent review.<sup>15</sup> In many media reports MRFSS is described as being "fatally flawed" and unfit for what it is being used for in assessment modeling and quota monitoring.

During the Thursday afternoon September 17, 2009 SAFMC public hearing at the Charleston, South Carolina venue, I presented a three-minute oral comment about red snapper aggregations to go along with a one-page media item<sup>16</sup> from Dr. Hester which the ECFS had me circulate to the SAFMC earlier in the day. George Geiger then suggested before I hand out any further documents from the ECFS scientist Dr. Hester that it become "peer reviewed" first due to how the SAFMC has to respond to such items. Mr. Geiger did not request the "peer review" from the PEW Environmental Group when they circulated two red snapper handouts (one with errors) to the SAFMC<sup>17</sup>. To date no response from the SAFMC has occurred.

As a result two interesting developments occurred during the next few weeks. First was Dr. Hester sending an email about "Peer Review" that was only sent to six persons. In the order of email address recipients was Bob Jones, Dr. Roy Crabtree, Dr. Bonnie Ponwith, Robert Mahood, George Geiger and to DSF, Inc. on September 25, 2009 and was titled "...where angels...".<sup>18</sup>

The second event was not expected, occurred during the SEDAR 19 assessment workshop for red & black grouper, but needs to be revealed. Someone amongst the six recipients and Dr. Hester circulated the "Peer Review" email to others that later included a Dr. Paul Conn who works at the NMFS Laboratory located in Beaufort, North Carolina. Dr. Conn claims to have received the "unsolicited email" on September 28, 2009, three days after it was sent originally to the recipients named earlier. Dr. Hester, Bob Jones and DSF, Inc. did not send Dr. Paul Conn any emails during that time period. That leaves the two NMFS superiors and two SAFMC personnel recipients as a potential source. To date it is unknown how the email got to Dr. Conn.

As a result of Dr. Conn gaining access to the "...where angels..." email, he contacted Dr. Hester via email during the late evening of October 06, 2009 while both scientists were attending the SEDAR 19 assessment workshop for red and black groupers. Dr. Hester read Dr. Conn's mean spirited email and forwarded copy to Bob Jones, Jimmy Hull [ECFS Chairman] and myself

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<sup>15</sup> DSF, Inc. Exhibit 11: 2006 "Review of Recreational Fisheries Survey Methods"  
[http://www.nap.edu/catalog.php?record\\_id=11616](http://www.nap.edu/catalog.php?record_id=11616)

<sup>16</sup> DSF, Inc. Exhibit 12: September 17, 2009 Hester Media item circulated to the SAFMC

<sup>17</sup> DSF, Inc. Exhibit 13: PEW Environmental Group red snapper handouts where one has a one to two year old red snapper giving birth to "100,000 babies" and the other handout has "100,000 eggs" produced for the same young red snapper taken from a graphic produced by the Partnership for Interdisciplinary Studies of Coastal Oceans (PISCO)  
<http://www.endoverfishing.org/southeast/resources/southatlantic/redsnapper.pdf>  
[http://www.endoverfishing.org/southeast/resources/southatlantic/Ending\\_SE\\_Overfishing.pdf](http://www.endoverfishing.org/southeast/resources/southatlantic/Ending_SE_Overfishing.pdf)

<sup>18</sup> DSF, Inc. Exhibit 14: Copy of the September 25, 2009 email from Dr. Hester (FHester52@aol.com) with subject line "...where angels..." to Jones, Crabtree, Ponwith, Mahood, Geiger and Hudson



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on October 07, 2009. Dr. Hester felt that it was wiser not to reply to such nastiness like being called a "charlatan".

Only after Dr. Conn had approached and physically touched Dr. Hester during Thursday afternoon, October 08, 2009 and calling Dr. Hester a "biostitute" [biologist that prostitutes oneself economically] did Dr. Hester choose to contact Dr. Conn's superiors about his less than professional conduct towards Dr. Hester at the SEDAR 19 assessment workshop.<sup>19</sup> Within a few hours of Dr. Hester sending his email to Dr. Conn et al did Dr. Conn reply back to everyone on Dr. Hester's email and admitted his thoughts and choices, but offered no apologies to Dr. Hester or the Fishing Industry for his words or actions.<sup>20</sup> In fact, he seemed intent on offering more negative diatribe. How can the Fishing Industry trust scientists like Dr. Conn? Perhaps Dr. Conn's role as lead author of a SEDAR 15 red snapper assessment workshop document for the stock assessment model<sup>21</sup> made him feel he needed to defend his red snapper work from Dr. Hester's analysis and so he attacked him personally. At the minimum Dr. Conn's behavior was disruptive and he should have to submit a written apology to Dr. Hester and the Fishing Industry.

The SAFMC and the NMFS personnel miss the message that the red snapper spawning aggregations are a time and area closure for rolling areas from South to North between May and September of each year, nearer to shore than the SAFMC planned amendment closure options. Closing huge swaths of prime fishing bottom is harmful on the part of the SAFMC and the NMFS. Tell the US Congress and the US Executive Branch that you will not destroy these fishing communities due to the NMFS scientific shortcomings. That is the logical behavior.

Martin A. Moe, Jr. authored the January 1963 "A Survey of Offshore Fishing in Florida"<sup>22</sup>. This fishing survey of marine reef fish such as red snapper verifies what we have shared publicly about spawning aggregations as per time and area. The SEDAR 15 assessment never considered that document. It is not found in the final report or seen as a reference document at the SEDAR 15 website. We recently made the Moe Survey available through our red snapper Interim Rule comment as a result of it being referenced by the SEDAR 19 data workshop for red & black grouper earlier this year. It came from a State of Florida employee attending SEDAR 19.

The National Oceanic and Atmospheric Administration (NOAA) government behemoth's right hand [NMFS] and left hand [Councils] does not properly monitor the collective economic impacts to fishing communities from NMFS resource reductions. Economic devastation is unfolding currently before the public eye because of government management choices mostly due to political agendas (i.e. overfishing law) and inadequate science (i.e. SEDAR 15). The NMFS is a large government agency destroying commercial and for-hire fishing communities while doing nothing to mitigate the damage. Congress should change this management issue.

We do not apologize for our opinions since NMFS miscues created this feeling. DSF, Inc. and the SFA ECFS wants the NMFS to correct the red snapper science and mismanagement of fishing industry stakeholders before it is too late for the fishing communities continued survival.

Following below are the DSF, Inc. choices on behalf of the SFA ECFS about the SAFMC Amendment 17A Alternatives.

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<sup>19</sup> DSF, Inc. Exhibit 15: Dr. Frank Hester October 08, 2009 email to Dr. Paul Conn and his superiors

<sup>20</sup> DSF, Inc. Exhibit 16: Dr. Paul Conn October 08, 2009 email reply to Hester et al October 08, 2009 email

<sup>21</sup> DSF, Inc. Exhibit 17: SEDAR 15 AW01 dated October 2007 and titled "SEDAR 15 Stock Assessment Model" <http://www.sefsc.noaa.gov/sedar/download/SEDAR%2015-AW01.pdf?id=DOCUMENT>

<sup>22</sup> DSF, Inc. Exhibit 18: Martin A. Moe Jr. dated January, 1963 and titled "A Survey Of Offshore Fishing In Florida"

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## 2.1. Proxy Maximum Sustainable Yield (MSY) for red snapper

DSF, Inc. chooses **Alternative 1** (No Action) where  $F_{msy}$  is  $F_{30\%SPR}=0.148$  is used as the  $F_{msy}$  proxy and MSY Value in pounds whole weight equals 2,431,000 pounds.

### 2.2.1 Rebuilding Schedule

DSF, Inc. chooses **Alternative 1** (Status Quo) since there has not been a rebuilding plan for red snapper since the previous plan expired in 2006, we believe the red snapper biomass will do just fine as is until the NMFS completes a more believable science assessment for this stock.

### 2.2.2 Rebuilding Strategy and Optimum Yield

DSF, Inc. chooses **Alternative 1** (Status Quo) for the SAFMC/NMFS not to define a yield-based rebuilding strategy for red snapper.

## 2.3 Red Snapper Management Measures

DSF, Inc. chooses **Alternative 1** (Status Quo) that would continue the 20-inch size limit (commercial & recreational) and the 2 fish bag limit (included in the 10 snapper per person limit).

[CAVEAT] If there was an alternative that would match the SAFMC size limits with the Gulf of Mexico Fishery Management Council (GMFMC) recently implemented size limits for red snappers, the DSF, Inc. would choose that action to reduce post release mortality issues, thus reducing the post release mortality rates for each catch sector as the GMFMC chose to do. Instead of counting against post release dead discards, they become landed seafood.

### 2.4 Require the use of Circle Hooks

DSF, Inc. chooses **Alternative 3** to require the use of circle hooks when fishing for snapper grouper species within the South Atlantic Exclusive Economic Zone (EEZ).

### 2.5 Establish a Red Snapper Monitoring Program

DSF, Inc. chooses **Alternative 1** (Status Quo) to utilize existing data collection programs until the NMFS completes a red snapper benchmark assessment to replace the flawed SEDAR 15 science results.

*Rusty ;-)*

Russell H. Hudson, President

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Seafood Coalition (SFC) member  
National Marine Fisheries Service (NMFS) Highly Migratory Species (HMS) Advisory Panel (AP) commercial member  
Atlantic States Marine Fisheries Commission (ASMFC) Coastal Shark (CS) AP Florida (FL) commercial & for-hire recreational member  
South Atlantic Fishery Management Council (SAFMC) Marine Protected Area (MPA) AP FL commercial member  
Former NMFS Atlantic Large Whale Take Reduction Team FL member (ALWTRT)  
Former NMFS Bottlenose Dolphin Take Reduction Team FL member (BDTRT)  
American Elasmobranch Society (AES) FL member