

has just reported its first results. However, the observer program does not have the resources to provide observer data to managers for real-time fishery management. The agency expects that integrating observer data into the bycatch model and recalibrating the model with that data will significantly improve NMFS and Council ability to estimate bycatch and discard in the West Coast groundfish fishery. These changes will still not allow NMFS to implement a discard cap management program, which as mentioned earlier, requires real-time observer program data. No one management tool is suitable for all fisheries, thus NMFS and the Council must craft management tools suitable to the West Coast groundfish fisheries and to the scientific information available on West Coast groundfish and groundfish fisheries. As suggested by another commenter in Comment 12, NMFS should be evaluating its data sources on bycatch and discard and setting goals for improving both data gathering and data evaluation through models like the bycatch model. In this manner, the agency will improve its ability to craft management tools specific to the groundfish fishery and its needs.

*Comment 14:* The same commenter that stated that NMFS had failed to consider discard caps also stated that NMFS has failed to establish adequate bycatch assessment requirements for the fishery. This commenter noted that there are no bycatch assessment requirements contained in the proposed specifications.

*Response:* The groundfish specifications and management measures annually set harvest limits and management measures that constrain the fisheries such that they are permitted to achieve harvest levels for more abundant stocks while still ensuring that harvest levels for protected stocks are not exceeded. As discussed earlier in this section, OYs of more abundant stocks are often not reached because harvest is constrained or closed to protect overfished stocks. In any case, the annual specifications and management measures process is not intended to address every aspect of groundfish fishery management. However, it is incorrect to assert that NMFS has failed to address bycatch assessment requirements altogether simply because bycatch assessment requirements are not part of the annual specifications and management measures regulatory package. Bycatch assessment requirements are part of NMFS's permanent Federal regulations at 50 CFR part 660.360, implemented at 66 FR 20609, April 24, 2001, which

provide groundfish observer program requirements and regulations for the West Coast groundfish fishery. For further information on the West Coast groundfish observer program, the observer coverage plan, and the first year of groundfish observer program data, please see: <http://www.nwfsc.noaa.gov/ fram/ observer/ datareport.htm>.

*Comment 15:* One commenter stated that NMFS has failed to take adequate account of the bycatch occurring in the pink shrimp and prawn fisheries, in order to ensure that total mortality of overfished groundfish species does not exceed the level necessary to meet overfished species rebuilding requirements. A second commenter expressed concern about the potential bycatch of several overfished species in the spot prawn trawl fisheries. This commenter also noted that these are not federally-managed species and that therefore, the NMFS expectation that the spot prawn trawl fisheries will close in 2003 may not be correct. If the spot prawn trawl fisheries are not closed, NMFS and the Council may have underestimated overfished species bycatch in those fisheries.

*Response:* The second commenter is correct in saying that the pink shrimp and spot prawn trawl fisheries are state-managed fisheries. Each of the three coastal states has a seat on the Council, however, and is an active partner in coastwide efforts to protect overfished groundfish fisheries. Oregon (Department of Fish and Wildlife) (ODFW) has been cooperating with the Oregon shrimp fleet to experiment with different types of Bycatch Reduction Devices (BRDs) since 1994. Vessels participating in state pink shrimp trawl fisheries are now required to carry BRDs to participate in those fisheries, significantly reducing their groundfish and other finfish bycatch. NMFS particularly appreciates the initiative the states and the pink shrimp industry have taken to design and test these BRDs, allowing a lucrative fishery to remain open while still reducing its bycatch of overfished groundfish species.

In all three states, spot prawn is taken with pot gear, a gear with very low bycatch rates, and has also been targeted with trawl gear. Washington State has eliminated its spot prawn trawl fishery. Oregon has three vessels participating in the spot prawn trawl fishery, which it had allowed as an experimental fishery. ODFW employees have indicated that this experimental use of trawl gear would end as of January 1, 2004. NMFS understands that the California Fish and Game Commission (Commission) is

deliberating whether to continue to allow spot prawn trawling. The possibility that California may not close its spot prawn trawl fishery is of great concern to NMFS. NMFS has sent a letter to the Commission reminding it that California Department of Fish and Game employees participating in the Council process had estimated California's commercial fishery catch of bocaccio on the assumption that the spot prawn trawl fishery would no longer exist in 2003. In that letter, NMFS told the Commission that if it did not prohibit fishing for spot prawns with trawl gear, NMFS and the Council would be forced to consider additional constraints on California groundfish fisheries to offset the bycatch expected if the spot prawn trawl fishery continues. In addition, if the spot prawn trawl fishery were to occur, it would be prohibited in the trawl Rockfish Conservation Areas (RCAs).

*Comment 16:* For several fisheries, NMFS and the Council have underestimated the amount of bocaccio bycatch that may be expected to occur, particularly: the open access fisheries, the California set gillnet fisheries, the limited entry flatfish trawl fishery, and the California halibut trawl fishery.

*Response:* The commenter details several points where data on the above-listed fisheries may be insufficient to properly estimate bycatch or where historic bycatch estimates are higher than the bycatch levels expected in 2003. In discussing the open access fisheries, the commenter notes that bocaccio landings by the open access fleet were higher in 1999 (22.8 mt) than estimated for all fisheries in 2003. Bocaccio were declared overfished in March 1998, with the first management measures to reduce bocaccio take introduced in 2000. Since bocaccio was declared overfished along with lingcod and Pacific ocean perch, six other West Coast groundfish species have been declared overfished. West Coast groundfish management in 2003 is radically different from that of 1999. NMFS has used 1999 logbook data as a reference to how overfished species interact with more abundant species during a relatively less restrictive fishing regime. The 2003 fishery management regime is considerably more restrictive than that of 1999 and 1999 bocaccio landings are not an accurate estimate of bocaccio harvest expected to occur in 2003. Limited entry and open access commercial fisheries and recreational groundfish fisheries have been under ever more restrictive management regimes in each year since 1999, such that 2003 management measures include more restrictive trip