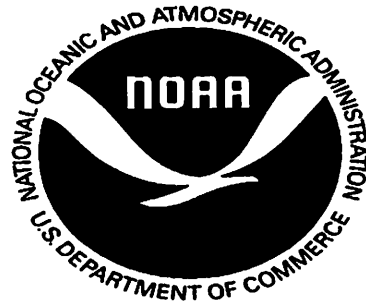


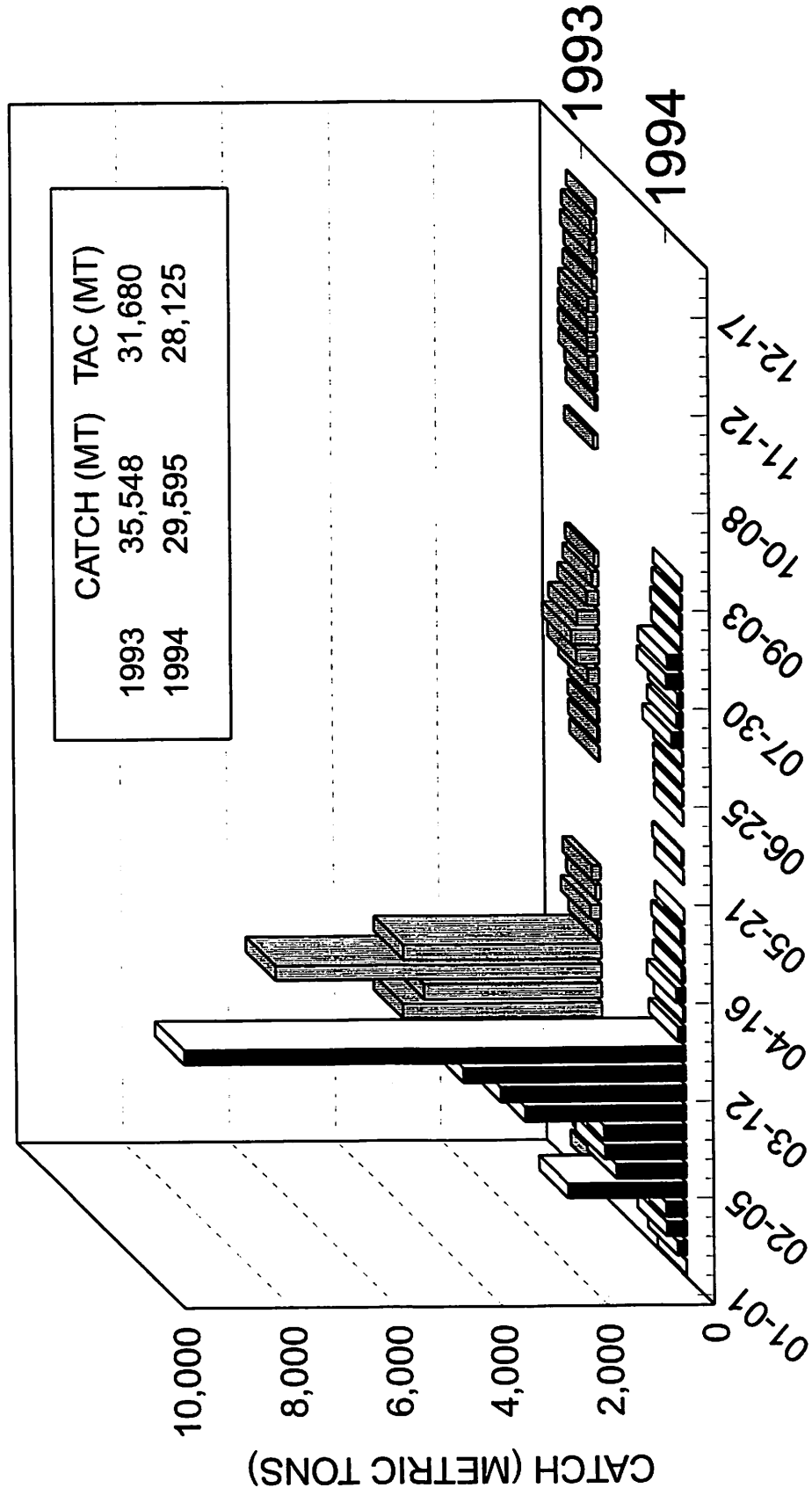
September 1994

NMFS FISHERIES MANAGEMENT REPORT



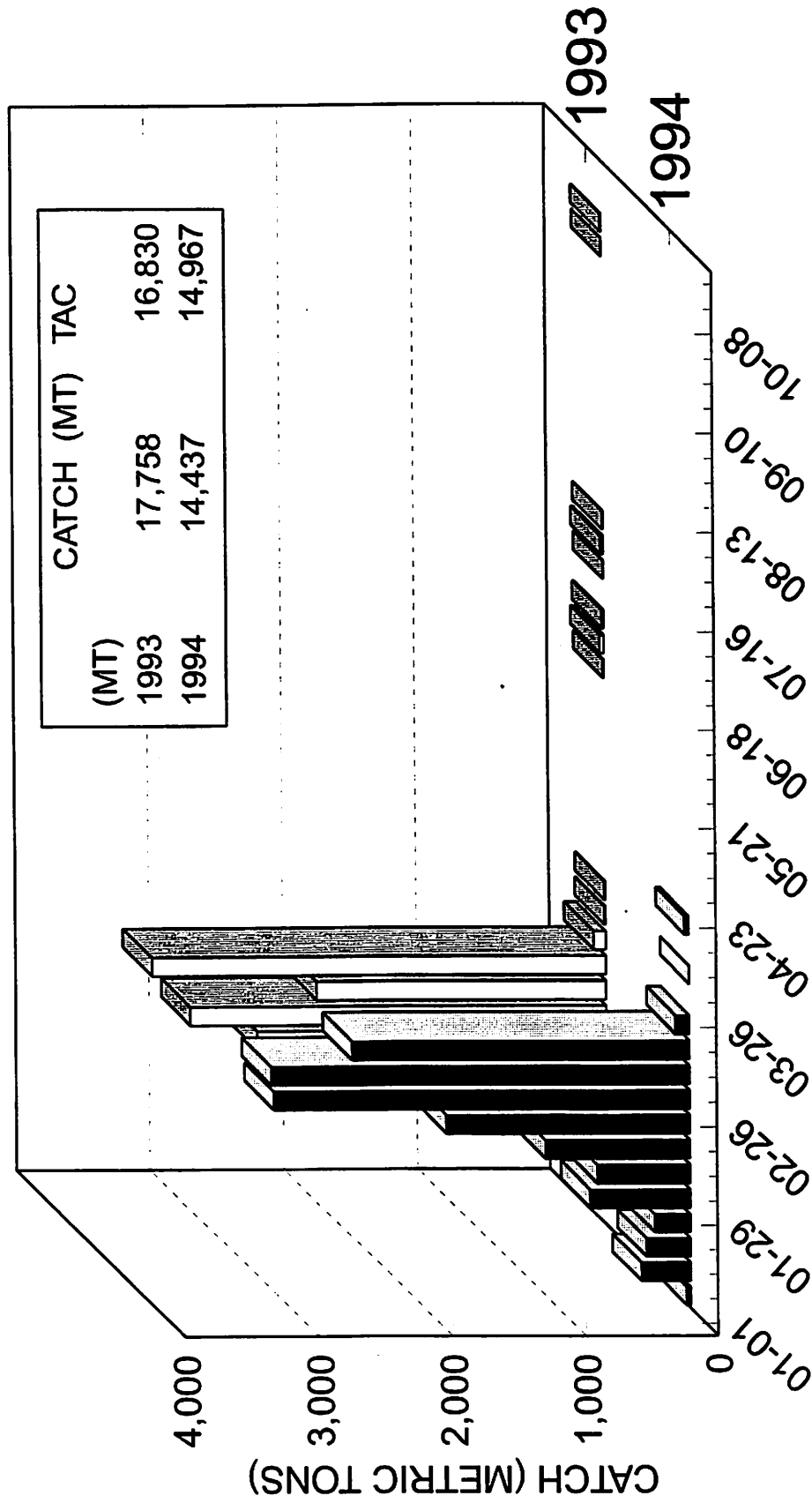
GULF OF ALASKA

1993 & 1994 CENTRAL GOA INSHORE PCOD CATCH



(through 9/10/94)

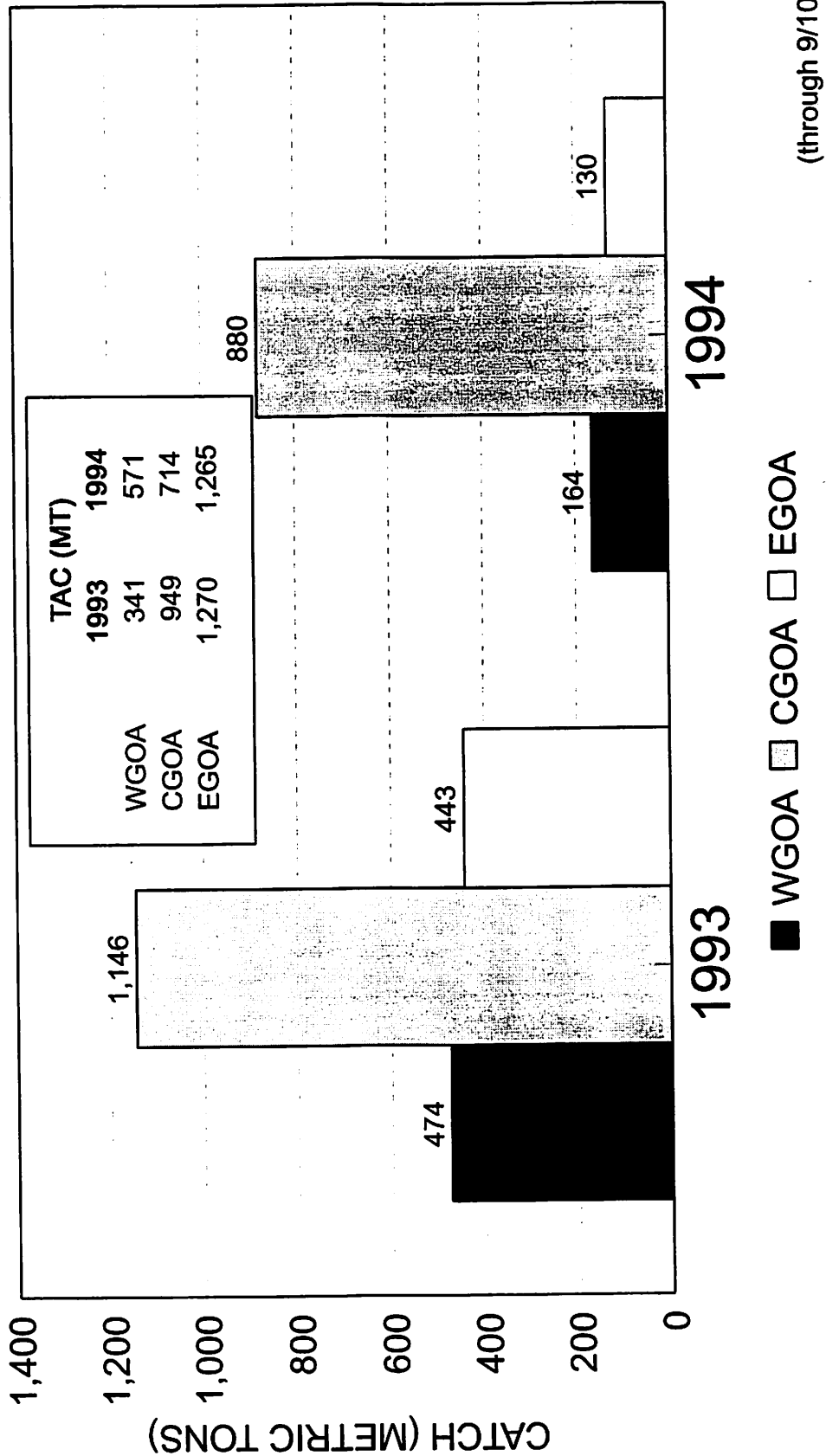
1993 & 1994 WESTERN GOA INSHORE PCOD CATCH



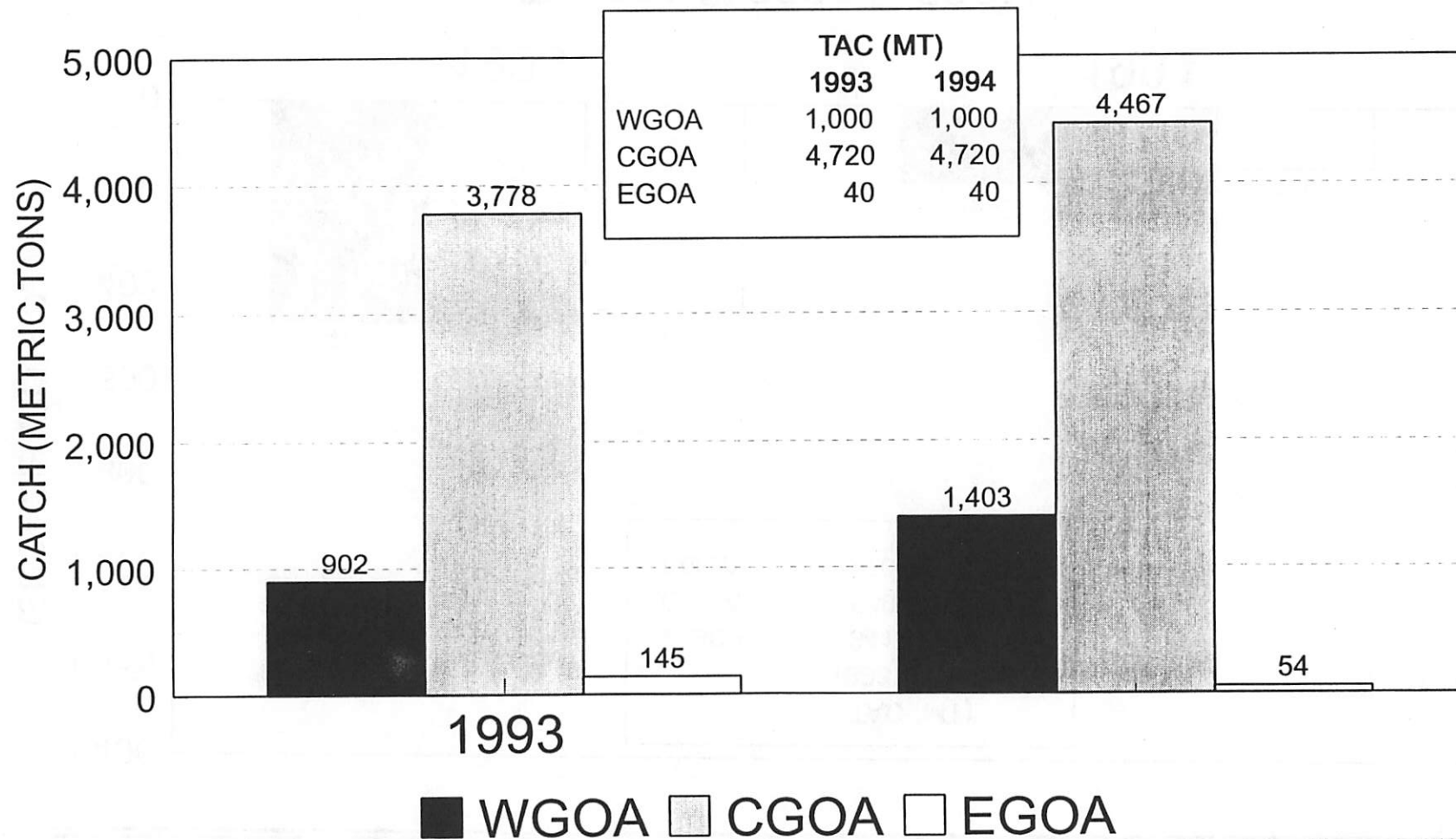
(through 9/10/94)

1993 & 1994 GOA

PACIFIC OCEAN PERCH CATCH

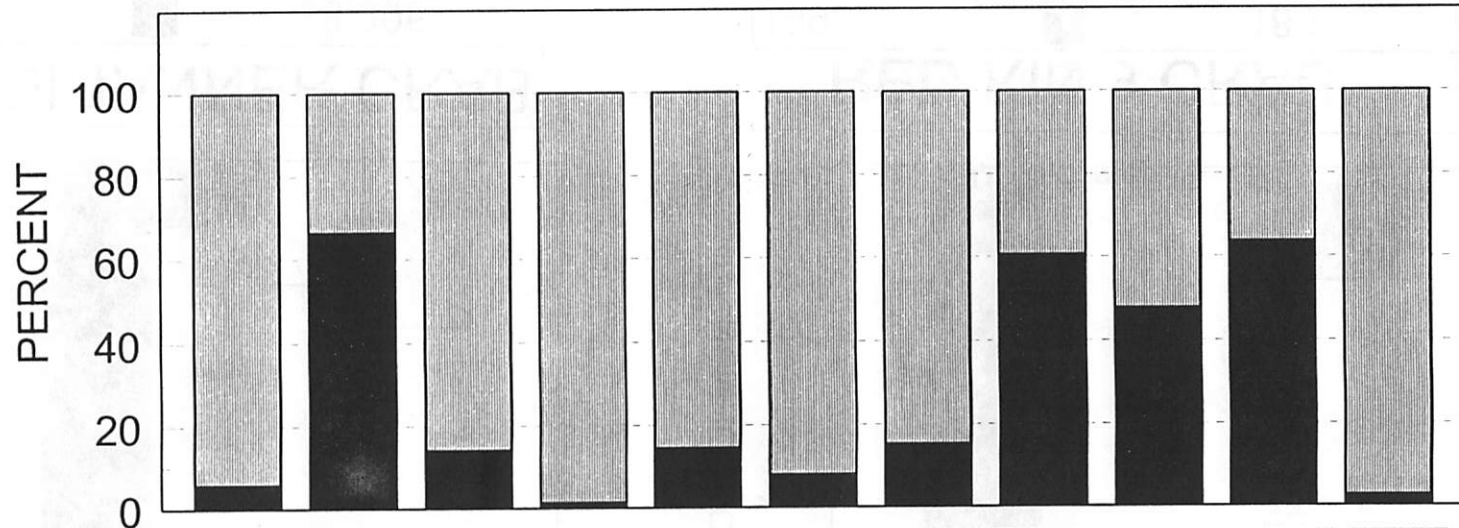




1993 & 1994 GOA NORTHERN ROCKFISH CATCH



(through 9/10/94)

1994 GOA PERCENT DISCARDS BY GEAR AND TARGET FISHERY



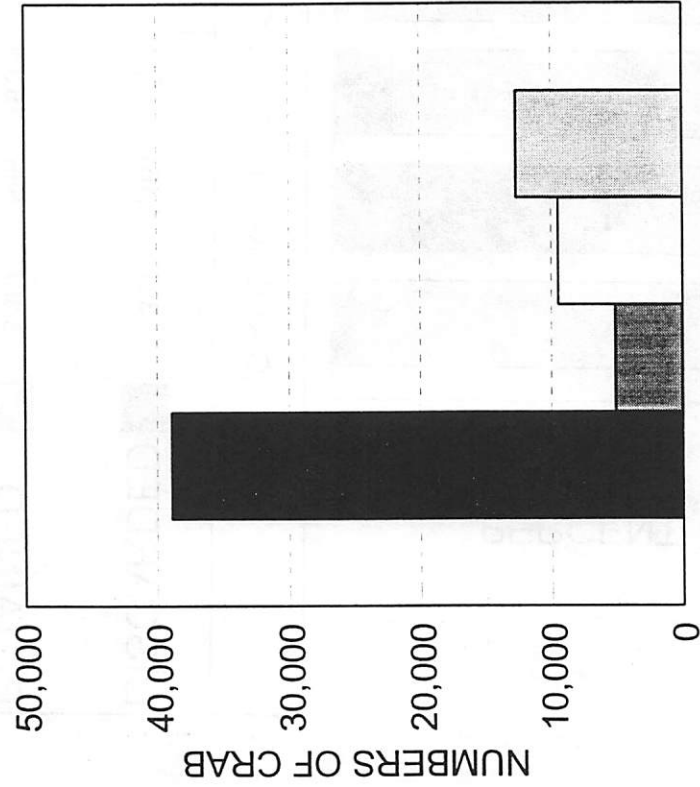
	C--HAL	K-HAL	S-HAL	C-POT	A-TRW	B-TRW	C-TRW	D-TRW	H-TRW	L-TRW	P-TRW
DISCARDED 	391	1,161	2,690	118	190	836	5,358	4,666	1,570	2,266	1,924
RETAINED 	6,367	585	16,300	8,708	1,120	9,766	29,690	3,027	1,710	1,290	72,460

LEGEND

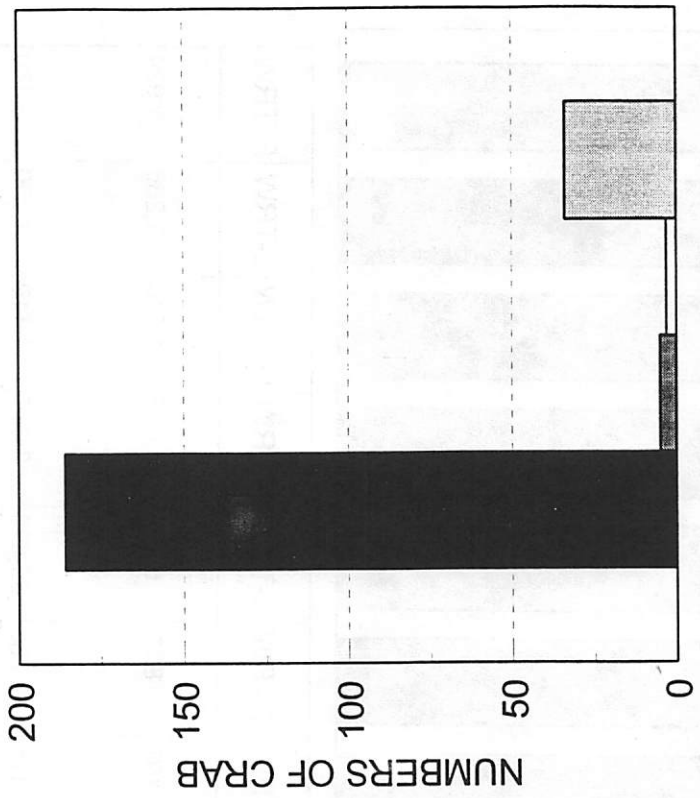
A - Atka mackerel
 B - Bottom pollock
 C - Pacific cod
 D - Deepwater flatfish
 H - Shallow water flatfish
 L - Flathead sole
 P - Midwater pollock

(through 9/10/94)

1993 & 1994 GOA TRAWL CRAB BYCATCH



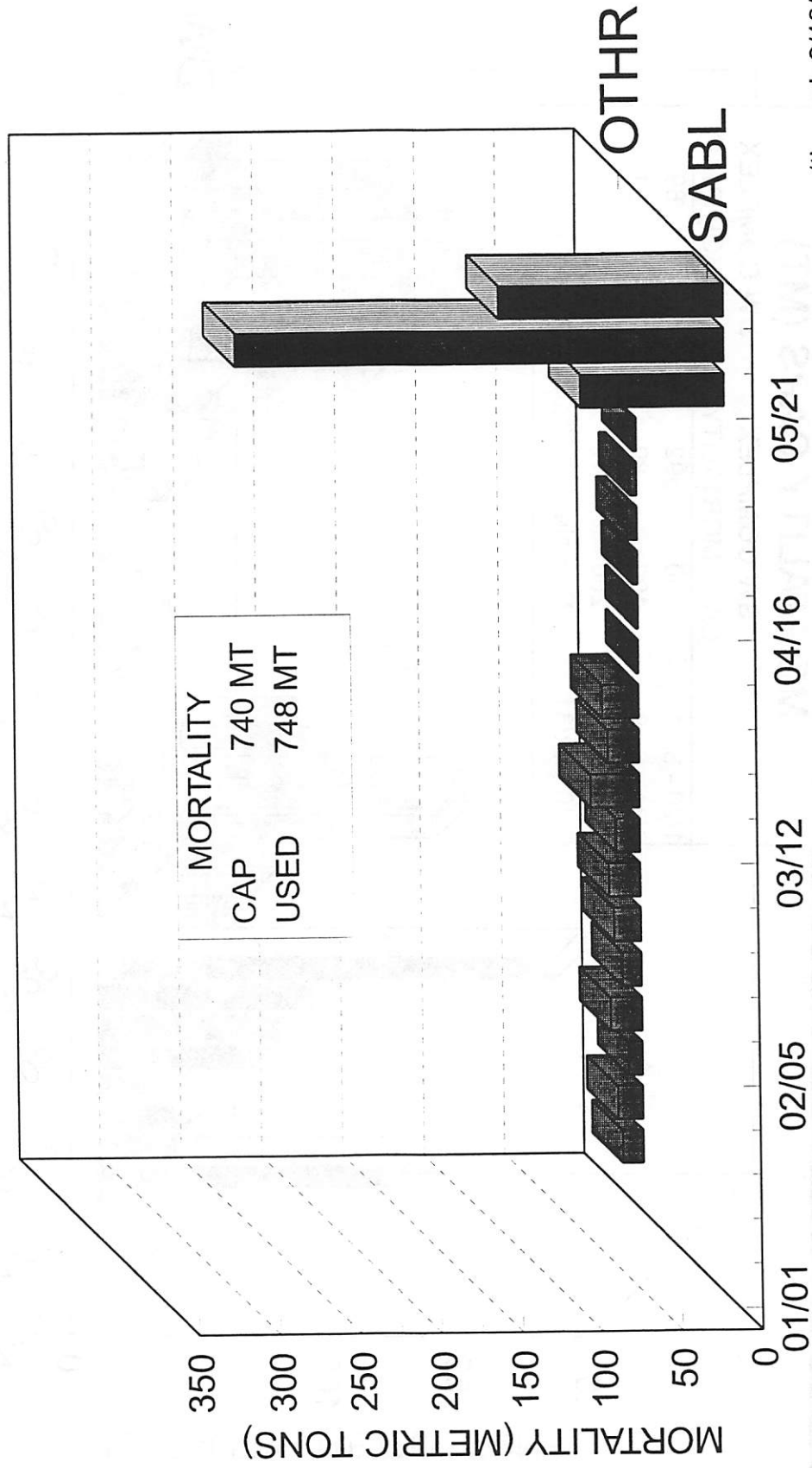
BAIRDI TANNER CRAB	
1993	38,905
1st QTR 1994	5,182
2nd QTR 1994	9,470
3rd QTR 1994	12,669



RED KING CRAB	
1993	186
1st QTR 1994	5
2nd QTR 1994	3
3rd QTR 1994	34

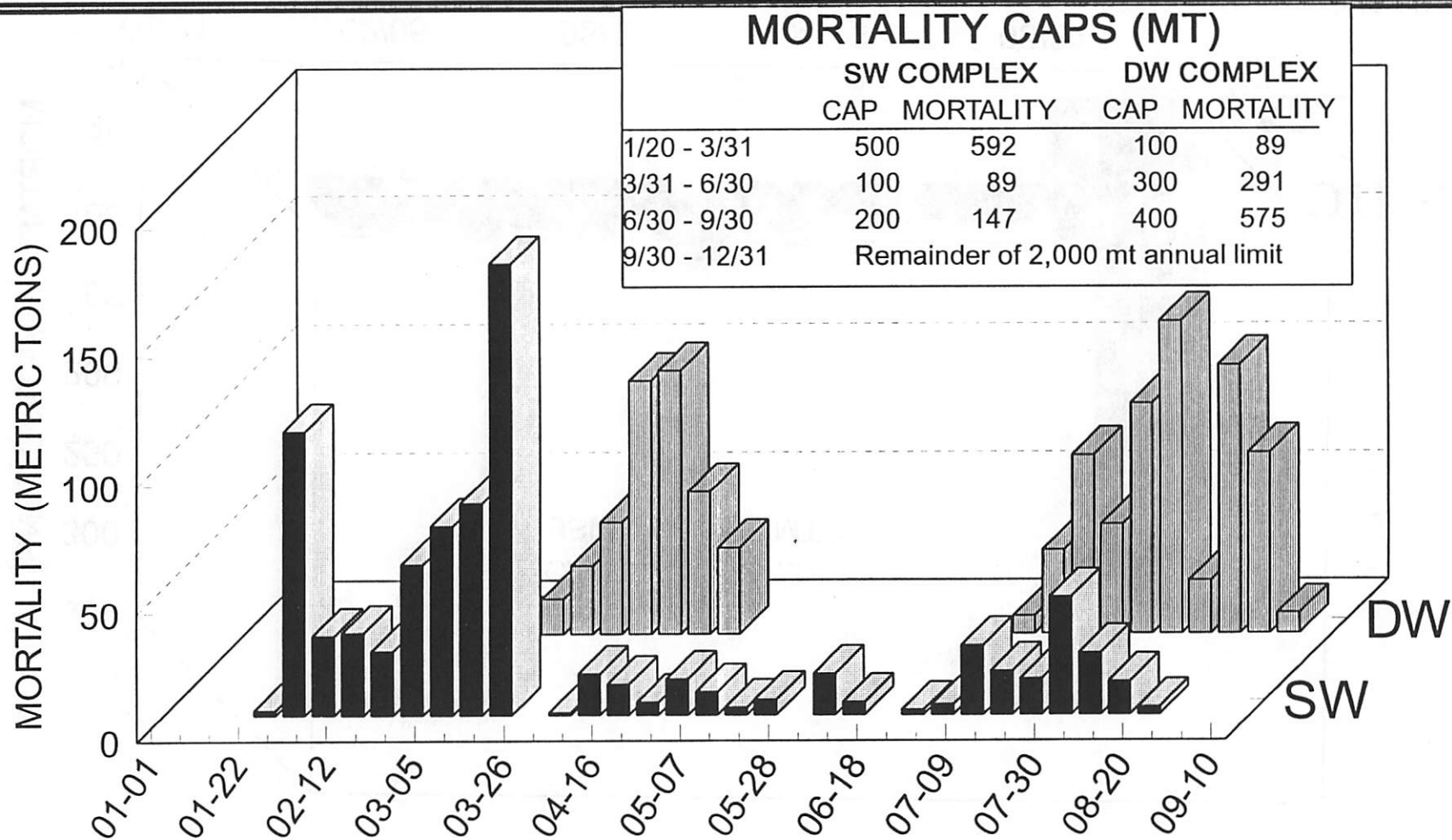
(through 9/10/94)

1994 GOA H&L HALIBUT BYCATCH MORTALITY



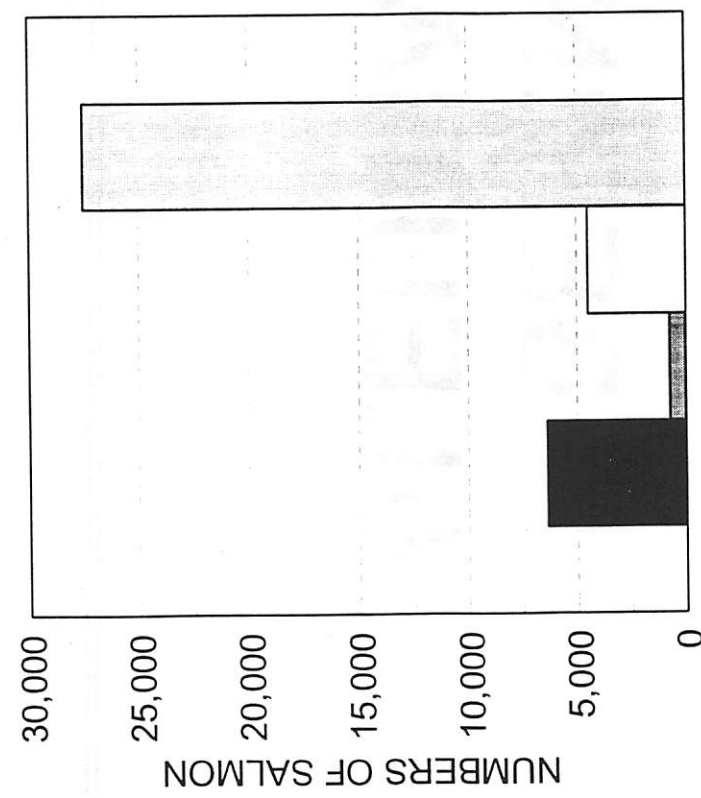
(through 9/10/94)

1994 GOA TRAWL HALIBUT BYCATCH MORTALITY, SW & DW

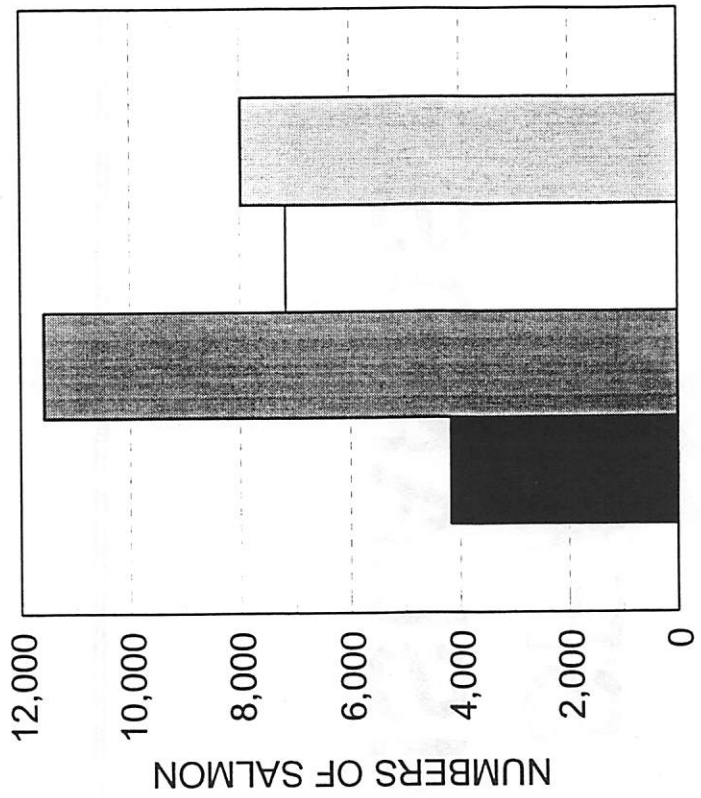


(through 9/10/94)

1993 & 1994 GOA TRW BYCATCH, CHINOOK & OTHER SALMON



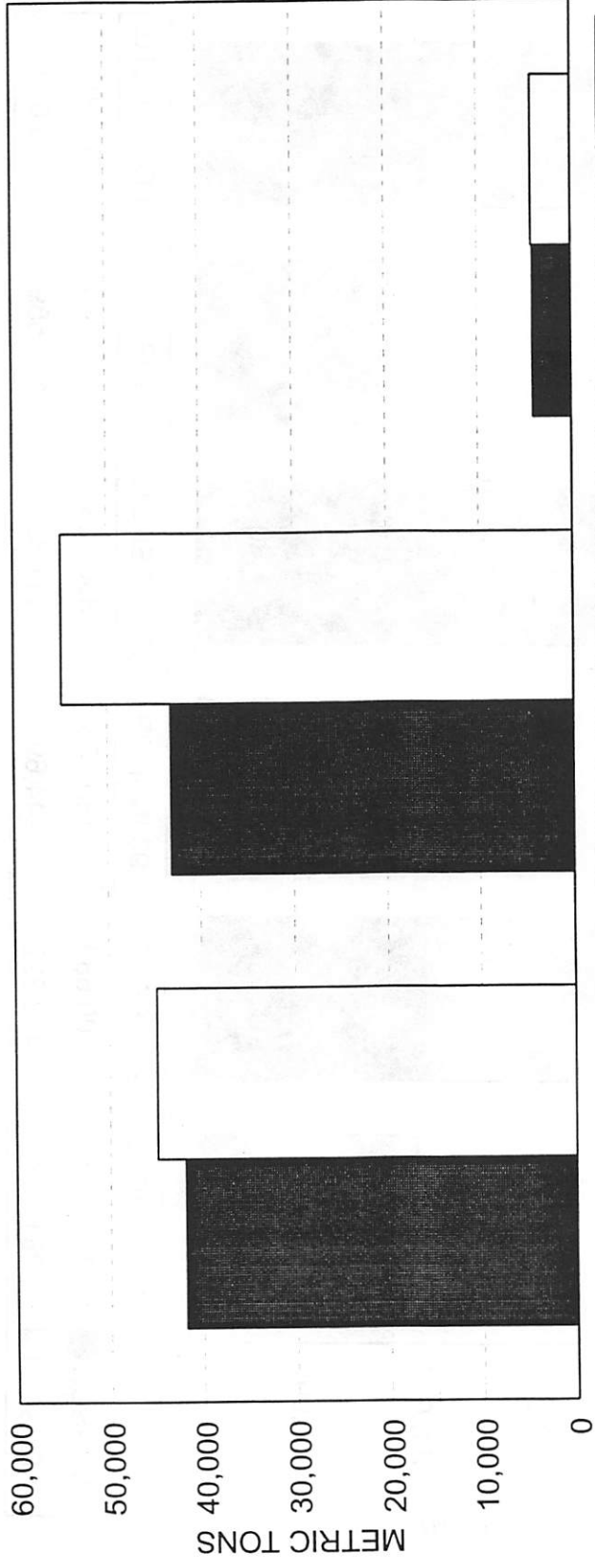
MIDWATER PLCK				
93CHINOOK	■	6,382		
93OTHSALM	▒	742		
94CHINOOK	□	4,489		
94OTHSAL	◻	27,519		



OTHER FISHERIES				
93CHINOOK	■	4,176		
93OTHSAL	▒	11,584		
94CHINOOK	□	7,174		
94OTHSAL	◻	7,980		

BERING SEA & ALEUTIAN ISLANDS

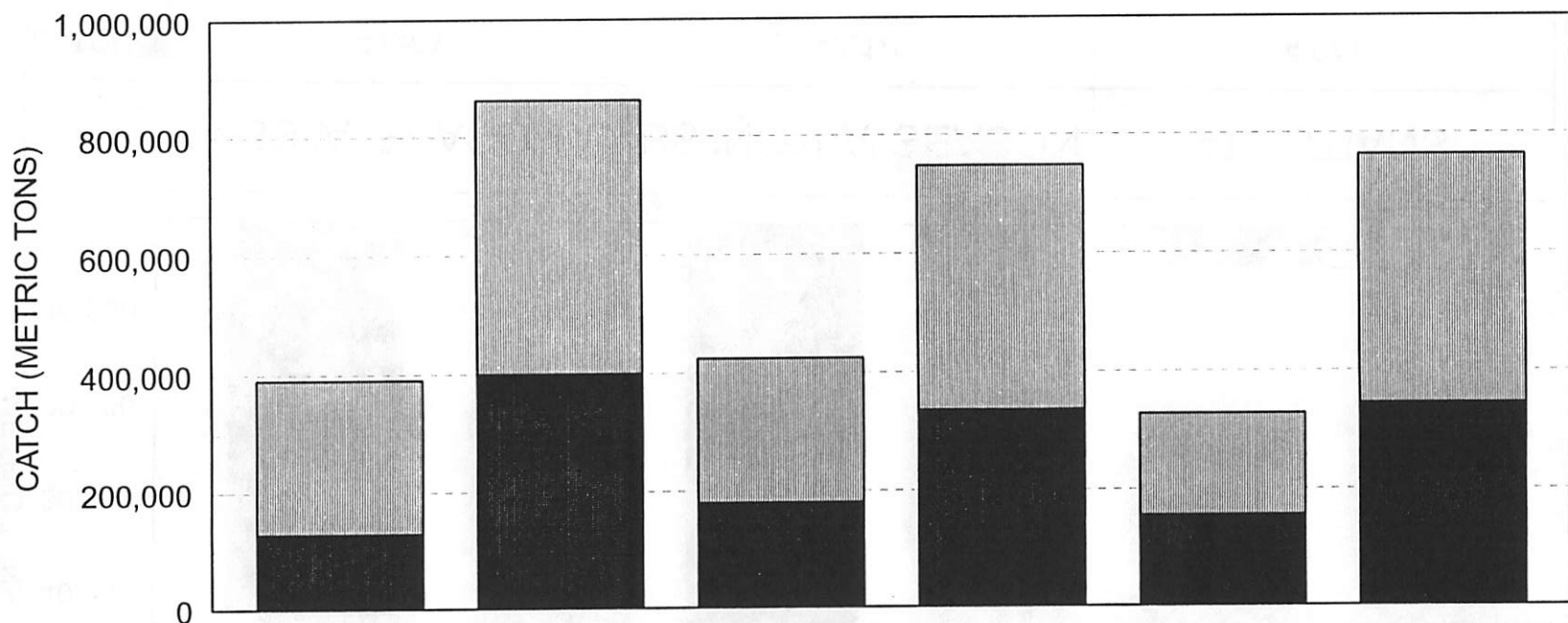
1994 BSAI CDQ POLLOCK



	BS 'A' SEASON	BS 'NON-A' SEASON	ALEUTIANS
CATCH <input checked="" type="checkbox"/>	41,829	43,170	4,071
QUOTA <input type="checkbox"/>	44,887	54,863	4,245

(through 9/10/94)

1992 - 94 INSHORE/OFFSHORE POLLOCK CATCH*, BERING SEA

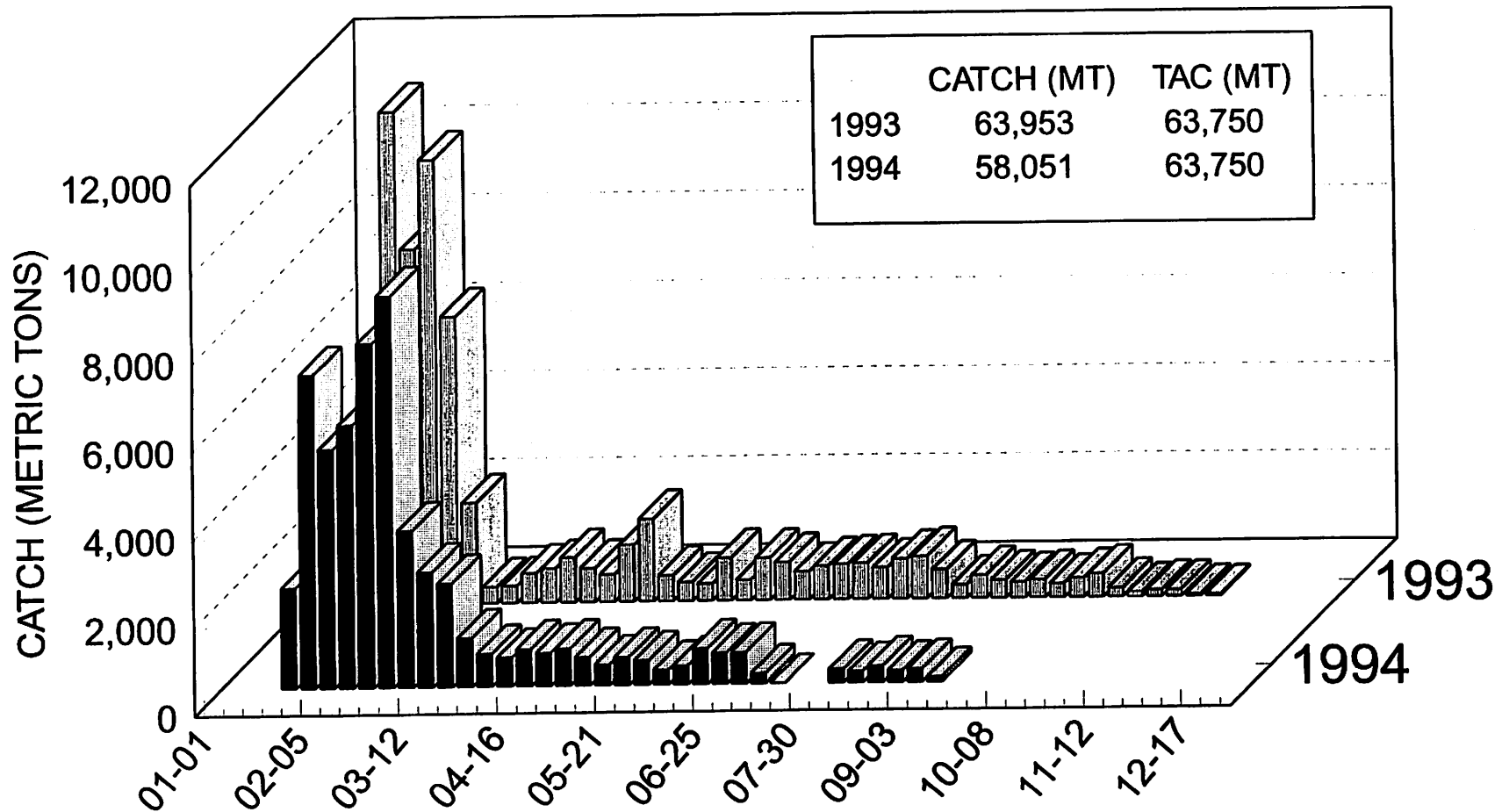


	92 INSHORE	92 OFFSHORE	93 INSHORE	93 OFFSHORE	94 INSHORE	94 OFFSHORE
A SEASON ■	129,302	400,689	180,276	336,703	155,540	345,506
B SEASON ▨	261,183	462,292	244,696	411,327	173,559	418,614

*EXCLUDES CDQ POLLOCK

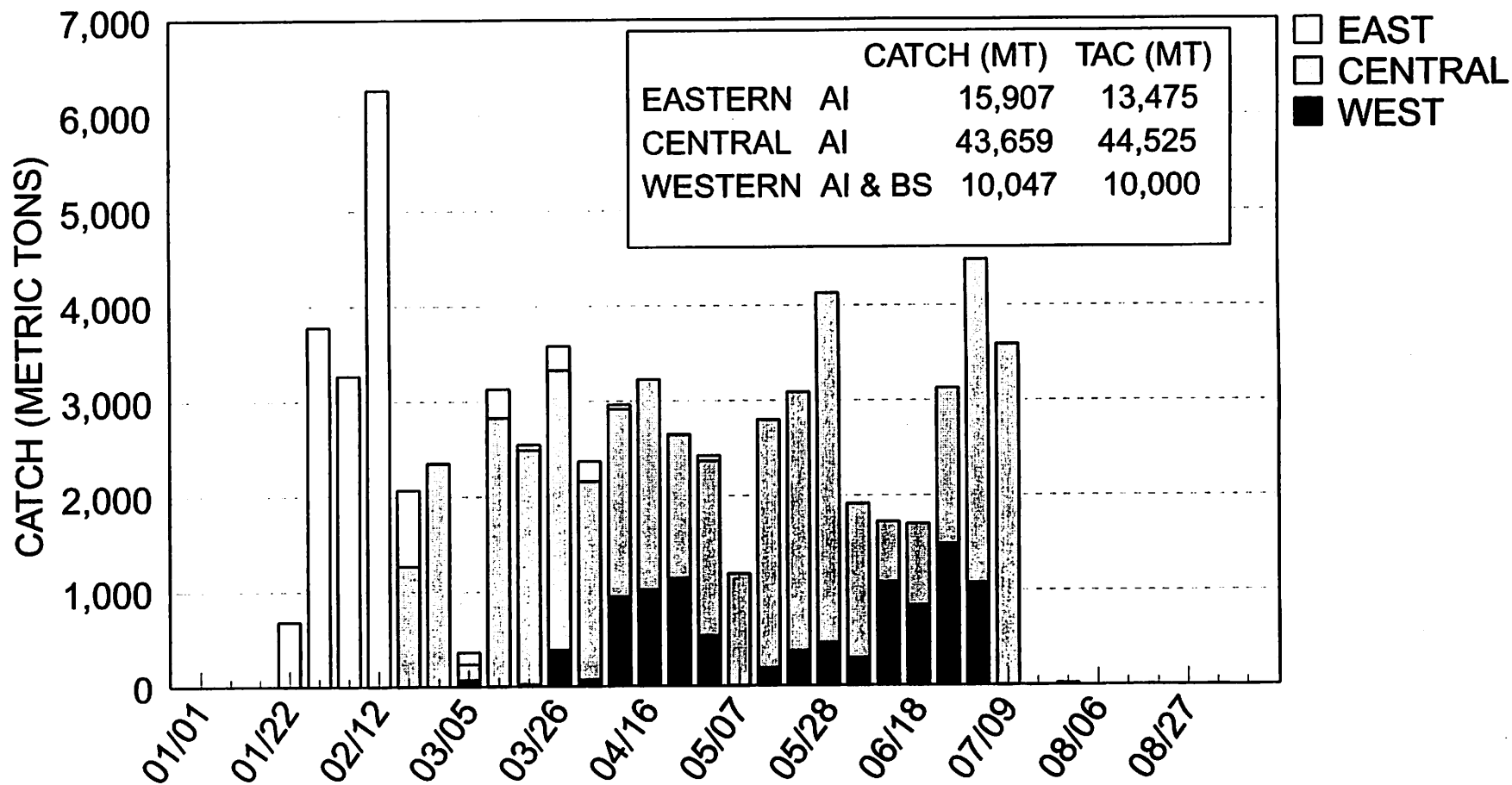
(through 9/10/94)

1993 & 1994 BSAI ROCK SOLE CATCH



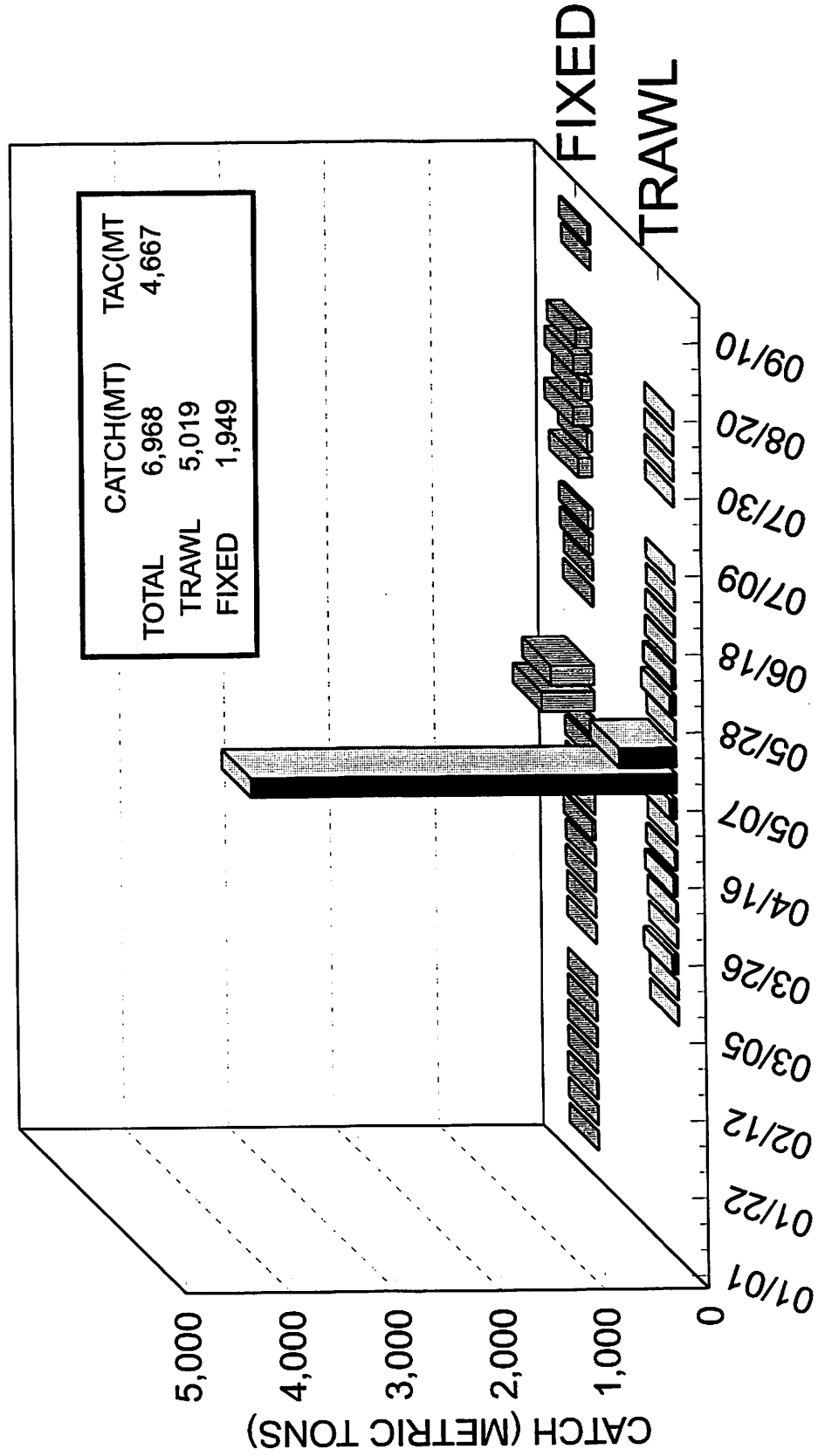
(through 9/10/94)

1994 BSAI ATKA MACKEREL CATCH



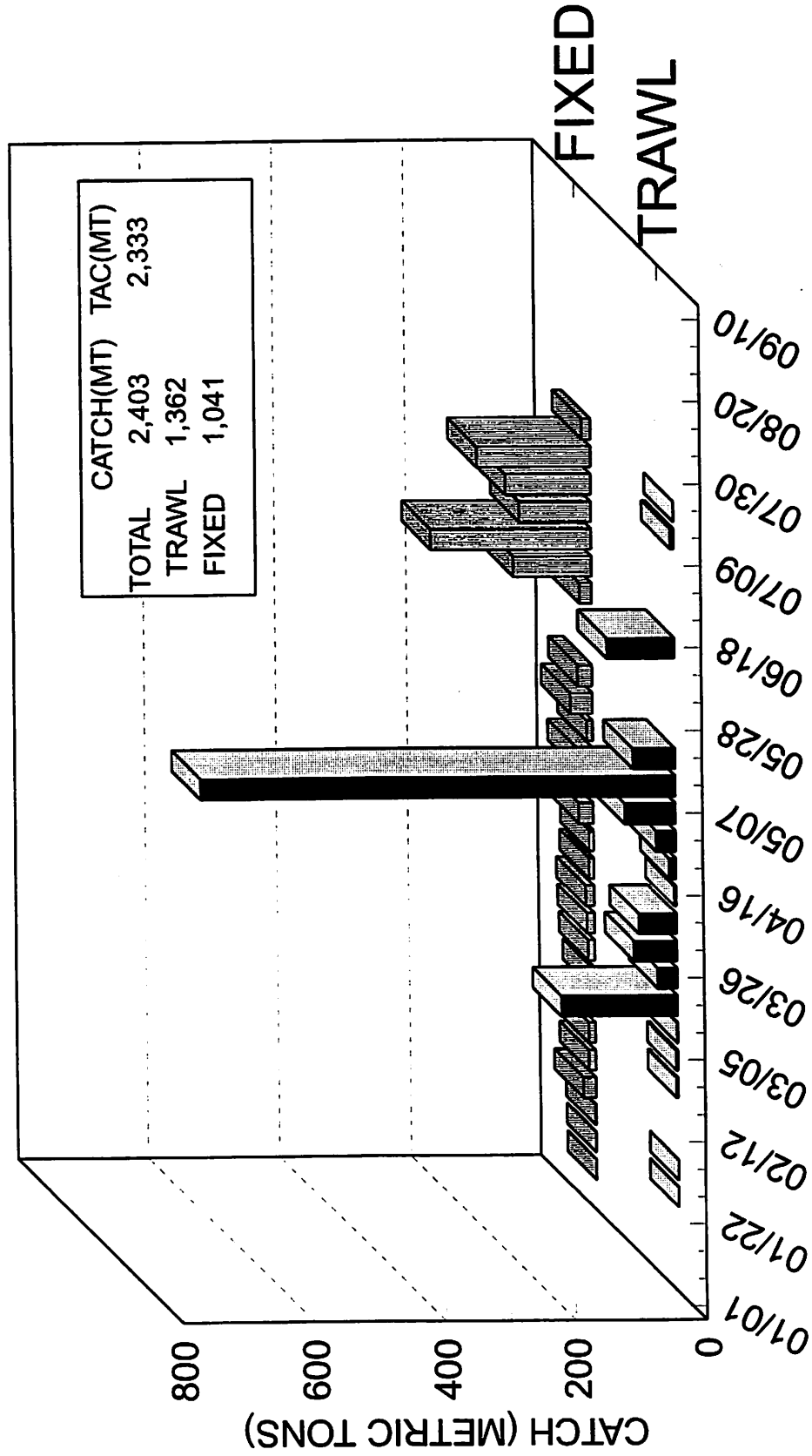
(through 09/10/94)

1994 BERING SEA GREENLAND TURBOT CATCH



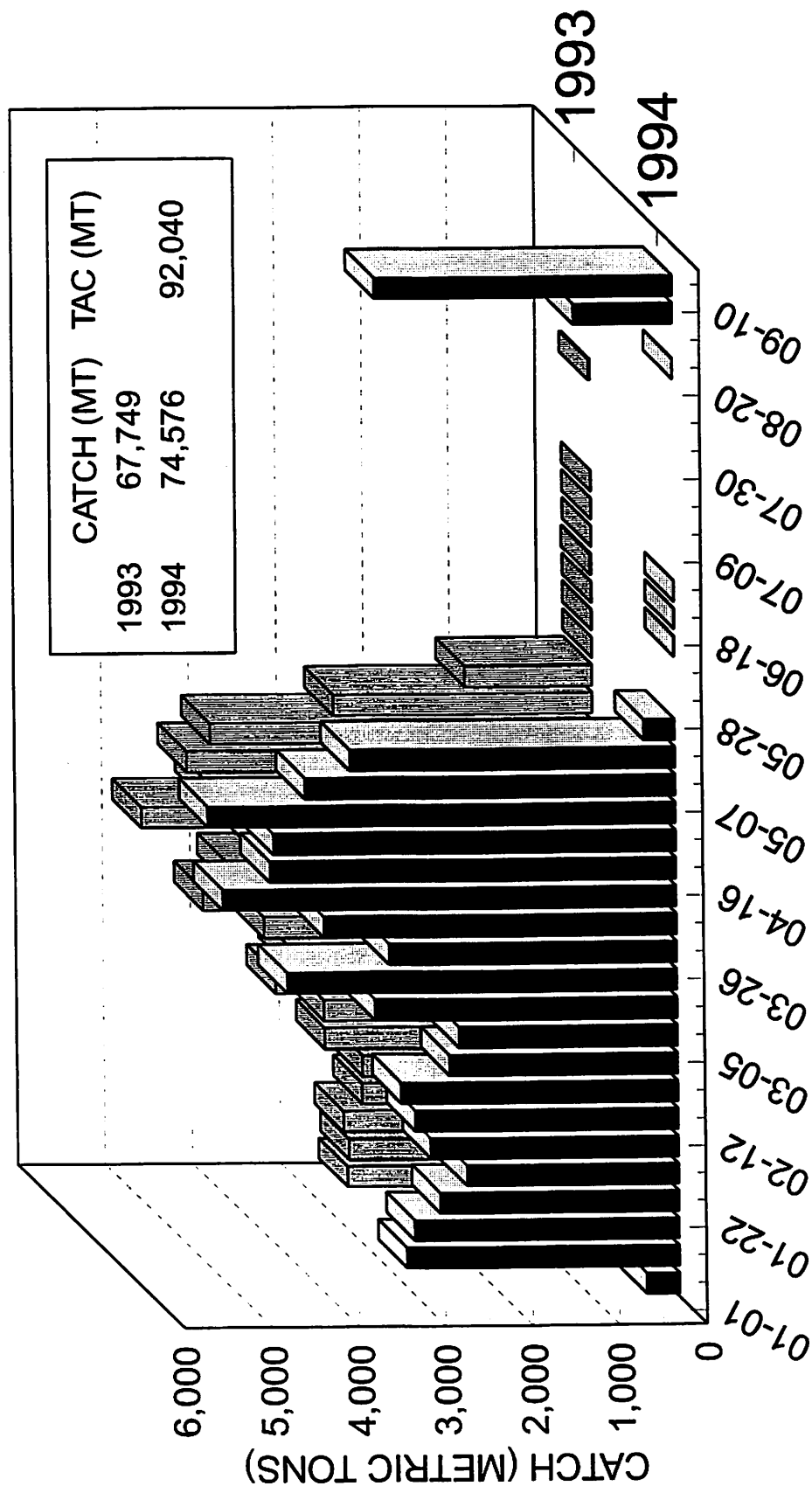
(through 09/10/94)

1994 ALEUTIAN ISLANDS GREENLAND TURBOT CATCH



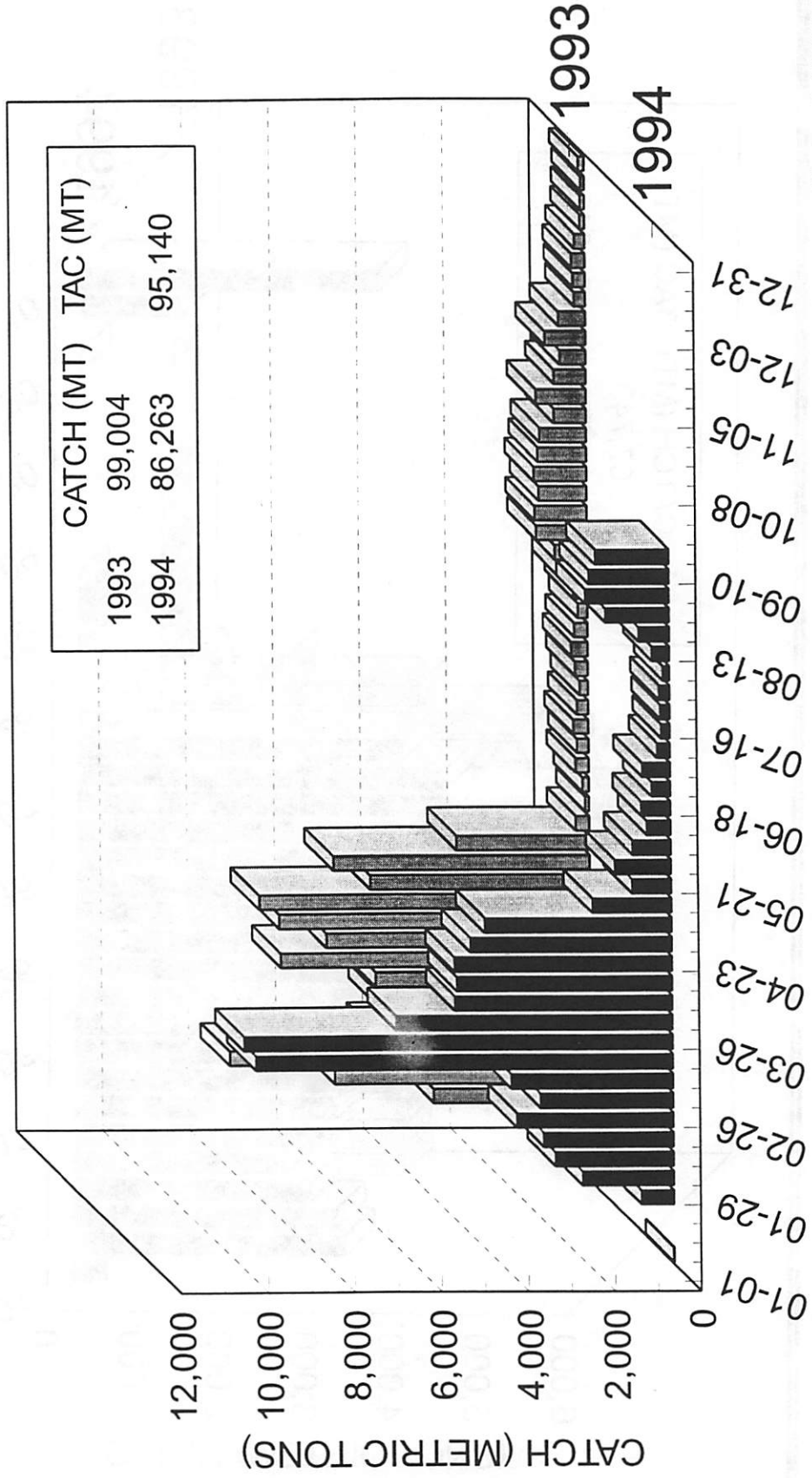
(through 09/10/94)

1993 & 1994 BSAI FIXED GEAR PCOD CATCH



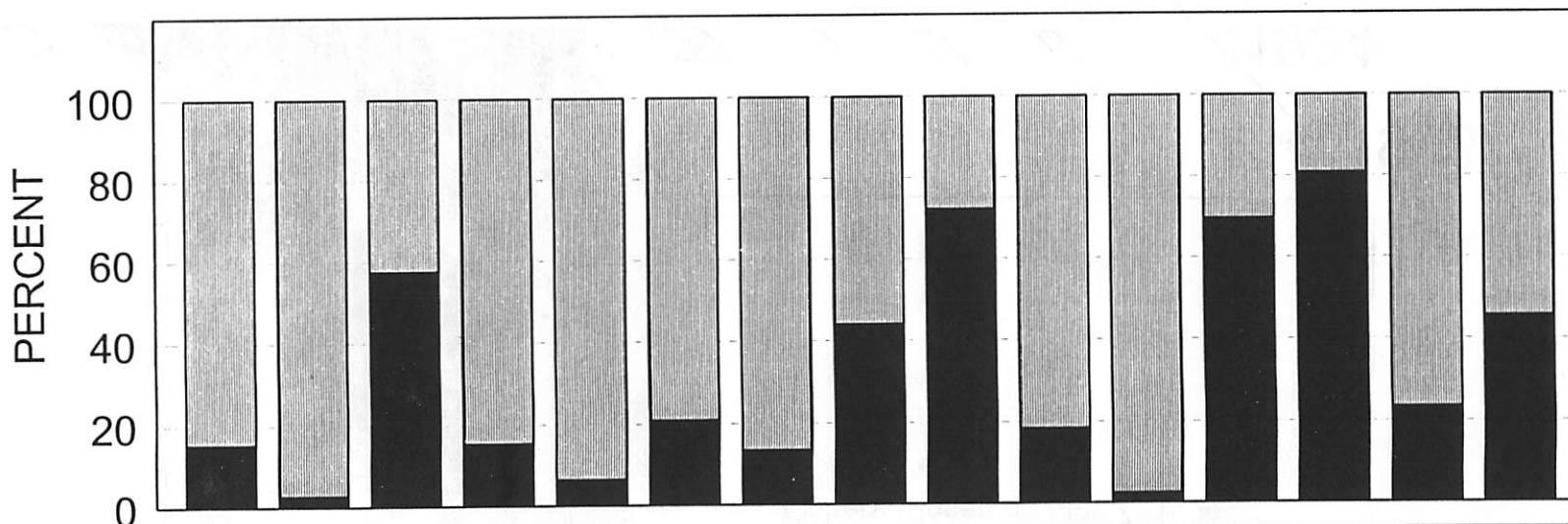
(through 9/10/94)

1993 & 1994 BSAI TRAWL PCOD CATCH



(through 09/10/94)

1994 BSAI PERCENT DISCARDS BY GEAR AND TARGET FISHERY

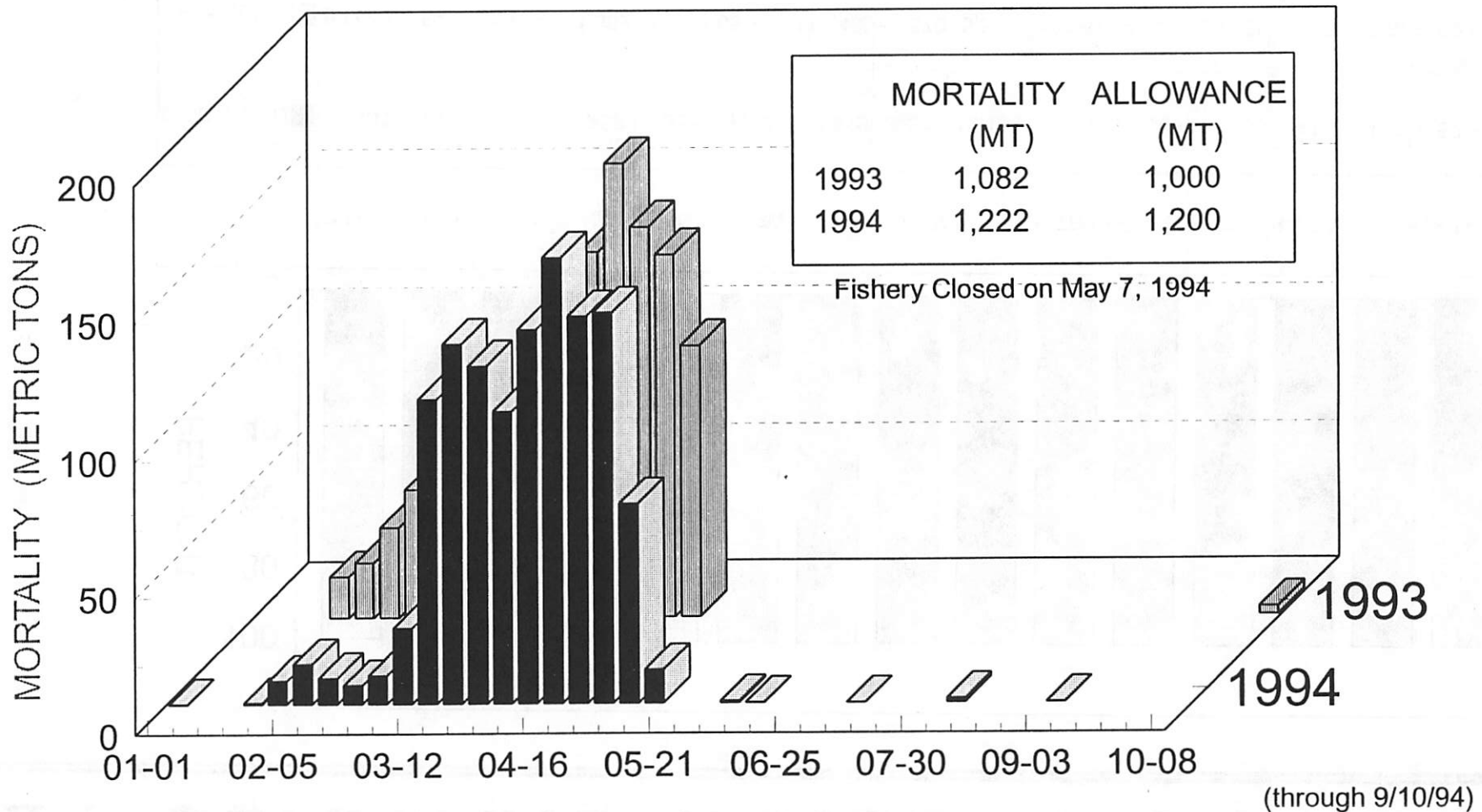


	C-HAL	P-HAL	S-HAL	T-HAL	C-POT	A-TRW	B-TRW	C-TRW	F-TRW	K-TRW	P-TRW	R-TRW	S-TRW	T-TRW	Y-TRW
DISCARDED ■	12,431	15	2,251	252	358	17,329	17,518	41,546	15,163	2,487	24,689	54,400	415	1,736	52,287
RETAINED ▨	68,043	538	1,659	1,382	5,203	65,199	111,435	52,570	5,831	10,967	992,531	23,805	98	5,676	62,081

(through 9/10/94)

LEGEND	A - Atka mackerel	K - Rockfish
	B - Bottom pollock	P - Midwater pollock
	C - Pacific cod	R - Rock sole
	F - "Other" flatfish	S - Sablefish
	H - Shallow water flatfish	T - Greenland turbot
		Y - Yellowfin sole

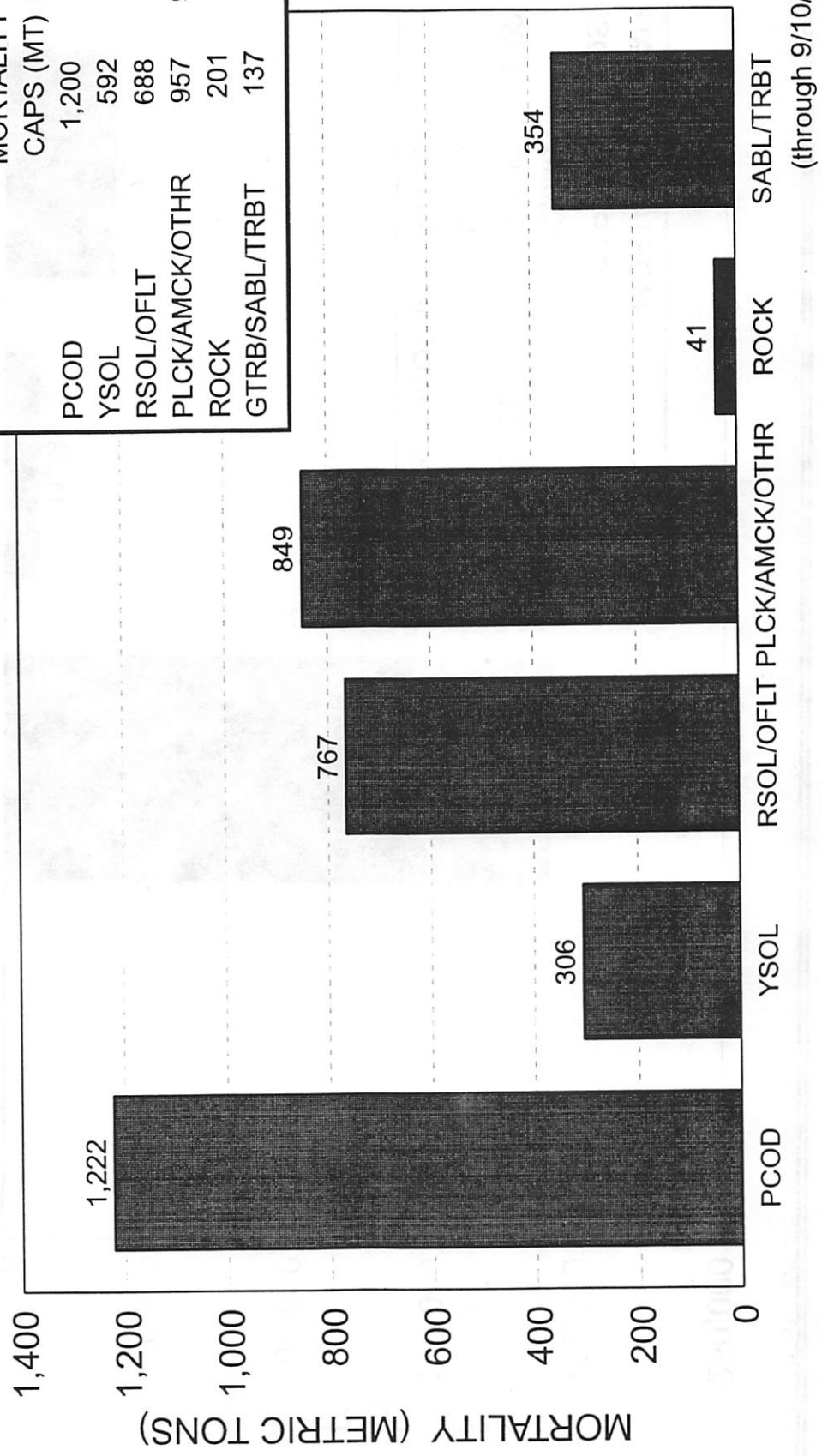
1993 & 1994 TRAWL HALIBUT MORTALITY, BSAI PCOD FISHERY



Note: Trawl halibut mortality in PCOD fishery assumed to be 60% in both years.

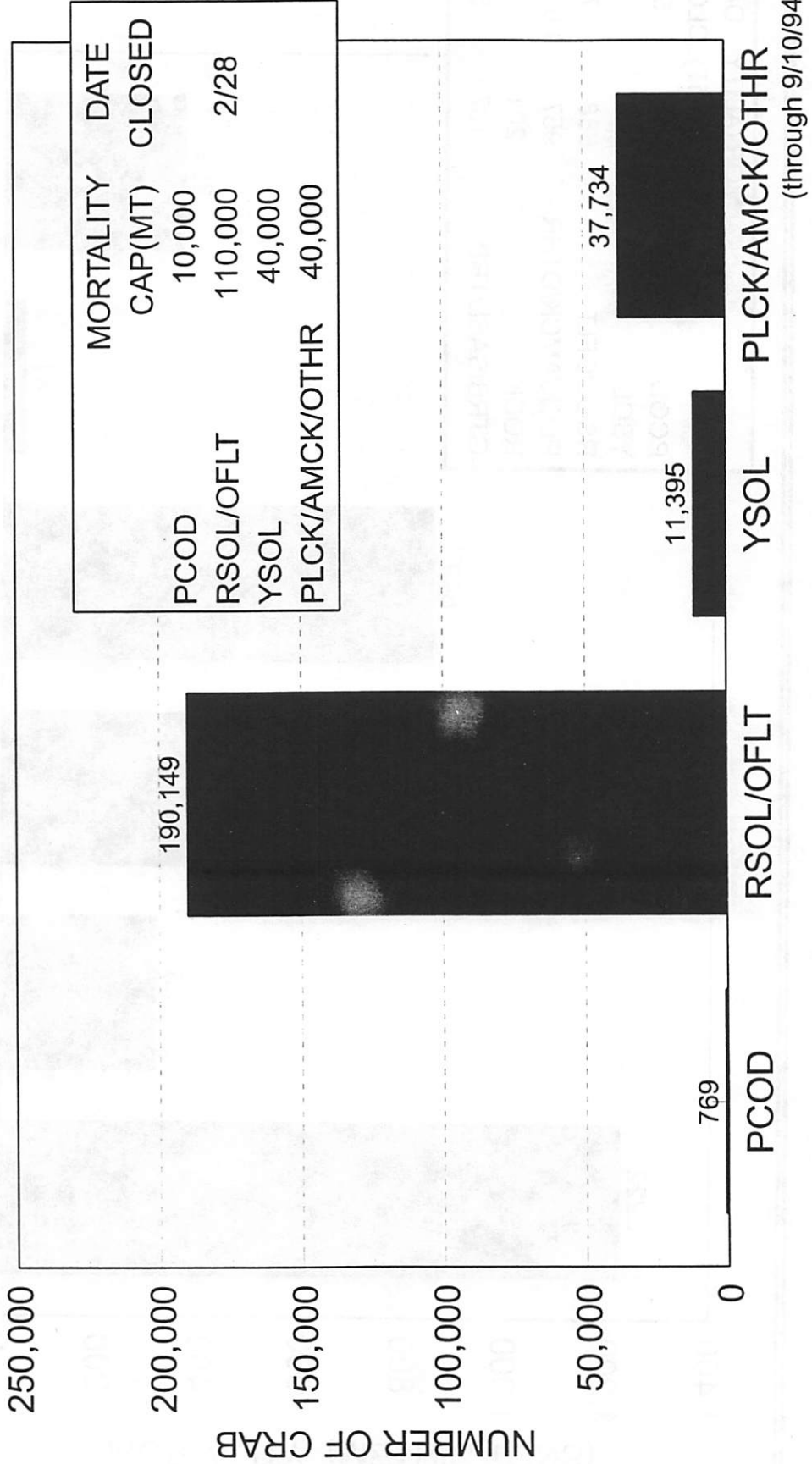
1994 BSAI HALIBUT BYCATCH MORTALITY, TRAWL

PCOD	MORTALITY CAPS (MT)	DATE CLOSED
PCOD	1,200	5/7
YSOL	592	
RSOL/OFLT	688	7/5
PLCK/AMCK/OTHR	957	9/6 NPT
ROCK	201	
GTRB/SABL/TRBT	137	5/23



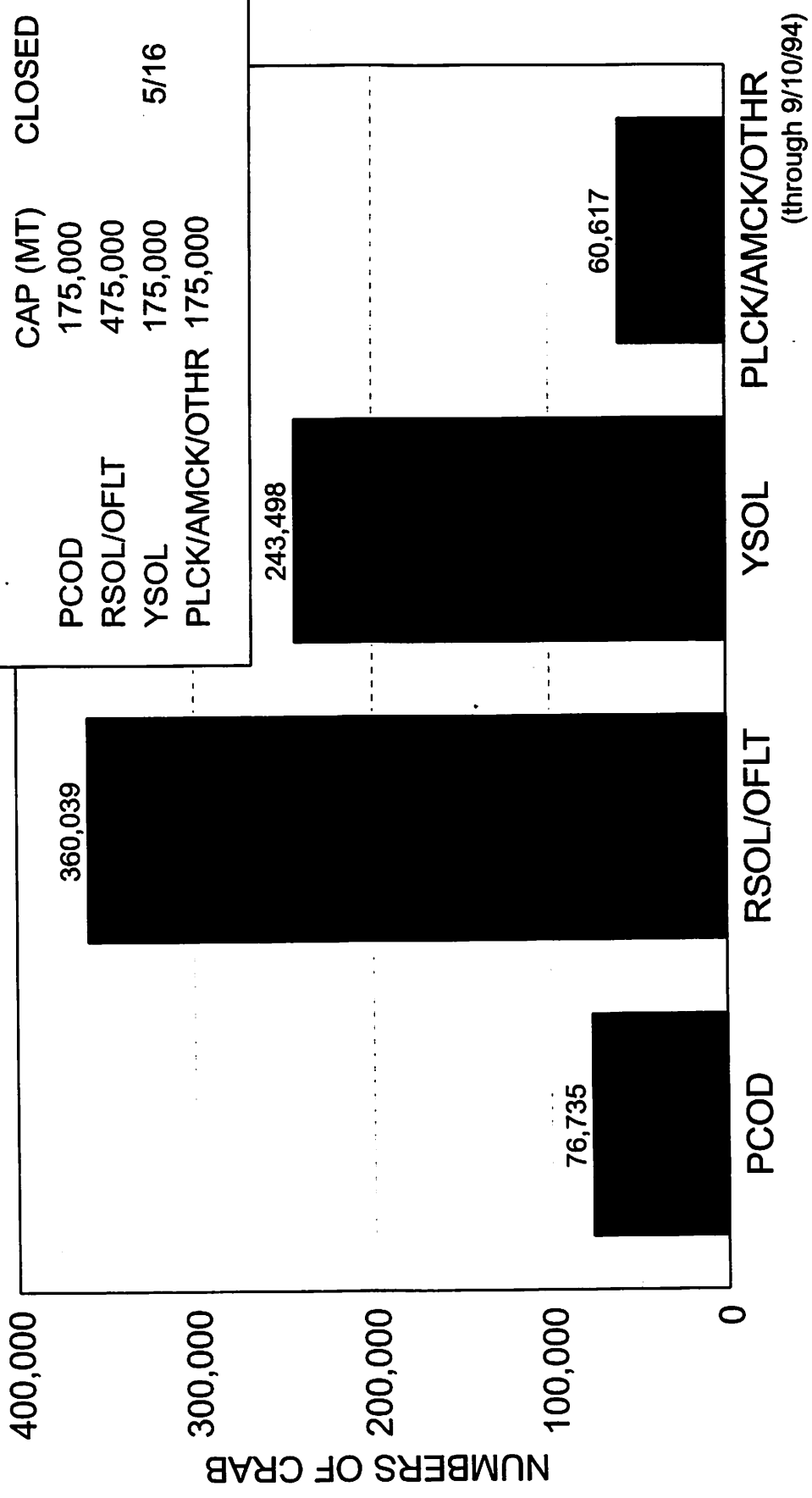
1994 BSAI HALIBUT BYCATCH MORTALITY, TRAWL

1994 BSAI ZONE 1 TRAWL RED KING CRAB BYCATCH



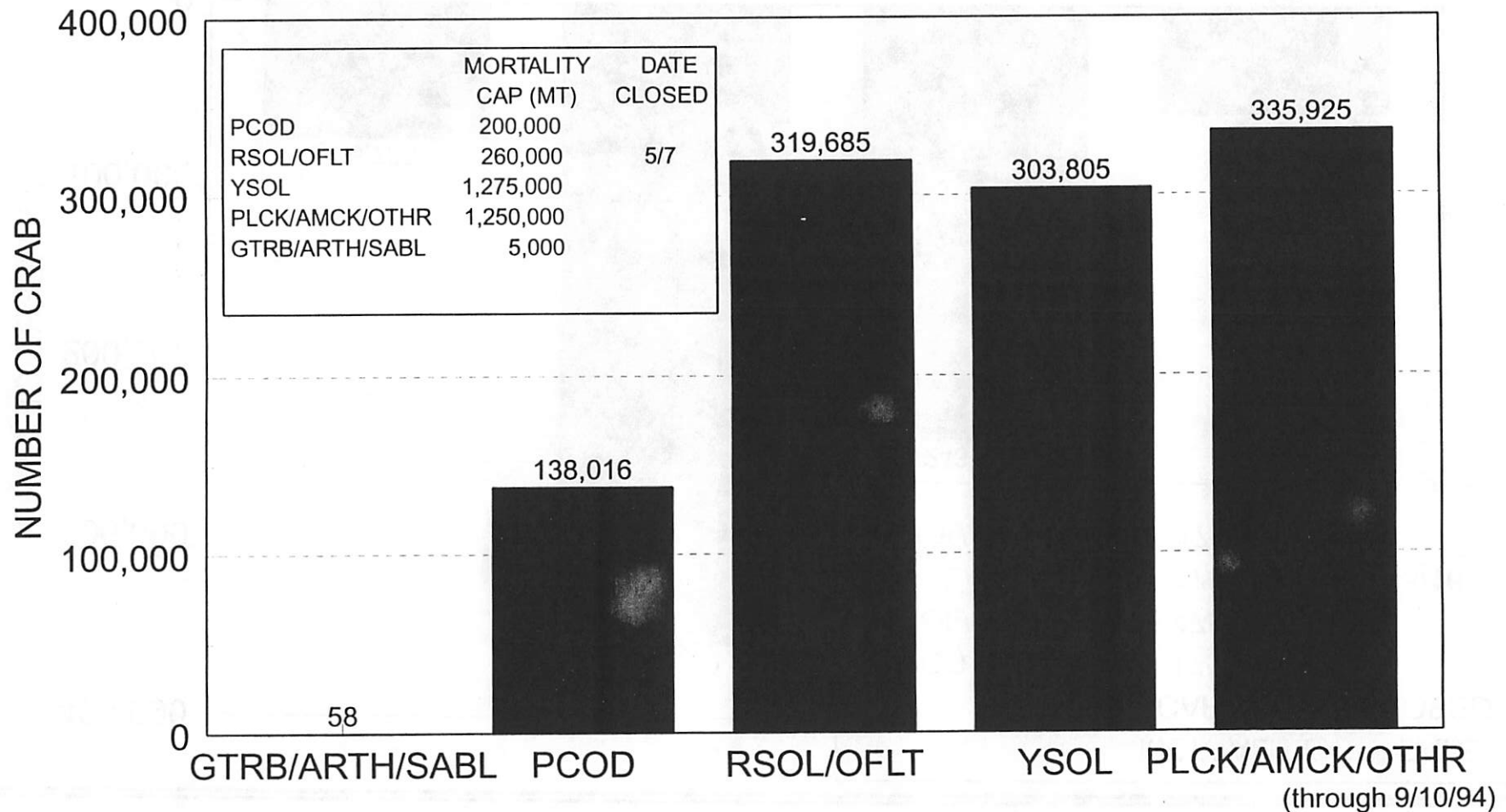
(through 9/10/94)

1994 BSAI ZONE 1 TRAWL BAIRDI TANNER CRAB BYCATCH

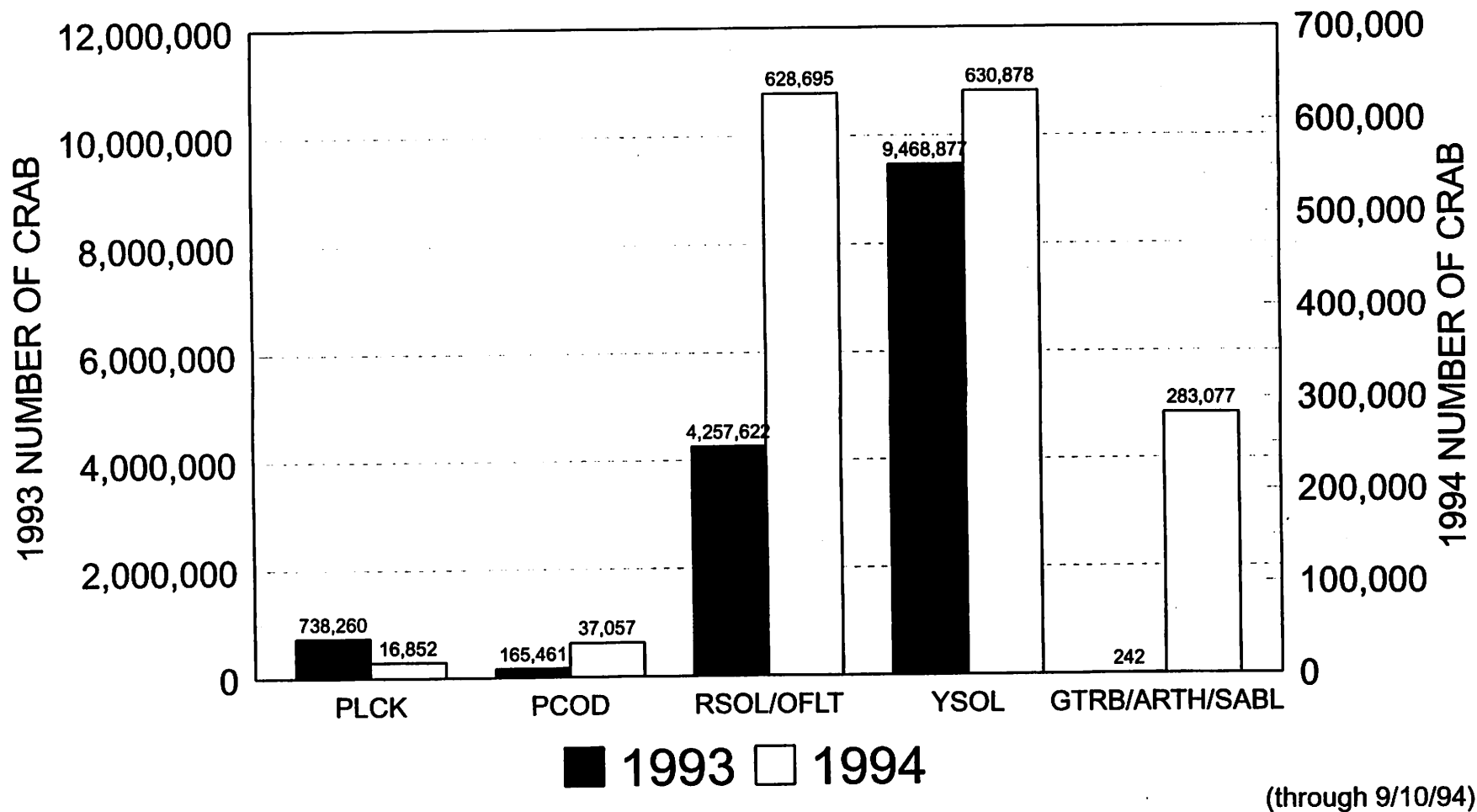


(through 9/10/94)

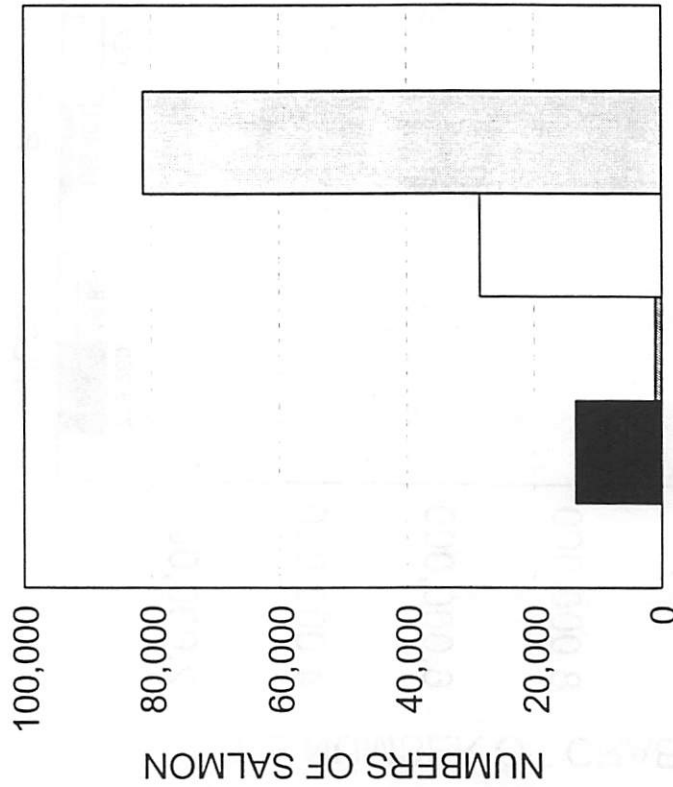
1994 BSAI ZONE 2 TRAWL BAIRDI TANNER CRAB BYCATCH



1993 & 1994 BSAI TRAWL OPILIC TANNER CRAB BYCATCH

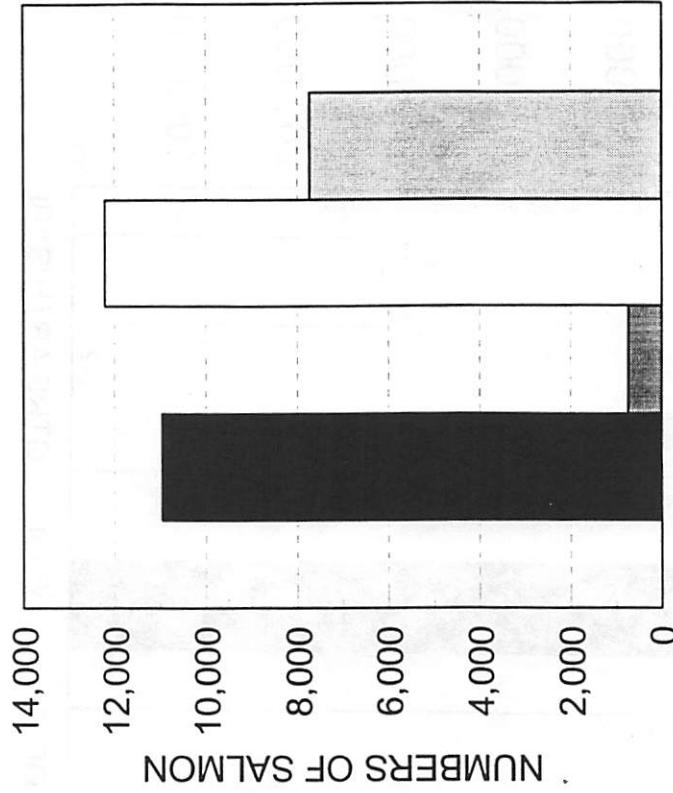


1993 & 1994 BSAI TRW BYCATCH, CHINOOK & OTHER SALMON



MIDWATER PLCK

93CHINOOK	13,540
93OTHRAL	1,007
94CHINOOK	28,467
94OTHRAL	81,275

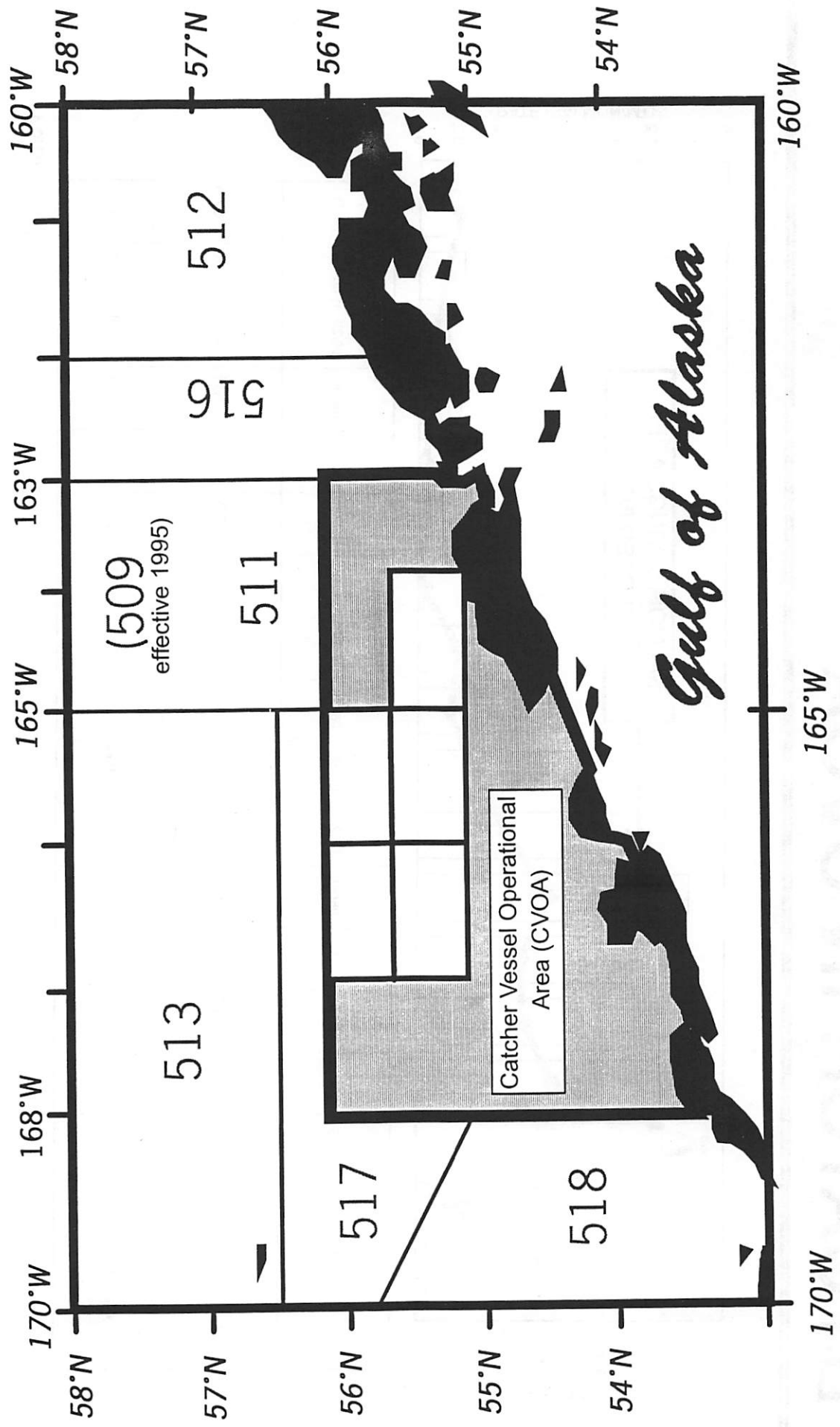


OTHER FISHERIES

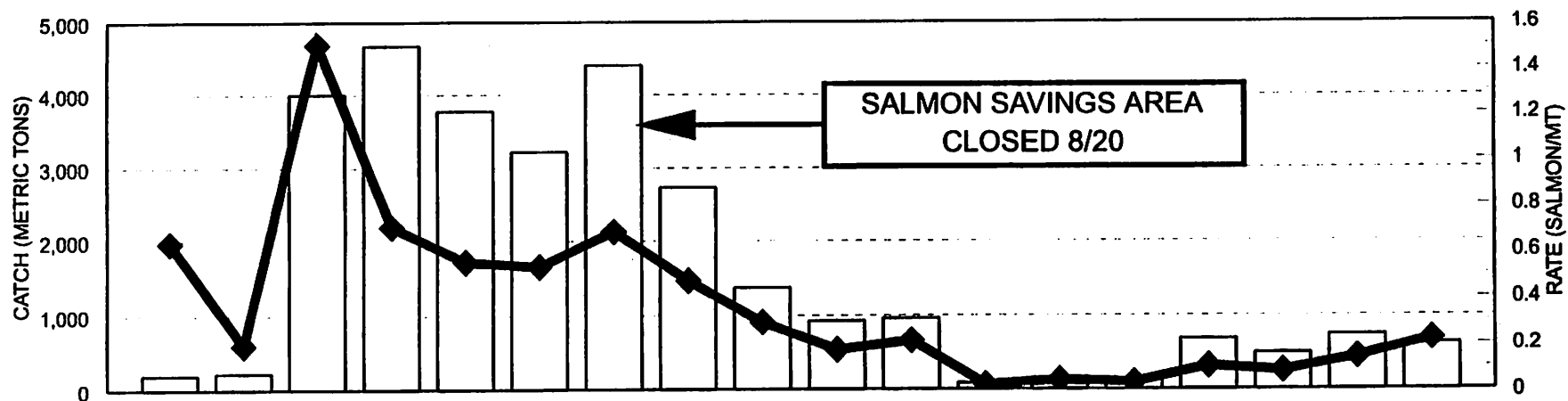
93CHINOOK	10,964
93OTHRAL	737
94CHINOOK	12,209
94OTHRAL	7,730

(through 9/10/94)

BSAI BLOCK SALMON BYCATCH CLOSURE AREA



1994 B-SEASON SALMON BYCATCH IN CVOA

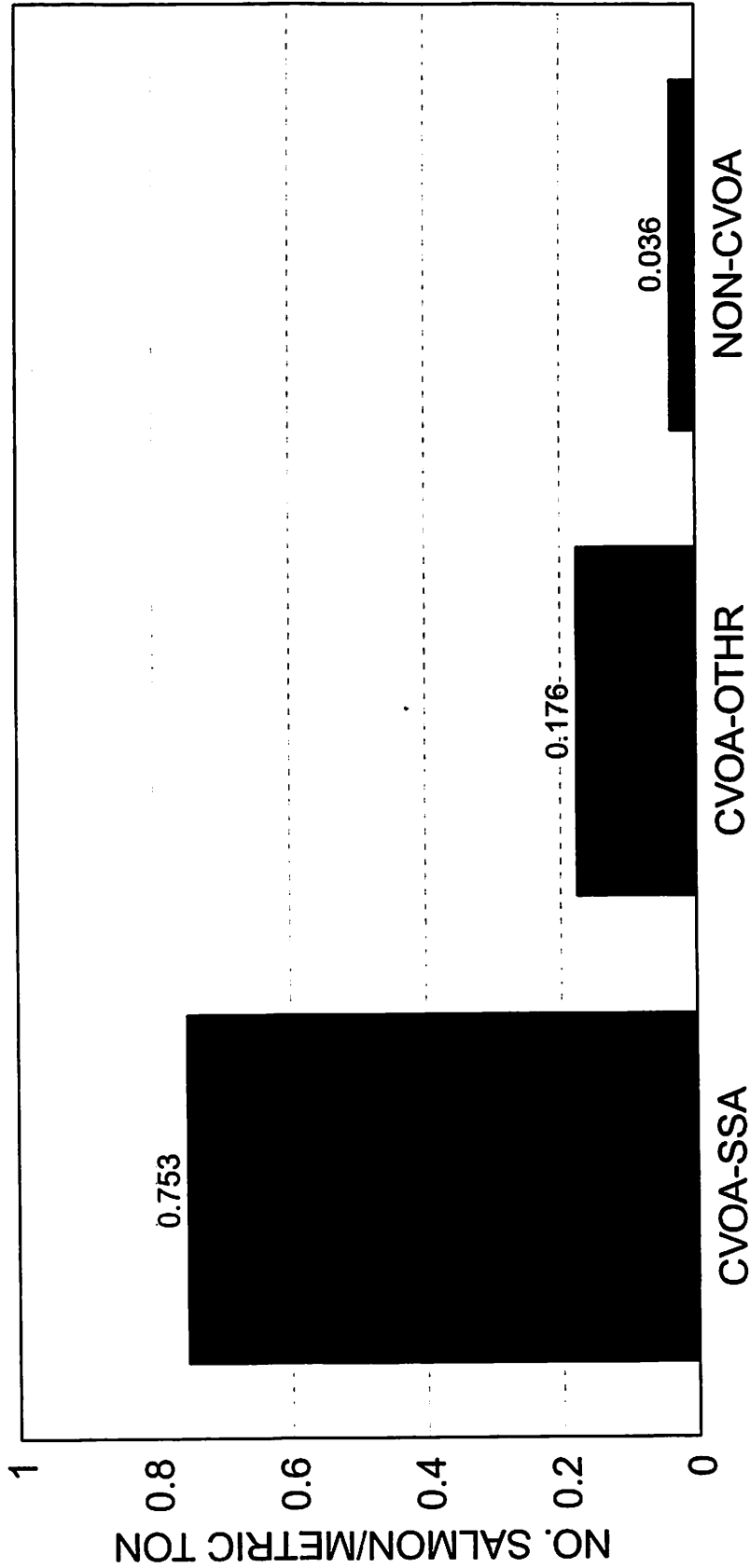


	08/14	08/15	08/16	08/17	08/18	08/19	08/20	08/21	08/22	08/23	08/24	08/25	08/26	08/27	08/28	08/29	08/30	08/31
CATCH <input type="checkbox"/>	197	221	4,004	4,677	3,773	3,219	4,412	2,734	1,375	925	961	86	150	136	681	486	738	626
RATE <input checked="" type="checkbox"/>	0.63	0.19	1.50	0.70	0.55	0.53	0.68	0.47	0.29	0.17	0.21	0.02	0.04	0.03	0.10	0.08	0.14	0.22

(9/94)

1994 BERING SEA "B" SEASON OTHR SALMON BYCATCH RATE*

POLLOCK TRAWL



*Based on Observer Daily Salmon Data through 9/19/94

National Marine Fisheries Service
Alaska Region
Juneau, Alaska
09/26/94

Status of Regulatory Actions Through September 23, 1994

North Pacific Fishery Research Plan (Amd 27/30)	Final rule effective October 6, 1994; 1st phase implementation scheduled for 1995
Amendments associated with Research Plan	Effective August 15, 1994
CDQ vessels required to have certified bins	Final rule effective August 15, 1994
Standard product types & PRRs	Final rule being reviewed in WDC
Pribilof Island trawl closure (Amd 21a)	Secretarial review started September 26, 1994
Moratorium (Amd 23/28) and Crab Amd 2	Proposed action disapproved
IFQ 33% sablefish CDQ limitation changed to 33% (Amd 30/34) vessel lease evidence.	Final rule effective September 23, 1994
IFQ Block Proposal (Amd 31/35) limits consolidation.	Approved September 14, 1994 Final rule scheduled to published 9/28/94
IFQ One time trade of sablefish and halibut between GOA and BSAI (Amd 32/36)	Proposed regulations being drafted by Regional Office
IFQ Allow processing of non IFQ species on vessels and prohibit catcher vessel halibut IFQ use on freezer vessels (Amd 33/37)	Proposed rule being prepared by Regional Office
IFQ CDQ compensation formula	Proposed rule to be published in Federal Register 9/30/94
IFQ omnibus regulatory changes	Proposed regulations being prepared by Regional Office

Scallop FMP/vessel moratorium

Proposed regulations being prepared by Regional Office

Directed fishing standards

Proposed regulations being developed by Regional Office

BSAI "A" season delay

Proposed rule sent to Federal Register September 23, 1994

Jig gear bycatch allowance/
exemption in BSAI

Proposed regulations being prepared by Regional Office

Emergency rule to allow GOA
sablefish fishing during
halibut openings

Effective September 12, 1994

Recordkeeping/reporting

Proposed rule being prepared by Regional Office

EFP to retain salmon for
food bank purposes

Experimental fishing permit approved for renewal August 3, 1994

EFP to determine commercial
fishing concentrations
in Western Alaska

Experimental fishing permit approved June 21, 1994



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
 National Marine Fisheries Service
 P.O. Box 21668

Juneau, Alaska 99802-1668
 September 22, 1994

AGENDA B-3
 SEPTEMBER 1994

Richard B. Lauber
 Chairman, North Pacific Fishery
 Management Council
 P.O. Box 103136
 Anchorage, Alaska 99510

Dear Mr. ^{Rick} Lauber:

At its April 1994 meeting, the North Pacific Fishery Management Council (Council) recommended that the National Marine Fisheries Service (NMFS) proceed with rulemaking to implement a Federal Fishery Management Plan (FMP) for the scallop fishery in the Gulf of Alaska and the Bering Sea and Aleutian Islands management area that would cover all scallop species and defer routine management of the fishery to the State of Alaska. Federal regulations would require licenses for vessels fishing in the Federal waters, set out Federal observer requirements, and establish crab bycatch limits in the Bering Sea. The FMP would defer all other scallop fishery management to State regulation. As part of the proposed FMP, the Council also recommended a three-year moratorium on the entry of new vessels into the Alaska scallop fishery.

At the April meeting, the Council also clarified its intent that all management measures be applied to all vessels fishing for scallops in State and Federal waters off Alaska, regardless of whether a vessel is registered with the State. NMFS informed the Council that legal constraints exist in applying State management measures in Federal waters to vessels that are not registered with the State. Conversely, legal constraints also exist in applying Federal moratorium criteria to vessels fishing in State waters if the vessels do not fish in Federal waters and have not been issued a Federal permit. The Council requested NMFS to develop options for addressing both of these concerns.

The intent of this letter is to inform you of options considered by NMFS to address the issues raised above and to set out our intent for developing draft rulemaking. Council concurrence with NMFS' intended course of action is requested. The two issues raised above are addressed separately, below.

Applying Alaska State management measures to unregistered vessels fishing in Federal waters

The problem: Section 306(a)(3) of the Magnuson Fishery Conservation and Management Act mandates that a state may not regulate a fishing vessel in Federal waters unless the vessel is registered under the law of that state. As a result, management measures deferred to the State of Alaska under the FMP cannot be applied in Federal waters to vessels not registered with the State.

Background: This potential problem currently exists under the FMP for the Commercial King and Tanner Crab Fisheries of the



Bering Sea and Aleutian Islands Area. All vessels fishing for crab, however, are registered with the State and State management measures are effectively applied to all vessels fishing in Federal waters. Currently, all vessels fishing for scallops off Alaska also are registered with the State of Alaska.

Option 1: Assume that all vessels fishing for scallops off Alaska will continue to be registered with the State. If, in the future, a vessel chooses to fish in Federal waters without registering with the State, NMFS likely would implement an emergency rule to respond to the situation and recommend the Council proceed to develop a revised FMP that would authorize separate Federal management of the scallop fishery in Federal waters, similar to Option 2, below.

Option 2: The Council could reconsider its recommended action on the proposed scallop FMP and at this time either include scallop as a 'groundfish' under the existing groundfish FMPs or develop a scallop FMP that establishes separate Federal management of the scallop fishery in Federal waters in a manner that attempts to incorporate as many of the State's current management measures as possible. In either case, difficulties would be anticipated in designing Federal regulations that would be sufficiently 'frameworked' to allow timely changes in Federal management parallel with State management in State waters.

Applying Federal management measures to vessels fishing in State waters.

Problem: Federal management measures, such as the proposed scallop vessel moratorium, cannot be applied to vessels fishing in State waters unless those vessels have been issued a Federal permit. Vessels that fish for scallops only in State waters could not be required to obtain a Federal permit and would not be required to comply with qualification criteria under the Federal moratorium.

Background: The State of Alaska has statutory authority to implement license limitations for vessel operators, but it does not have the authority to limit vessel participation. This statutory constraint could result in an increase in the number of vessels fishing for scallops in State waters relative to the fishery in Federal waters. For example, if the State implemented a moratorium on new entrants into the scallop fishery under AS 16.43.225, about 33 vessel operators could qualify to operate non-moratorium qualified vessels to fish scallops in State waters (i.e., 33 vessel operators made scallop landings between 1991 and 1993). The potential for 33 vessels fishing for scallops in State waters is a significant increase in effort relative to the maximum number of vessels that could fish in Federal waters under the proposed Federal moratorium (18 vessels). If the State of Alaska wishes to limit the number of vessels fishing for scallops in State waters, it could pursue two options.

Option 1: The State of Alaska could initiate a statutory change to authorize a vessel moratorium in State waters. Ideally, State criteria for elements of a vessel moratorium would be parallel to Federal criteria implemented for Federal waters.

Option 2: The State of Alaska could close State waters to fishing for scallops. Given that 40 percent of the scallops landing historically have come from State waters, this option may be viewed as unreasonable.

A third option exists that is outside the scope of State action. Under this option, the Secretary of Commerce could formally preempt State regulation of the scallop fishery by prohibiting the use of a vessel to fish for scallops in State waters unless the vessel has been issued a Federal permit (i.e, the vessel must be qualified under the Federal moratorium). Preemption is possible under section 306(b) of the Magnuson Act only after the Secretary notifies the Alaska State Attorney General and the Council of his intent to preempt. A formal hearing before an Administrative Law Judge must be held to produce a record upon which the Secretary will decide whether to preempt. This record must provide convincing proof that the State's action or inaction on carrying out scallop management will substantially and adversely affect the carrying out of the scallop FMP in Federal waters. Regulations must be developed and published to implement the preemption. Preemption is not necessarily a swift or politically painless process.

NMFS' Preferred Action

Given the above discussion, our preferred action is to (1) prepare a separate scallop FMP that defers routine management measures to the State of Alaska over vessels registered under State law (category 2 measures as recommended by the Council at its April 1994 meeting), and (2) recommend that the State of Alaska initiate a statutory change to provide itself the authority to impose a vessel moratorium in State waters. We believe that this course of action will provide the most timely means to implement a Federal vessel moratorium.

If the Council concurs with our intended action, we will proceed with rulemaking. We request that the Council agenda the scallop FMP for its December 1994 meeting so that any issue raised during the preparation of rulemaking may be brought before the Council for clarification before the proposed FMP is submitted to the Secretary of Commerce for review and approval.

Sincerely,

Ronald J. Berg

Steven Penoyer
Director, Alaska Region

For