



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
P.O. Box 21668  
Juneau, Alaska 99802-1668

AGENDA B-2  
SUPPLEMENTAL

November 20, 2002

RECEIVED  
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N.P.F.M.C

Mr. David Benton  
Chairman, North Pacific  
Fishery Management Council  
605 West 4<sup>th</sup> Street  
Anchorage, Alaska 99501-2252

Dear Dave,

This letter provides the Council with an update on how the Alaska Region is proceeding with the implementation of the guideline harvest level (GHL) and individual fishing quota (IFQ) programs recommended by the Council to limit Pacific halibut harvests in the guided recreational fishery (guided fishery).

On September 6, 2002, we sent the Council a letter outlining our concerns and requesting further clarification about the implementation of the GHL and associated harvest reduction measures, and data collection issues related to the IFQ Program. In October 2002, the Council reviewed the letter and requested that we consult with NOAA General Counsel (GC) to determine how best to get the GHL program implemented as soon as possible. NOAA GC reviewed the approach suggested in this letter. The Council also requested that NOAA GC provide additional feedback to the Council during its December meeting that "will clarify the legal issues associated with the GHL and other trigger/response regulations used by NMFS for management purposes."

GHL Proposed Rule

Our September 6, 2002, letter noted that the harvest reduction measures, if implemented through a closed-framework, as set forth in the GHL proposed rule may not comply with the Administrative Procedures Act (APA). The letter noted that additional rulemaking may be required before those measures are implemented. The letter suggested that one approach to implement a GHL would be to publish a final rule without specific harvest reduction management measures. If the GHL were exceeded, those measures would be implemented later under normal APA rulemaking with the accompanying analytical work products (e.g., EA/RIR/IRFA). In other words, the GHL would be established as a trigger for subsequent rulemaking. This approach was discussed in the Advisory Panel and raised during public testimony at the Council as an alternative to rescinding the GHL. A review of this issue suggests that a GHL could be implemented without the associated harvest reduction measures (See attached letter from Clarence Pautzke and attached letter from Steven Pennoyer). Under this approach, we would publish a final rule that is a



modified version of the existing GHL proposed rule that was published January 28, 2002 (67 FR 3867).

In this case, the final rule regulatory text, would include: (1) the GHL in International Pacific Halibut Commission (IPHC) management Areas 2C and 3A; (2) the mechanism for reducing the GHL in years of low abundance as determined by the IPHC; and (3) that once the GHL is exceeded NMFS would notice the Council and initiate analysis in coordination with the Council for subsequent rulemaking that may implement harvest reduction measures. The final rule, however, would not contain regulatory text to implement harvest reduction measures.

The preamble to the final rule would note concerns about the ability to implement a framework for the GHL harvest reduction measures. Also, the preamble would describe the suite of management measures recommended by the Council and published in the January 28, 2002, proposed rule. The final rule would note that those measures may be considered as one of the possible alternatives during the analytical process of developing harvest reduction measures if the GHL is exceeded in either IPHC Area 2C or 3A. Those measures would be one alternative, and would have to be analyzed along with other reasonable alternative harvest reduction measures if the GHL is exceeded. The preferred alternative would be identified in the proposed rule and published as a final rule before becoming effective.

#### IFQ issues

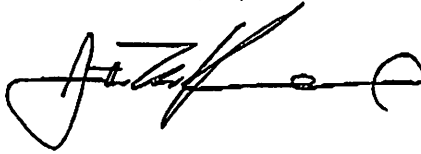
In October 2002, the Alaska Department of Fish and Game (ADF&G) presented the Council with an update of its analysis on the adequacy of the State Logbook Program (logbook) for use in management decision making. In a September 21, 2001 memorandum from Jeff Bingham to Kevin Duffy, the State raised concerns about the logbook data and noted that certain data should not be used "in any management decision." Presumably, this would include the initial allocation of quota share among participants in the guided fishery fleet. An updated analysis presented by ADF&G in October 2002, indicates that the logbook may be acceptable for use in management decisions. However, the results are somewhat inconclusive. The Council requested that ADF&G provide additional analysis for presentation at the December Council meeting. We will consider the results of ADF&G's additional analysis as we proceed with developing a proposed rule for a guided fishery IFQ Program.

#### Data Collection Issues

We have submitted a request for a contractor to assist us with the development of a data collection system that can accommodate the needs of a GHL or charter IFQ monitoring

and program. A vendor has not been selected at this time. Until we develop our own data collection system, we will continue to rely on ADF&G's annual statewide harvest survey (SWHS) to monitor harvests in the guided halibut sport fishery. The SWHS is currently insufficient for monitoring and enforcing catch limits for the IFQ program, but does provide adequate data for monitoring guided fishery harvests relative to the GHL. We hope that the development of a NMFS data collection program will provide the necessary data for a guided fishery IFQ Program and more timely data for use in management of the GHL.

Sincerely



for James W. Balsiger  
Administrator, Alaska Region

Enclosures (2)

October 17, 1997 letter from Clarence Pautzke  
November 17, 1997 letter from Steven Pennoyer

cc. NOAA GC  
IPHC

## NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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Clarence G. Pautzke, Executive Director

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October 17, 1997

Mr. Steve Pennoyer  
Regional Administrator  
NMFS, Alaska Region  
P.O. Box 21668  
Juneau, AK 99802-1168

Dear Steve:

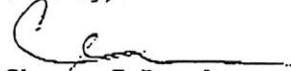
Of the many issues recently in the limelight of our management process, the Council's actions regarding the guided sport fishery for halibut have generated considerable attention from the public and in the press. Many of the letters we have recently received raised questions regarding the subsequent review, approval, and implementation process. Two aspects of the Council's action appear very straightforward - the recordkeeping and reporting process and the potential development of local area management plans. The first would be taken care of by existing initiatives at the State level (either through HB 19 in the legislature or by the ADF&G/Board of Fish), and the second would be handled through the BOF local advisory committees, noting that final approval of any local area management plans would rest with the Council.

The guideline harvest level, a variation of the 'cap' alternative, is the part of the Council's action which has generated the most attention, and leaves me with some questions as well. As articulated by the Council, the intent of this GHLL would not be to attempt in-season management and shut the guided sport fishery down upon attainment of this target GHLL; rather, it is envisioned by the Council that, once the fishery reaches this level (125% of their 1995 harvest, expressed as a percentage), other, as yet undefined, management actions would be implemented to reduce this sector's rate of harvest. Reduced bag limits were one tool mentioned to accomplish this goal. Noting that attainment of this GHLL is not projected to occur for several years, the Council's rationale was that there is plenty of time to develop these types of measures.

The nature and timing of regulations to implement the Council's GHLL are what is in question. Without yet defining what management actions would be implemented once the GHLL is attained, is it possible to develop regulations which, if approved, would implement the Council's basic intent with regard to the GHLL, while holding in reserve the more specific measures to achieve compliance with that GHLL? Normally when the Council takes an action a regulatory package is prepared for submittal to the Secretary of Commerce, with your office making the determination of package 'completeness' and transmittal date. This particular action by the Council is different than most, due to its contingent nature, and I need some guidance on what our staff's next steps should be in terms of the submittal and review process.

Some of the letters we have received have assumed that the '60-day Secretarial review process' has already begun. Others are curious as to what the next step is going to be and when it will occur, similar to my questions above. I have no doubt that you are receiving similar letters and inquiries which require responses in the near future.

Sincerely,



Clarence G. Pautzke  
Executive Director

cc: Jon Pollard, Office of NOAA General Counsel



National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

November 24, 1997

Dr. Clarence G. Pautzke, Executive Director  
North Pacific Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

**COPY**

Dear Clarence:

Thank you for your letter inquiring about our ability to implement the guideline harvest level (GHL) developed by the Council for the guided sport fishery for halibut. I understand that the Council intended the GHL to have no immediate effect on the charterboat fishery and that setting the GHL served as a notice that growth of that fishery will be limited in some manner, yet to be decided. The fact that the Council did not specify any regulatory response to the attainment of the GHL, however, makes establishing the GHL in regulations problematical. Without specifying what would happen if the GHL is reached, the GHL by itself would be ineffective as a regulation.

The Northern Pacific Halibut Act of 1982 (Halibut Act) provides the Council with discretionary authority to develop regulations which are in addition to and not in conflict with regulations developed by the International Pacific Halibut Commission (IPHC). Such regulations are implemented with approval of the Secretary, and generally pertain only to the allocation of halibut fishing privileges while regulations developed by the IPHC pertain primarily to the biological conservation of the halibut resource. The Council has previous experience with this process, for example, in developing regulations for Area 4C, for the halibut Individual Fishing Quota and Community Development Quota programs, and the Catch Sharing Plan (CSP) for Area 4. In each case, the regulatory regime was well articulated by the Council before Secretarial review. By comparison, the GHL for guided sport catch of halibut is not fully developed; the Council has not specified what we would implement if the GHL were reached.

The Council's intent regarding its GHL policy may be satisfied, however, by publishing it as a notice in the Federal Register. This notice would describe how and why the Council arrived at this policy. Such a notice would be similar to publication of a control date. It would have no restrictive or constraining effect on the guided sport fishery, but it would formally announce the Council's intention to develop management measures to maintain guided sport fishery catches at or below the GHL. This alternative would involve the publication of only one notice in the Federal Register and no Secretarial approval or disapproval decision. No further action by the Council would be required. The Council's policy recommendation on this issue is



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clear. The Federal Register publication would serve primarily to memorialize the GHM policy without regulatory effect.

The Council's attention on this issue should next focus on the development of charterboat fishery management measures. To facilitate the industry discussion and development of management measures, I recommend that the Council establish an ad hoc charterboat industry committee similar to the industry committee created to develop practical measures to improve retention and utilization of groundfish based on general policy direction from the Council. We should not expect the Board of Fisheries (BOF) local advisory committees to perform this role because the management measures would have to be applied to entire regulatory areas (2C or 3A). Also, my staff would be able to consult with one Council committee but not with many BOF local advisory committees. We should rely on the BOF local advisory committees only to develop and recommend local area management plans for halibut. Council-established industry committees have worked well in the past in developing negotiated management measures for the Council, and I suggest that the Council use the same organizational vehicle to develop charterboat industry management measures.

Sincerely,



Steven Pennoyer  
Administrator, Alaska Region

**North Pacific Groundfish Observer Program Update  
November 13, 2002**

NMFS and Council staff met in Juneau October 28-29 to discuss potential alternative management proposals and a strategy for making changes to the North Pacific Groundfish Observer Program. Staff anticipate that two products will result from this meeting: 1) a discussion paper which outlines a proposed problem statement and general alternatives and issues for long-term, significant revisions to the Observer Program, and 2) a NMFS proposal for a short-term pilot project to test deployment of observer resources to determine catch composition and bycatch rates in a specific fishery (attached). While the discussion paper will address potential long-term, structural changes to the Observer Program, the pilot project would be a step toward determining appropriate coverage levels and improving catch accounting and PSC estimation, as well as testing deployment and contracting aspects.

Review of the discussion paper will be the primary agenda item at a January 23-24, 2002 OAC meeting and will be reviewed by the Council at its February meeting. The attached outline presents the seven main issues that will be addressed in the discussion paper for review. Staff anticipate that these issues would be developed into a full analysis at some point in the future. The following outline is provided to show the general direction of proposed changes to the Observer Program and to provide a starting point for discussion of a problem statement and alternatives for analysis.

**Proposed Discussion Paper: Outline**

1. Problem Statement: draft based on issues discussed at OAC meeting in July
2. Scope of proposal:
  - GOA 30% vessels
  - GOA and BSAI 30% vessels
  - All GOA vessels including <60' and halibut vessels
  - All groundfish vessels, including BSAI 100% and 200% vessels
  - Inclusion of shoreside processors in coverage and accounting aspects (?)
3. Funding:
  - Federal funding
  - Fee options
    - Research plan (partial or total)
    - IFQ fees (under GOA rationalization)
    - New fees (requires Magnuson Act authorization)
    - Fees: applicable to all vessels or only observed boats?
  - TAC/PSC set-aside (possibly combined with research fishing to improve coverage)
4. Coverage/Deployment issues:
  - A. Proposals to improve existing 30% coverage

Includes discussion of research projects to test deployment of observers based on fishing activity of unobserved fleet as reported by electronic logbooks.

- Status Quo of 30% fleet: (100% of vessels carry observers 30% of the time)
- 30% of vessels in a fishery carry observers 100% of the time
- Random distribution of coverage among vessels to achieve 30% by fishery. Could include random rotation of observers among vessels in a fishery.
- Targeted deployment of observers by NMFS to achieve coverage by time/area cells so that each fishing area receives coverage at all times
- Test fishing by vessels under contract by NMFS to produce catch composition and bycatch rates for each fishing area.
- Combination of above

B. Alternate coverage levels for fisheries

Optimal coverage levels would be determined for each fishery based on the management objectives for each fishery. Research projects as described above may provide useful statistical basis for establishing target coverage levels for different fisheries.

5. Role of observer providers:

- A. NMFS would be the client under all alternatives
- B. Overview of NMFS contracting process (limitations and restrictions)
- C. Additional tasks that may lend themselves to contract
- D. Hypothetical contract modules: what could they look like?
- E. Discussion of benefits: better alignment of interests between NMFS, providers, and observers
- F. Wage issues: what impacts would new contract arrangements have on observer wages and working conditions?

6. Regulatory and compliance issues:

This will be a short discussion of how vessel regulations would differ. Coverage levels would not be established in regulation, but vessels would be required to carry observers when requested. This would likely involve a system of dual notification: vessels would notify NMFS of fishing plans and NMFS would notify vessels when they are required to carry observers.

7. Impacts on OPO/NMFS operations and resources

- A. What additional tasks would arise from this proposal?
  - Contract oversight
  - Fee collection
  - Coverage determinations (i.e. establishing target coverage levels for different fisheries)
  - Deployment decisions (i.e. tracking vessels and making decisions about where to deploy observers)
- B. What existing tasks would be reduced?
  - Enforcement of existing 30% coverage requirements



NOAA Fisheries Alaska Region  
November 15, 2002

**Proposed Pilot Project: Improving Prohibited Species Catch Estimates Utilizing Electronic Vessel Logbooks and Effective Deployment of Groundfish Observers**

**Background.** The current system for estimating prohibited species catch (PSC) aggregates observer sampling data by federal reporting area. These are large areas and may contain more specific fishing grounds with significantly different rates of PSC. In fisheries with 30% coverage vessels, vessels arrange when and where to carry observers. Some areas and time periods may have insufficient coverage as a result, others may have more coverage than is needed. New electronic vessel logbook systems may enable precise grouping of vessels by distinct fishing areas at a much finer level than federal reporting areas or even ADFG statistical areas. Unobserved vessels could be associated with observed vessels fishing in the same location, and PSC estimates made for these discrete components of the overall fishery, improving the accuracy and overall precision of PSC estimates.

**Project Summary.** The NOAA Fisheries Alaska Region proposes to conduct a pilot project, possibly under an Experimental Fishing Permit, in the summer bottom trawl fishery in the Central Gulf of Alaska (GOA). This fishery, primarily for rockfish and flatfish species, involves many 30% observer coverage vessels that fish in diverse locations, and the fishery is significantly limited by Pacific halibut PSC.

The project would likely require participating vessels to utilize electronic logbook systems, which may be funded by NOAA Fisheries, and to submit the logbook data in a timely manner. NOAA Fisheries will develop systems to process the logbook data and combine it with observer data to make PSC estimates for specific fishing grounds within the Central GOA.

The PSC estimation system will require that sufficient observer data be available from each fishing area. An observer deployment model that does not rely on individual vessel operators deciding when and where to carry observers is needed for this experimental fishery. Vessels fishing under the EFP will likely be exempted from the existing observer coverage requirements, and a contract with an observer provider will be used to implement the experimental deployment model.

**Anticipated Benefits.**

1. Development and testing of new PSC estimation procedures with potential to improve accuracy and precision of PSC estimates.
2. Testing of an observer deployment model that is more effective at utilizing observer days to collect information needed for PSC estimation.
3. Data to address questions of how much observer coverage is needed to provide a given level of precision in PSC estimates.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 01-CV-10927-RGS

CONSERVATION LAW FOUNDATION, et al.

v.

UNITED STATES DEPARTMENT OF COMMERCE,  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION;  
NATIONAL MARINE FISHERIES SERVICES,  
and INTERVENOR FISHERIES SURVIVAL FUND<sup>1</sup>MEMORANDUM AND ORDER ON CROSS-  
MOTIONS FOR SUMMARY JUDGMENT

October 31, 2002

STEARNS, D.J.

On May 31, 2001, Oceana, Inc. (f/k/a the Conservation Law Foundation), brought this Complaint objecting to the May 2001 adoption by the National Marine Fisheries Service (NMFS) of Framework Adjustment 14 (Framework 14) to the Atlantic Sea Scallop Fishery Management Plan (Scallop Plan).<sup>2</sup> Framework 14 regulates scalloping in Atlantic coastal waters during the 2001 and 2002 fishing seasons.<sup>3</sup> While the dispute is framed largely

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<sup>1</sup>On September 10, 2001, the court allowed the motion by the Fisheries Survival Fund to intervene as a defendant.

<sup>2</sup>The Magnuson-Stevens Fishery Conservation and Management Act of 1976, 16 U.S.C. §§ 1801-1883, as subsequently amended by Congress in 1990 and 1996, delegates to the NMFS, by and through the Secretary of Commerce, the authority to manage and conserve U.S. coastal fisheries. The authority of the Secretary is shared with eight Regional Fishery Management Councils who are responsible for the development of Fishery Management Plans like the Scallop Plan. A fuller description of the workings of the Act can be found in A.M.L. International v. Daley, 107 F. Supp. 2d 90, 93 (D. Mass. 2000).

<sup>3</sup>Scallops are bottom-dwelling mollusks that are typically fished by dredging, a technique that is often destructive to the seabed. Hence, the scalloping industry has been a focus

around an alleged procedural lapse by the NMFS, plaintiffs' ultimate goal is an injunctive order barring scallopers from the Great South Channel<sup>4</sup> "in order to protect the groundfish habitat and minimize groundfish bycatch." In promulgating Framework 14, the Secretary of Commerce (Secretary) declined to expand the scope of his prior closure orders.<sup>5</sup>

Despite the many pages of briefing this case has generated, plaintiffs' procedural argument rests on the claim that Framework 14 was unlawfully implemented because the Secretary failed to provide the minimum 15 days for public comment required by section 304(b)(1)(A) of the Magnuson-Stevens Act, 16 U.S.C. § 1854(b)(1)(A). This section provides that:

(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 1853(c) of this title, the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this chapter and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and –

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of intense scrutiny by conservation groups.

<sup>4</sup>In their Complaint, plaintiffs argued that NMFS should have adopted Option 1 to the Scallop Plan calling for the closure of the Southeast part of Georges Bank, the Great South Channel, the New York Bright, and Delmarva. These four areas have gravel or sandy bottoms particularly susceptible to damage from dredging. At oral argument, plaintiffs scaled back the request for injunctive relief, seeking only the closing of the Great South Channel. The Channel separates the western part of Georges Bank from the Nantucket Shoals.

<sup>5</sup>On September 12, 2002, the court asked the parties to brief the issue of whether the reopening of the amendment process by the Secretary had effectively mooted their dispute over Framework 14. After reviewing the responsive submissions, I am satisfied that plaintiffs' challenge to Framework 14 remains justiciable. Framework 14 will expire on February 28, 2003. Plaintiffs reasonably request an expedited decision on the pending cross-motions for summary judgment in light of Gulf of Maine Fishermen's Alliance v. Daley, 292 F.3d 84, 89-90 (1st Cir. 2002).

(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; . . .

Section 1853(c) requires that a Council submit for the Secretary's review any proposed regulation that it "deems necessary or appropriate" for "(1) implementing a fishery management plan or plan amendment . . . [or] . . . (2) making modifications to regulations implementing a fishery management plan or plan amendment . . . after the plan or amendment is approved under section 1854 of this title." A regulation is to be distinguished from a framework adjustment. A framework adjustment is an administrative procedure permitting "quick, efficient changes to [Fishery Management Plans] as the need arises."<sup>6</sup> Defendants' Consolidated Memorandum, at 9-10. See Southern Offshore Fishing Ass'n v. Daley, 995 F. Supp. 1411, 1419 (M.D. Fla. 1998). A framework adjustment is typically implemented without the observance of the formalities of notice and public comment mandated by section 1854(b)(1)(A). Framework 14 was so implemented after a finding by the New England Regional Fishery Management Council that its publication as a proposed regulation was neither "necessary [n]or appropriate." See 50 C.F.R. § 648.55(g)(1)&(2). Consequently, Framework 14 was published as a final rule by the Secretary's "action."

NMFS, relying on the literal wording of the statute, maintains that section 1854(b)(1)(A) mandates public comment only when a Regional Fishery Management Council submits a "proposed regulation" pursuant to section 1853(c), and not when a framework adjustment to a Fishery Management Plan is implemented by an "action taken

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<sup>6</sup>The regulation setting out the abbreviated procedure for adopting a framework adjustment to the Scallop Plan is codified at 50 C.F.R. § 648.55.

by the Secretary," as was the case with Framework 14. Whether the Secretary, despite custom and practice, is required by section 1854(b)(1)(A) to publish any interim change to a Fishery Management Plan as a "proposed regulation" is at the core of the parties' dispute. Plaintiffs' argument on this score rests on the holding of National Resources Defense Council v. Evans, 168 F. Supp. 2d 1149 (N.D. Cal. 2001) (NRDC), which in turn relied on Tutein v. Daley, 43 F. Supp. 2d 113, 121 (D. Mass. 1999), for the proposition that there is no statutorily meaningful distinction between a proposed regulation and an action taken by the Secretary, at least insofar as the notice and public comment requirements of section 1854(b)(1)(A) are concerned.<sup>7</sup> In reaching this conclusion, the NRDC court adopted Tutein's definition of a regulation as "a legally binding obligation having the force of law," and then reasoned that because an action taken by the Secretary is legally binding, Congress must have meant the terms to serve as functional equivalents, at least for purposes of section 1854(b)(1)(A).

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<sup>7</sup>Plaintiffs also rely on the legislative history of § 1853(c) as support for the proposition that the public comment period was intended to apply to framework adjustments. As stated in the Senate Report:

[I]n recent years, Councils have increased their use of framework fisheries management plans that rely on regulations to establish fishery parameters like season opening and closures, catches, and allocations of harvest among sectors of a fishery . . . . [T]his subsection, along with changes made in section 110 of the reported bill [later codified at 16 U.S.C. § 1854] would establish streamlined procedures for consideration and approval of all regulations submitted by a Council to the Secretary.

S. Rep. No. 104-276 at 18-19 (1996), reprinted in U.S.C.C.A.N. 4091. Legislative history is not a preferred tool of construction when, as is the case here, the meaning of the words of a statute are plain, while those of its authors are not. Cf. Estate of Cowart v. Nicklos Drilling Co., 505 U.S. 469, 476 (1992).

The nod to Tutein, however, is somewhat misdirected. The issue in Tutein was whether a non-binding advisory guideline issued under section 1851(b) of the Magnuson-Stevens Act constituted a "regulation" subject to judicial review under section 1855(f). The Magistrate Judge in Tutein, noting that the Act specifically states that an advisory guideline "shall not have the force and effect of law," quite sensibly concluded that an advisory guideline was not a regulation and therefore not subject to judicial review. It does not follow from this premise, however, that because Congress made all legally binding actions the subject of judicial review, the word "regulation" as used in the Act also means "action."<sup>8</sup>

Section 1855(f) clearly recognizes that "actions taken by the Secretary" and "regulations promulgated by the Secretary," are distinct regulatory events, thus evincing Congress's understanding of and acquiescence in the difference.<sup>9</sup> Plaintiffs counter that the distinction, while real, is besides the point as section 1855(f) is concerned with judicial review and not with notice and comment. Plaintiffs point out that the NRDC court rejected any argument based on the section 1855(f) distinction as taking "Congress' express language extending public and judicial oversight of agency action out of its context and turn[ing] it against its very purpose." NRDC, 168 F. Supp. 2d at 1155. The point presumably is that because section 1855(f), as amended, expanded the scope of judicial

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<sup>8</sup>The syllogism is based on an apparent logical fallacy, i.e., all priests are men, George Washington was a man, therefore George Washington was a priest. Simply because two things share a defining characteristic, it does not follow that they are necessarily identical.

<sup>9</sup>The distinction found its way into the Act as a result of a 1990 amendment expanding the scope of judicial review to include challenges to framework actions taken by the Secretary and not simply challenges to regulations (as was the case prior to the amendment). The public comment requirements of section 1854(b)(1)(A) were inserted by a 1996 amendment to the Act.

review, it reflects an overriding purpose of Congress to involve the public intensively in the implementation of the Act. Consequently, using section 1855(f) as a blunt instrument to insulate actions taken by the Secretary from public comment does violence to that very purpose. While this may seem plausible, it presumes that Congress indeed had such an overriding purpose. It would seem just as plausible that Congress may have thought public comment a more useful check on a regulation proposed by a politically unaccountable Council than on an action taken by a politically answerable Secretary. Congress may also well have believed that there was some value in expediting the implementation of adjustments to a Fishery Management Plan whose implementing regulations were already in place, particularly in light of the vagaries inherent in managing a complex and volatile ecosystem. Nonetheless, whatever Congress may have had in mind, the fact remains that section 1855(f) draws a clear distinction between "[r]egulations promulgated by the Secretary" and "actions that are taken by the Secretary [implementing] a fishery management plan." Under the rules of statutory construction, when Congress uses the same word in separate sections of a statute to describe the same subject matter, the word is presumed to have been used with the same meaning in each section. Thus, a regulation for purposes of section 1854 is a regulation for purposes of section 1855(f), and not both an action and a regulation for purposes of one section but not for purposes of the other. If Congress had intended section 1854(b)(1)(A) to apply to actions as well as to proposed regulations, it would have had no difficulty in saying so. It did not, and therefore the 15 day

public comment period of section 1854(b)(1)(A) was not triggered by the Secretary's action in implementing Framework 14.<sup>10</sup>

Plaintiffs' substantive argument is that Framework 14 is flawed because the NMFS's refusal to order the closing of additional areas to fishing fails to "minimize to the extent practicable adverse effects on . . . habitat," as required by section 303(a)(7) of the Magnuson-Stevens Act, 16 U.S.C. § 1853(a)(7), and fails to minimize bycatch as required by National Standard 9, 16 U.S.C. § 1851(a)(9).<sup>11</sup> The key word, of course, is "practicable." The record amply demonstrates that habitat and bycatch were considered in formulating Framework 14. As defendants point out, Framework 14 continues the prohibition on scallop fishing in Georges Bank Closed Areas I and II and the Nantucket Lightship Closed Area, an area of some 5000 square nautical miles. Framework 14 also maintains restrictions on days at sea, catch and mesh sizes, and seasonal access to sensitive areas. Plaintiffs' criticism of Framework 14 is ultimately one of degree, and not kind. That is to say, plaintiffs fault the NMFS for failing to give habitat protection and the reduction of bycatch the full emphasis that plaintiffs believe they deserve, not that the NMFS failed to respond to the statutory directives to the extent that it deemed practicable under the circumstances in which Framework 14 was adopted.

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<sup>10</sup>Having found no violation of the public notice and comment provisions of section 1854(b)(1)(A), I also conclude that the adoption of Framework 14 did not violate the notice and comment provisions of the Administrative Procedure Act (APA), 5 U.S.C. § 553(a)-(c). I agree with defendants that the NMFS's compliance with the abbreviated rulemaking procedure set out in 50 C.F.R. § 648 constituted "good cause" within the meaning of 5 U.S.C. § 553(b)(B), for dispensing with a further period for public notice and comment.

<sup>11</sup>Defendants also argue, accurately I believe, that § 1853(a)(7) applies only to the formulation of a Fishery Management Plan and not to framework adjustments to a plan already in place.



While the court, if it were writing on a blank slate, might adopt at least some of the alternative measures that plaintiffs recommend, it is constrained by law from substituting its judgment for that of the NMFS. See Association of Fisheries of Maine, Inc. v. Daley, 127 F.3d 104, 109 (1st Cir. 1997) ("[P]olicy choices are for the agency, not the court to make"). Because the court cannot say that the adoption of Framework 14 lies outside "the bounds of reasoned decision making," it cannot characterize the Secretary's action as arbitrary or capricious. M/V Cape Ann v. United States, 199 F.3d 61, 63-64 (1st Cir. 1999). Moreover, contrary to plaintiffs' assertions, there is no persuasive evidence in the record suggesting that the NMFS failed to comply with the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370d, either with regard to the integration of the Supplemental Environmental Impact Statement into the decision making process or in its consideration of plaintiffs' suggested alternatives.

ORDER

For the foregoing reasons, plaintiffs' motion for summary judgment is DENIED. Defendants' cross-motion for summary judgment is ALLOWED.

SO ORDERED.

  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE



**UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration**

*National Marine Fisheries Service  
P.O. Box 21668  
Juneau, Alaska 99802-1668*

**AGENDA B-2  
DECEMBER 2002**

November 20, 2002

**RECEIVED**  
NOV 20 2002  
N.P.F.M.C

Mr. David Benton  
Chairman, North Pacific  
Fishery Management Council  
605 West 4<sup>th</sup> Street  
Anchorage, Alaska 99501-2252

Dear Dave,

This letter provides the Council with an update on how the Alaska Region is proceeding with the implementation of the guideline harvest level (GHL) and individual fishing quota (IFQ) programs recommended by the Council to limit Pacific halibut harvests in the guided recreational fishery (guided fishery).

On September 6, 2002, we sent the Council a letter outlining our concerns and requesting further clarification about the implementation of the GHL and associated harvest reduction measures, and data collection issues related to the IFQ Program. In October 2002, the Council reviewed the letter and requested that we consult with NOAA General Counsel (GC) to determine how best to get the GHL program implemented as soon as possible. NOAA GC reviewed the approach suggested in this letter. The Council also requested that NOAA GC provide additional feedback to the Council during its December meeting that "will clarify the legal issues associated with the GHL and other trigger/response regulations used by NMFS for management purposes."

GHL Proposed Rule

Our September 6, 2002, letter noted that the harvest reduction measures, if implemented through a closed-framework, as set forth in the GHL proposed rule may not comply with the Administrative Procedures Act (APA). The letter noted that additional rulemaking may be required before those measures are implemented. The letter suggested that one approach to implement a GHL would be to publish a final rule without specific harvest reduction management measures. If the GHL were exceeded, those measures would be implemented later under normal APA rulemaking with the accompanying analytical work products (e.g., EA/RIR/IRFA). In other words, the GHL would be established as a trigger for subsequent rulemaking. This approach was discussed in the Advisory Panel and raised during public testimony at the Council as an alternative to rescinding the GHL. A review of this issue suggests that a GHL could be implemented without the associated harvest reduction measures (See attached letter from Clarence Pautzke and attached letter from Steven Pennoyer). Under this approach, we would publish a final rule that is a



modified version of the existing GHL proposed rule that was published January 28, 2002 (67 FR 3867).

In this case, the final rule regulatory text, would include: (1) the GHL in International Pacific Halibut Commission (IPHC) management Areas 2C and 3A; (2) the mechanism for reducing the GHL in years of low abundance as determined by the IPHC; and (3) that once the GHL is exceeded NMFS would notice the Council and initiate analysis in coordination with the Council for subsequent rulemaking that may implement harvest reduction measures. The final rule, however, would not contain regulatory text to implement harvest reduction measures.

The preamble to the final rule would note concerns about the ability to implement a framework for the GHL harvest reduction measures. Also, the preamble would describe the suite of management measures recommended by the Council and published in the January 28, 2002, proposed rule. The final rule would note that those measures may be considered as one of the possible alternatives during the analytical process of developing harvest reduction measures if the GHL is exceeded in either IPHC Area 2C or 3A. Those measures would be one alternative, and would have to be analyzed along with other reasonable alternative harvest reduction measures if the GHL is exceeded. The preferred alternative would be identified in the proposed rule and published as a final rule before becoming effective.

#### IFQ issues

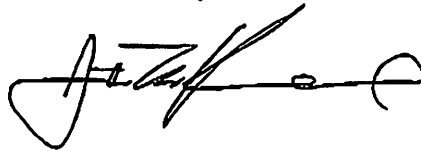
In October 2002, the Alaska Department of Fish and Game (ADF&G) presented the Council with an update of its analysis on the adequacy of the State Logbook Program (logbook) for use in management decision making. In a September 21, 2001 memorandum from Jeff Bingham to Kevin Duffy, the State raised concerns about the logbook data and noted that certain data should not be used "in any management decision." Presumably, this would include the initial allocation of quota share among participants in the guided fishery fleet. An updated analysis presented by ADF&G in October 2002, indicates that the logbook may be acceptable for use in management decisions. However, the results are somewhat inconclusive. The Council requested that ADF&G provide additional analysis for presentation at the December Council meeting. We will consider the results of ADF&G's additional analysis as we proceed with developing a proposed rule for a guided fishery IFQ Program.

#### Data Collection Issues

We have submitted a request for a contractor to assist us with the development of a data collection system that can accommodate the needs of a GHL or charter IFQ monitoring

and program. A vendor has not been selected at this time. Until we develop our own data collection system, we will continue to rely on ADF&G's annual statewide harvest survey (SWHS) to monitor harvests in the guided halibut sport fishery. The SWHS is currently insufficient for monitoring and enforcing catch limits for the IFQ program, but does provide adequate data for monitoring guided fishery harvests relative to the GHL. We hope that the development of a NMFS data collection program will provide the necessary data for a guided fishery IFQ Program and more timely data for use in management of the GHL.

Sincerely



for James W. Balsiger  
Administrator, Alaska Region

Enclosures (2)

October 17, 1997 letter from Clarence Pautzke  
November 17, 1997 letter from Steven Penmoyer

cc. NOAA GC  
IPHC

**NOAA FISHERY MANAGEMENT COUNCIL**

Richard B. Lauber, Chairman  
Clarence G. Pautzke, Executive Director



605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

Fax (907) 271-2817

October 17, 1997

Mr. Steve Pennoyer  
Regional Administrator  
NMFS, Alaska Region  
P.O. Box 21668  
Juneau, AK 99802-1168

Dear Steve:


Of the many issues recently in the limelight of our management process, the Council's actions regarding the guided sport fishery for halibut have generated considerable attention from the public and in the press. Many of the letters we have recently received raised questions regarding the subsequent review, approval, and implementation process. Two aspects of the Council's action appear very straightforward - the recordkeeping and reporting process and the potential development of local area management plans. The first would be taken care of by existing initiatives at the State level (either through HB 19 in the legislature or by the ADF&G/Board of Fish), and the second would be handled through the BOF local advisory committees, noting that final approval of any local area management plans would rest with the Council.

The guideline harvest level, a variation of the 'cap' alternative, is the part of the Council's action which has generated the most attention, and leaves me with some questions as well. As articulated by the Council, the intent of this GHIL would not be to attempt in-season management and shut the guided sport fishery down upon attainment of this target GHIL; rather, it is envisioned by the Council that, once the fishery reaches this level (125% of their 1995 harvest, expressed as a percentage), other, as yet undefined, management actions would be implemented to reduce this sector's rate of harvest. Reduced bag limits were one tool mentioned to accomplish this goal. Noting that attainment of this GHIL is not projected to occur for several years, the Council's rationale was that there is plenty of time to develop these types of measures.

The nature and timing of regulations to implement the Council's GHIL are what is in question. Without yet defining what management actions would be implemented once the GHIL is attained, is it possible to develop regulations which, if approved, would implement the Council's basic intent with regard to the GHIL, while holding in reserve the more specific measures to achieve compliance with that GHIL? Normally when the Council takes an action a regulatory package is prepared for submittal to the Secretary of Commerce, with your office making the determination of package 'completeness' and transmittal date. This particular action by the Council is different than most, due to its contingent nature, and I need some guidance on what our staff's next steps should be in terms of the submittal and review process.

Some of the letters we have received have assumed that the '60-day Secretarial review process' has already begun. Others are curious as to what the next step is going to be and when it will occur, similar to my questions above. I have no doubt that you are receiving similar letters and inquiries which require responses in the near future.

Sincerely,

  
Clarence G. Pautzke  
Executive Director

cc: Jon Pollard, Office of NOAA General Counsel

**National Oceanic and Atmospheric Administration***National Marine Fisheries Service*

P.O. Box 21668

Juneau, Alaska 99802-1668

November 24, 1997

Dr. Clarence G. Pautzke, Executive Director  
North Pacific Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

**COPY**

Dear Clarence:

Thank you for your letter inquiring about our ability to implement the guideline harvest level (GHL) developed by the Council for the guided sport fishery for halibut. I understand that the Council intended the GHL to have no immediate effect on the charterboat fishery and that setting the GHL served as a notice that growth of that fishery will be limited in some manner, yet to be decided. The fact that the Council did not specify any regulatory response to the attainment of the GHL, however, makes establishing the GHL in regulations problematical. Without specifying what would happen if the GHL is reached, the GHL by itself would be ineffective as a regulation.

The Northern Pacific Halibut Act of 1982 (Halibut Act) provides the Council with discretionary authority to develop regulations which are in addition to and not in conflict with regulations developed by the International Pacific Halibut Commission (IPHC). Such regulations are implemented with approval of the Secretary, and generally pertain only to the allocation of halibut fishing privileges while regulations developed by the IPHC pertain primarily to the biological conservation of the halibut resource. The Council has previous experience with this process, for example, in developing regulations for Area 4C, for the halibut Individual Fishing Quota and Community Development Quota programs, and the Catch Sharing Plan (CSP) for Area 4. In each case, the regulatory regime was well articulated by the Council before Secretarial review. By comparison, the GHL for guided sport catch of halibut is not fully developed; the Council has not specified what we would implement if the GHL were reached.

The Council's intent regarding its GHL policy may be satisfied, however, by publishing it as a notice in the Federal Register. This notice would describe how and why the Council arrived at this policy. Such a notice would be similar to publication of a control date. It would have no restrictive or constraining effect on the guided sport fishery, but it would formally announce the Council's intention to develop management measures to maintain guided sport fishery catches at or below the GHL. This alternative would involve the publication of only one notice in the Federal Register and no Secretarial approval or disapproval decision. No further action by the Council would be required. The Council's policy recommendation on this issue is

**COPY**

clear. The Federal Register publication would serve primarily to memorialize the GHL policy without regulatory effect.

The Council's attention on this issue should next focus on the development of charterboat fishery management measures. To facilitate the industry discussion and development of management measures, I recommend that the Council establish an ad hoc charterboat industry committee similar to the industry committee created to develop practical measures to improve retention and utilization of groundfish based on general policy direction from the Council. We should not expect the Board of Fisheries (BOF) local advisory committees to perform this role because the management measures would have to be applied to entire regulatory areas (2C or 3A). Also, my staff would be able to consult with one Council committee but not with many BOF local advisory committees. We should rely on the BOF local advisory committees only to develop and recommend local area management plans for halibut. Council-established industry committees have worked well in the past in developing negotiated management measures for the Council, and I suggest that the Council use the same organizational vehicle to develop charterboat industry management measures.

Sincerely,



Steven Pennoyer  
Administrator, Alaska Region

2002 GULF OF ALASKA GROUND FISH QUOTAS  
AND PRELIMINARY CATCH IN ROUND METRIC TONS

Data are from Weekly Production and Observer Reports through 11/23/02  
Quotas are based on Final Specifications

	TOTAL CATCH	QUOTA	REMAINING QUOTA	% TAKEN	LAST WK CATCH
<b>WEST, CENT PLCK</b>					
Pollock 610	17,380	17,730	350	98	0
Pollock 620	20,531	23,045	2,514	89	0
Pollock 630	10,902	9,850	-1,052	111	0
<b>WESTERN GULF</b>					
Arrowtooth Flounder	6,155	8,000	1,845	77	12
Deep Water Flatfish	19	180	161	11	1
Shallow Water Flatfish	260	4,500	4,240	6	5
Flathead Sole	420	2,000	1,580	21	0
Rex Sole	398	1,280	882	31	0
Pacific Ocean Perch	2,723	2,610	-113	104	0
Shortraker/Rougheye	259	220	-39	118	0
Pelagic Shelf Rockfish	184	510	326	36	1
Northern Rockfish	338	600	262	56	0
Other Rockfish	225	90	-135	250	3
Pacific Cod - Inshore	15,486	15,164	-322	102	693
Pacific Cod - Offshore	1,627	1,685	58	97	0
Sablefish (Hook & Line)	1,605	1,792	187	90	14
Sablefish (Trawl)	213	448	235	48	0
Thornyhead	369	360	-9	103	0
<b>CENTRAL GULF</b>					
Arrowtooth Flounder	14,890	25,000	10,110	60	1
Deep Water Flatfish	531	2,220	1,689	24	0
Shallow Water Flatfish	6,923	13,000	6,077	53	0
Flathead Sole	1,717	5,000	3,283	34	0
Rex Sole	2,619	5,540	2,921	47	0
Pacific Ocean Perch	8,262	8,220	-42	101	0
Shortraker/Rougheye	629	840	211	75	0
Pelagic Shelf Rockfish	2,680	3,480	800	77	0
Northern Rockfish	2,999	4,170	1,171	72	0
Other Rockfish	481	550	69	87	0
Pacific Cod - Inshore	22,742	22,311	-431	102	0
Pacific Cod - Offshore	2,393	2,479	86	97	0
Sablefish (Hook & Line)	4,605	4,344	-261	106	14
Sablefish (Trawl)	1,569	1,086	-483	144	0
Thornyhead	504	840	336	60	0
<b>EASTERN GULF</b>					
Shortraker/Rougheye	404	560	156	72	0
Pacific Cod - Inshore	56	2,332	2,276	2	1
Pacific Cod - Offshore	48	259	211	19	0
Thornyhead	254	790	536	32	0
<b>WEST YAKUTAT</b>					
Arrowtooth Flounder	58	2,500	2,442	2	0
Deep Water Flatfish	2	1,330	1,328	0	0
Shallow Water Flatfish	2	1,180	1,178	0	0
Flathead Sole	0	1,590	1,590	0	0
Rex Sole	0	1,600	1,600	0	0
Pacific Ocean Perch	748	780	32	96	0
Other Rockfish	38	150	112	25	0
Pelagic Shelf Rockfish	448	640	192	70	0
Pollock	1,818	1,165	-653	156	0
Sablefish (Hook & Line)	1,420	1,682	262	84	0
Sablefish (Trawl)	128	258	130	50	0
<b>SOUTHEAST</b>					
Arrowtooth Flounder	118	2,500	2,382	5	5
Deep Water Flatfish	7	1,150	1,143	1	0
Shallow Water Flatfish	0	1,740	1,740	0	0
Flathead Sole	0	690	690	0	0
Rex Sole	0	1,050	1,050	0	0
Pacific Ocean Perch	1	1,580	1,579	0	0
Other Rockfish	33	200	167	17	2
Pelagic Shelf Rockfish	8	860	852	1	2
Pollock	2	6,460	6,458	0	0



Demersal Shelf Rockfish	232	350	118	88	42
Sablefish (Hook & Line)	2,814	3,210	396	88	5
ENTIRE GOA					
Other Species	4,093	11,330	7,237	36	73
Atka Mackerel	85	600	515	14	0
-----					
TOTALS:	165,455	237,680	72,225	70	875

2002 BERING SEA & ALEUTIANS GROUND FISH QUOTAS  
AND PRELIMINARY CATCH IN ROUND METRIC TONS

Data are from Weekly Production and Observer Reports through 11/23/02  
Quotas are based on Final Specifications

	TOTAL CATCH	QUOTA	REMAINING QUOTA	% TAKEN	LAST WK CATCH
<b>BERING SEA</b>					
Other Rockfish	398	307	-91	130	0
Pacific Ocean Perch	632	2,227	1,595	28	0
Northern Rockfish	112	16	-96	700	0
Shortraker/Rougheye	100	99	-1	101	1
Sablefish (Fixed Gear)	663	772	109	86	21
Sablefish (Trawl)	284	821	537	35	0
Greenland Turbot	2,277	4,958	2,681	46	5
Pollock - Inshore	643,682	646,020	2,338	100	0
Pollock - AFA Offshore	516,742	516,816	74	100	0
Pollock - AFA Mothership	129,141	129,204	63	100	0
Pollock - Incidental Ctch	41,085	44,460	3,375	92	199
<b>ALEUTIAN ISLANDS</b>					
Other Rockfish	518	575	57	90	0
Pacific Ocean Perch, East	2,403	3,201	798	75	0
Pacific Ocean Perch, Cent	2,812	2,831	19	99	0
Pacific Ocean Perch, West	4,685	5,236	551	89	0
Northern Rockfish	3,603	6,236	2,633	58	0
Shortraker/Rougheye Trawl	349	591	242	59	0
Non-Trawl	114	253	139	45	0
Atka Mackerel - Eastern	4,625	5,037	412	92	1
- Jig	0	51	51	0	0
Atka Mackerel - Central	20,706	22,015	1,309	94	0
Atka Mackerel - Western	16,737	18,223	1,486	92	0
Sablefish (Fixed Gear)	971	1,530	559	63	0
Sablefish (Trawl)	34	541	507	6	0
Greenland Turbot	429	2,442	2,013	18	0
Pollock - Incidental Ctch	1,112	900	-212	124	0
<b>BERING SEA &amp; ALEUTIANS</b>					
Atka Plaice	12,175	10,200	-1,975	119	0
Wtooth Flounder	11,332	13,600	2,268	83	38
Flathead Sole	15,028	21,250	6,222	71	14
Other Flatfish	2,575	2,550	-25	101	1
Other Species	26,137	26,201	64	100	403
Pacific Cod (Trawl - C/P)	36,491	36,975	484	99	0
Pacific Cod (Trawl - C/V)	41,293	41,475	182	100	0
Pacific Cod (HAL C/P)	89,021	89,920	899	99	2,564
Pacific Cod (HAL C/V)	404	482	78	84	0
Pacific Cod (Pot)	14,487	14,035	-452	103	28
Pacific Cod (Jig)	164	300	136	55	0
Rock Sole	41,240	45,900	4,660	90	2
Squid	784	1,675	891	47	0
Yellowfin Sole	72,989	73,100	111	100	12
<b>BOGOSLOF</b>					
Pollock - Incidental Ctch	38	90	52	42	0
-----					
<b>TOTALS:</b>	<b>1,758,372</b>	<b>1,793,115</b>	<b>34,743</b>	<b>98</b>	<b>3,289</b>

2002 GULF OF ALASKA REPORT ON DAP HARVEST  
BY GEAR TYPE

Data are from Weekly Production and Observer Reports through 11/23/02

	TRAWL	H&L	POT	OTHER	TOTAL
<b>WEST, CENT PLCK</b>					
Pollock 610	17,314	54	13	0	17,381
Pollock 620	20,524	5	2	0	20,531
Pollock 630	10,866	36	1	0	10,903
<b>WESTERN GULF</b>					
Arrowtooth Flounder	5,883	270	3	0	6,156
Deep Water Flatfish	13	6	0	0	19
Shallow Water Flatfish	211	45	4	0	260
Flathead Sole	415	6	0	0	421
Rex Sole	398	0	0	0	398
Pacific Ocean Perch	2,721	2	0	0	2,723
Shortraker/Rougheye	179	80	0	0	259
Pelagic Shelf Rockfish	175	8	1	0	184
Northern Rockfish	336	1	1	0	338
Other Rockfish	209	15	1	0	225
Pacific Cod - Inshore	5,339	5,702	4,445	0	15,486
Pacific Cod - Offshore	225	962	439	0	1,626
Sablefish (Hook & Line)	0	1,582	23	0	1,605
Sablefish (Trawl)	213	0	0	0	213
Thornyhead	240	129	0	0	369
<b>CENTRAL GULF</b>					
Arrowtooth Flounder	14,694	194	3	0	14,891
Deep Water Flatfish	521	9	0	0	530
Shallow Water Flatfish	6,914	6	4	0	6,924
Flathead Sole	1,716	1	0	0	1,717
Rex Sole	2,619	0	0	0	2,619
Pacific Ocean Perch	8,261	1	0	0	8,262
Shortraker/Rougheye	476	152	0	0	628
Pelagic Shelf Rockfish	2,664	15	1	0	2,680
Northern rockfish	2,999	0	0	0	2,999
Other Rockfish	423	58	0	0	481
Pacific Cod - Inshore	13,672	6,499	2,572	0	22,743
Pacific Cod - Offshore	601	1,661	131	0	2,393
Sablefish (Hook & Line)	0	4,604	1	0	4,605
Sablefish (Trawl)	1,568	0	0	0	1,568
Thornyhead	344	159	0	0	503
<b>EASTERN GULF</b>					
Shortraker/Rougheye	100	304	0	0	404
Pacific Cod - Inshore	1	56	0	0	57
Pacific Cod - Offshore	0	0	48	0	48
Thornyhead	5	248	0	0	253
<b>WEST YAKUTAT</b>					
Arrowtooth Flounder	18	40	0	0	58
Deep Water Flatfish	0	2	0	0	2
Shallow Water Flatfish	2	0	0	0	2
Flathead Sole	0	0	0	0	0
Rex Sole	0	0	0	0	0
Pacific Ocean Perch	748	0	0	0	748
Other Rockfish	24	13	0	0	37
Pelagic Shelf Rockfish	448	0	0	0	448
Pollock	1,817	1	0	0	1,818
Sablefish (Hook & Line)	0	1,420	0	0	1,420
Sablefish (Trawl)	128	0	0	0	128
<b>SOUTHEAST</b>					
Arrowtooth Flounder	0	118	0	0	118
Deep Water Flatfish	0	7	0	0	7
Shallow Water Flatfish	0	0	0	0	0
Flathead Sole	0	0	0	0	0
Rex Sole	0	0	0	0	0
Pacific Ocean Perch	0	1	0	0	1
Other Rockfish	0	33	0	0	33
Pelagic Shelf Rockfish	0	9	0	0	9
Pollock	0	2	0	0	2
Demersal Shelf Rockfish	0	232	0	0	232

Sablefish (Hook & Line)	0	2,814	0	0	2,814
ENTIRE GOA					
Other Species	2,567	1,279	248	0	4,094
Atka Mackerel	82	1	1	0	84
-----					
TOTALS:	128,673	28,842	7,942	0	165,457

2002 BERING SEA & ALEUTIANS REPORT ON DAP HARVEST  
BY GEAR TYPE

Data are from Weekly Production and Observer Reports through 11/23/02

	TRAWL	H&L	POT	OTHER	TOTAL
<b>BERING SEA</b>					
Other Rockfish	261	133	4	0	398
Pacific Ocean Perch	629	3	0	0	632
Northern Rockfish	103	9	0	0	112
Shortraker/Rougheye	38	61	1	0	100
Sablefish (Fixed Gear)	0	423	241	0	664
Sablefish (Trawl)	284	0	0	0	284
Greenland Turbot	760	1,424	93	0	2,277
Pollock - Inshore	643,682	0	0	0	643,682
Pollock - AFA Offshore	516,741	0	0	0	516,741
Pollock - AFA Mothership	129,141	0	0	0	129,141
Pollock - Incidental Ctch	35,166	5,892	28	0	41,086
<b>ALEUTIAN ISLANDS</b>					
Other Rockfish	297	220	0	0	517
Pacific Ocean Perch, East	2,403	0	0	0	2,403
Pacific Ocean Perch, Cent	2,812	0	0	0	2,812
Pacific Ocean Perch, West	4,685	0	0	0	4,685
Northern Rockfish	3,576	27	0	0	3,603
Shortraker/Rougheye Trawl	349	0	0	0	349
Non-Trawl	0	114	0	0	114
Atka Mackerel - Eastern	4,572	2	51	0	4,625
- Jig	0	0	0	0	0
Atka Mackerel - Central	20,683	23	0	0	20,706
Atka Mackerel - Western	16,719	17	0	0	16,736
Sablefish (Fixed Gear)	0	930	41	0	971
Sablefish (Trawl)	33	0	0	0	33
Greenland Turbot	222	206	1	0	429
Pollock - Incidental Ctch	1,106	6	0	0	1,112
<b>BERING SEA &amp; ALEUTIANS</b>					
Alaska Plaice	12,174	1	0	0	12,175
Arrowtooth Flounder	10,055	1,088	189	0	11,332
Flathead Sole	14,687	341	0	0	15,028
Other Flatfish	2,462	112	2	0	2,576
Other Species	12,640	13,105	393	0	26,138
Pacific Cod (Trawl - C/P)	36,491	0	0	0	36,491
Pacific Cod (Trawl - C/V)	41,293	0	0	0	41,293
Pacific Cod (HAL C/P)	0	89,021	0	0	89,021
Pacific Cod (HAL C/V)	0	404	0	0	404
Pacific Cod (Pot)	0	0	14,487	0	14,487
Pacific Cod (Jig)	0	164	0	0	164
Rock Sole	41,209	29	2	0	41,240
Squid	784	0	0	0	784
Yellowfin Sole	72,383	567	39	0	72,989
<b>BOGOSLOF</b>					
Pollock - Incidental Ctch	33	5	0	0	38
-----					
<b>TOTALS:</b>	<b>1,628,473</b>	<b>114,327</b>	<b>15,572</b>	<b>0</b>	<b>1,758,372</b>

2002 GULF OF ALASKA GROUND FISH DISCARDS IN ROUND METRIC TONS  
Data are from Weekly Production and Observer Reports through 11/23/02

	SHORESIDE			MOTHERSHIP		CATCHER-PROC	
	TOTAL CATCH	AT-SEA DISC	PLANT DISC	TOTAL CATCH	DISC	TOTAL CATCH	DISC
<b>WEST, CENT PLCK</b>							
Pollock 610	17134	337	0	0	0	246	79
Pollock 620	20511	422	0	0	0	19	4
Pollock 630	10810	268	0	0	0	93	19
<b>WESTERN GULF</b>							
Arrowtooth Flounder	269	204	0	0	0	5886	2160
Deep Water Flatfish	3	2	0	0	0	17	13
Shallow Water Flatfish	91	66	0	0	0	170	79
Flathead Sole	72	21	0	0	0	348	84
Rex Sole	2	1	0	0	0	396	34
Pacific Ocean Perch	36	12	0	0	0	2687	220
Shortraker/Rougheye	35	34	0	0	0	224	26
Pelagic Shelf Rockfish	13	12	0	0	0	171	20
Northern Rockfish	18	18	0	0	0	320	110
Other Rockfish	9	4	0	0	0	216	110
Pacific Cod - Inshore	9727	213	0	0	0	5759	70
Pacific Cod - Offshore	0	0	0	0	0	1627	82
Sablefish (Hook & Line)	944	28	0	0	0	661	24
Sablefish (Trawl)	0	0	0	0	0	213	96
Thornyhead	79	6	0	0	0	291	17
<b>CENTRAL GULF</b>							
Arrowtooth Flounder	5127	3586	0	0	0	9764	4553
Deep Water Flatfish	366	22	0	0	0	164	156
Shallow Water Flatfish	6605	301	0	0	0	319	186
Flathead Sole	1234	132	0	0	0	482	48
Rex Sole	303	50	0	0	0	2316	58
Pacific Ocean Perch	4818	184	0	0	0	3444	432
Shortraker/Rougheye	224	93	0	0	0	405	30
Pelagic Shelf Rockfish	1336	24	0	0	0	1344	110
Northern Rockfish	2180	32	0	0	0	819	170
Other Rockfish	106	26	0	0	0	374	263
Pacific Cod - Inshore	22374	3178	0	0	0	369	39
Pacific Cod - Offshore	0	0	0	0	0	2393	119
Sablefish (Hook & Line)	4013	108	0	0	0	592	15
Sablefish (Trawl)	600	175	0	0	0	969	400
Thornyhead	256	66	0	0	0	247	26
<b>EASTERN GULF</b>							
Shortraker/Rougheye	279	45	0	0	0	125	41
Pacific Cod - Inshore	57	9	0	0	0	0	0
Pacific Cod - Offshore	0	0	0	0	0	48	0
Thornyhead	228	14	0	0	0	26	2
<b>WEST YAKUTAT</b>							
Arrowtooth Flounder	42	41	0	0	0	15	15
Deep Water Flatfish	2	2	0	0	0	0	0
Shallow Water Flatfish	3	0	0	0	0	0	0
Flathead Sole	0	0	0	0	0	0	0
Rex Sole	0	0	0	0	0	0	0
Pacific Ocean Perch	6	1	0	0	0	742	2
Other Rockfish	13	2	0	0	0	24	24
Pelagic Shelf Rockfish	0	0	0	0	0	448	0
Pollock	1815	7	0	0	0	3	3
Sablefish (Hook & Line)	1303	32	0	0	0	118	10
Sablefish (Trawl)	0	0	0	0	0	127	18
<b>SOUTHEAST</b>							
Arrowtooth Flounder	116	116	0	0	0	3	3
Deep Water Flatfish	6	6	0	0	0	1	1
Shallow Water Flatfish	0	0	0	0	0	0	0
Flathead Sole	0	0	0	0	0	0	0
Rex Sole	0	0	0	0	0	0	0
Pacific Ocean Perch	1	1	0	0	0	0	0
Other Rockfish	33	1	0	0	0	0	0
Pelagic Shelf Rockfish	9	3	0	0	0	0	0
Pollock	2	2	0	0	0	0	0
Demersal Shelf Rockfish	232	12	0	0	0	0	0

Sablefish (hook & line)	2003	07	0	0	0	111	1
ENTIRE GOA							
Other Species	2692	2018	0	0	0	1401	1113
Atka Mackerel	18	13	0	0	0	67	39
-----							
TOTALS:	118817	12037	0	0	0	46642	11124

2002 BERING SEA & ALEUTIANS GROUND FISH DISCARDS IN ROUND METRIC TONS  
 Data are from Weekly Production and Observer Reports through 11/23/02

	SHORESIDE			MOTHERSHIP		CATCHER-PROC	
	TOTAL CATCH	AT-SEA DISC	PLANT DISC	TOTAL CATCH	DISC	TOTAL CATCH	DISC
<b>BERING SEA</b>							
Other Rockfish	102	72	0	1	1	295	41
Pacific Ocean Perch	283	93	0	9	8	340	250
Northern Rockfish	42	41	0	1	1	68	62
Shortraker/Rougheye	35	33	0	0	0	65	20
Sablefish (Fixed Gear)	519	7	0	0	0	145	75
Sablefish (Trawl)	26	9	0	2	1	256	38
Greenland Turbot	195	166	0	1	0	2082	343
Pollock - Inshore	643682	100	0	0	0	0	0
Pollock - AFA Offshore	0	0	0	0	0	516741	162
Pollock - AFA Mothership	0	0	0	129141	520	0	0
Pollock - Incidental Ctch	3243	2396	0	362	294	37481	16848
<b>ALEUTIAN ISLANDS</b>							
Other Rockfish	130	50	0	4	4	384	195
Pacific Ocean Perch, East	0	0	0	0	0	2403	162
Pacific Ocean Perch, Cent	0	0	0	0	0	2812	429
Pacific Ocean Perch, West	0	0	0	0	0	4685	644
Northern Rockfish	7	6	0	6	6	3589	3496
Shortraker/Rougheye Trawl	0	0	0	0	0	349	57
Non-Trawl	33	32	0	0	0	81	56
Atka Mackerel - Eastern	295	115	0	1	1	4329	316
- Jig	0	0	0	0	0	0	0
Atka Mackerel - Central	0	0	0	0	0	20706	4677
Atka Mackerel - Western	0	0	0	0	0	16736	2155
Sablefish (Fixed Gear)	599	8	0	0	0	371	18
Sablefish (Trawl)	0	0	0	0	0	33	1
Greenland Turbot	126	100	0	0	0	303	40
Pollock - Incidental Ctch	650	649	0	9	7	454	96
<b>BERING SEA &amp; ALEUTIANS</b>							
Alaska Plaice	11	3	0	1	1	12163	11801
Widetooth Flounder	1055	865	0	80	78	10195	6556
Widetooth Sole	867	461	0	170	152	13991	3422
Widetooth Flatfish	182	100	0	16	14	2377	1577
Other Species	1833	1694	0	200	198	24105	19706
Pacific Cod (Trawl - C/P)	0	0	0	0	0	36491	1265
Pacific Cod (Trawl - C/V)	32197	365	0	9097	242	0	0
Pacific Cod (HAL C/P)	0	0	0	0	0	89021	1811
Pacific Cod (HAL C/V)	404	167	0	0	0	0	0
Pacific Cod (Pot)	10947	39	0	1478	0	2062	21
Pacific Cod (Jig)	164	0	0	0	0	0	0
Rock Sole	1772	1493	0	285	252	39182	16032
Squid	555	160	0	2	2	227	131
Yellowfin Sole	219	196	0	49	40	72722	10969
<b>BOGOSLOF</b>							
Pollock - Incidental Ctch	33	23	0	0	0	5	0
<b>TOTALS:</b>							
	700206	9443	0	140915	1822	917249	103472



NMFS/AKR  
11/29/02  
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2002 GULF OF ALASKA FISHERIES  
TRAWL HALIBUT BYCATCH MORTALITY (METRIC TONS)  
Week Ending: 11/23/02

WED	SHALLOW WATER COMPLEX		DEEP WATER COMPLEX		GRAND TOTAL
	WEEK TOTAL	CUMULATIVE TOTAL	WEEK TOTAL	CUMULATIVE TOTAL	
01/26/02	2	2	0	0	2
02/02/02	24	26	0	0	26
02/09/02	29	55	6	6	61
02/16/02	20	75	0	6	81
02/23/02	34	109	5	11	120
03/02/02	22	131	5	15	147
03/09/02	61	192	0	15	207
03/16/02	11	204	4	20	223
03/23/02	8	211	4	24	235
03/30/02	6	217	16	39	257
04/06/02	29	246	34	74	320
04/13/02	20	266	70	144	410
04/20/02	29	295	40	183	479
04/27/02	41	337	57	240	577
05/04/02	60	396	45	285	681
05/11/02	123	519	30	315	834
05/18/02	39	558	62	377	935
05/25/02	0	558	17	394	952
06/01/02	0	558	0	394	952
07/06/02	0	558	115	509	1,067
07/13/02	0	558	87	596	1,154
07/20/02	3	561	79	675	1,236
07/27/02	165	726	101	775	1,501
08/03/02	102	828	51	826	1,654
08/10/02	43	871	0	826	1,697
08/31/02	0	871	0	826	1,697
09/07/02	0	871	0	826	1,697
09/14/02	0	871	0	826	1,697
09/21/02	0	871	0	826	1,697
10/05/02	96	968	22	848	1,816
10/12/02	62	1030	51	899	1,929
10/19/02	12	1042	1	901	1,942
10/26/02	0	1042	0	901	1,942
11/02/02	0	1042	0	901	1,943
11/09/02	15	1057	0	901	1,957
11/16/02	38	1094	0	901	1,995

CAP: 900	CAP: 800
% OF CAP: 122%	% OF CAP: 113%
REMAINING: -194	REMAINING: -101

SEASON	SEASONAL HALIBUT BYCATCH MORTALITY CAPS		TOTAL
	SHALLOW COMPLEX	DEEP COMPLEX	
Jan 01 - Apr 01	450 MT	100 MT	550 MT
Apr 01 - Jun 30	100 MT	300 MT	400 MT
Jun 30 - Sep 01	200 MT	400 MT	600 MT
Sep 01 - Oct 01	150 MT	Any rollover	150 MT
Oct 01 - Dec 31	- No Apportionment	-	300 MT
TOTALS	900 MT	800 MT	2000 MT

Balance of 4th Quarter available for all trawl fisheries

Shallow Water Complex = pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species."  
 Deep Water Complex = sablefish, rockfish, rex sole, arrowtooth flounder, and deep-water flatfish.

2002 GULF OF ALASKA FISHERIES HOOK & LINE HALIBUT BYCATCH MORTALITY (METRIC TONS)  
 Week Ending: 11/23/02

OTHER HOOK & LINE FISHERIES

WEEKLY TOTAL

WED

19

14

7

40

52

67

86

91

101

108

119

143

171

176

176

176

176

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Annual Total:

Jan 01 - Jun 10  
 Jun 10 - Sep 01  
 Sep 01 - Dec 31

290 MT

35 MT

5 MT

250 MT

FISHERIES

OTHER HOOK AND LINE

2002 HOOK-AND-LINE GROUND FISH FISHERIES HALIBUT MORTALITY CAPS

REMAINING:

44

% OF SEASONAL CAP:

85%

CAP:

290

Sablefish fishery is exempt from halibut bycatch restrictions.

Other hook and line fisheries are all H&L fisheries except sablefish and demersal shelf rockfish in the Southeast District.

Halibut mortality for the demersal shelf rockfish fishery, Southeast District is not listed due to insufficient observer coverage.

NMFS/AKR-  
11/29/02  
10:49:02

2002 GULF OF ALASKA FISHERIES  
CHINOOK & OTHER SALMON BYCATCH  
Week Ending:11/23/02

TRAWL GEAR

Week	CHINOOK SALMON		'OTHER' SALMON	
	WEEKLY NUMBER	CUMULATIVE NUMBER	WEEKLY NUMBER	CUMULATIVE NUMBER
01/26	1,068	1,068	1	1
02/02	749	1,817	33	34
02/09	825	2,642	6	39
02/16	492	3,134	11	51
02/23	1,153	4,287	17	68
03/02	291	4,577	17	85
03/09	1,125	5,703	0	85
03/16	425	6,128	25	109
03/23	271	6,399	11	120
03/30	163	6,561	4	124
04/06	138	6,699	0	124
04/13	619	7,318	1	125
04/20	308	7,626	1	126
04/27	417	8,043	2	128
05/04	196	8,240	56	184
05/11	66	8,306	18	202
05/18	57	8,362	13	215
05/25	6	8,369	35	251
06/01	0	8,369	0	251
07/06	1,043	9,412	352	602
07/13	65	9,477	538	1,141
07/20	161	9,638	266	1,407
07/27	9	9,647	333	1,739
08/03	0	9,647	279	2,018
08/10	42	9,690	167	2,185
08/31	181	9,871	161	2,346
09/07	187	10,057	161	2,506
09/14	158	10,216	29	2,535
09/21	27	10,243	4	2,539
10/05	1,648	11,890	92	2,631
10/12	457	12,348	402	3,033
10/19	200	12,548	103	3,136
10/26	153	12,700	74	3,210
11/02	195	12,896	79	3,289
11/09	22	12,918	10	3,300
11/16	4	12,922	0	3,300

NOTE: No PSC Limits apply to salmon.

Data based on observer reports, extrapolated to total groundfish harvest. Estimates for all weeks may change due to incorporation of late or corrected data.

NMFS/AKR  
11/29/02  
10:48:39

2002 BERING SEA/ALEUTIAN ISLANDS FISHERIES  
PROHIBITED SPECIES BYCATCH  
Week Ending: 11/23/02

TRAWL HERRING, BSAI

Fishery group	Herring (mt)	Cap (mt)	%
Midwater pollock	105	1,184	9%
Pacific cod	3	20	14%
Yellowfin sole	19	139	14%
Rockfish	0	7	2%
Other	0	146	0%
Rock sole/Other flatfish	4	20	21%
GTRB/ARTH/SABL	0	9	1%
Total:	131	1,525	9%

TRAWL SALMON, BSAI

Fishery group	Chinook (#'s)	Other (#'s)	Total (#'s)
Midwater pollock	32,233	77,242	109,475
Bottom pollock	0	0	0
Pacific cod	3,280	974	4,254
Yellowfin sole	321	461	783
Rock sole/Other flatfish	675	149	824
Rockfish	0	0	0
Other	931	89	1,020
Seasonal Total:	37,441	78,916	116,356

TRAWL BAIRDI TANNER CRAB

Fishery group	ZONE 1			ZONE 2		
	Crabs (#'s)	Cap (#'s)	%	Crabs (#'s)	Cap (#'s)	%
Rock sole/Other flatfish	286,732	365,320	78%	260,425	596,154	44%
Pacific cod	143,755	183,112	79%	88,627	324,176	27%
Yellowfin sole	26,014	340,844	8%	268,449	1,788,459	15%
Pollock/AMCK/Other species	1,464	17,224	8%	857	27,473	3%
Rockfish	0	0	0%	49	10,988	0%
GTRB/ARTH/SABL	0	0	0%	5,291	0	0%
Total:	457,964	906,500	51%	623,697	2,747,250	23%

TRAWL C. OPILIO TANNER CRAB in the COBLZ AREA

Fishery group	Crabs (#'s)	Cap (#'s)	%
Rock sole/Other flatfish	105,147	969,130	11%
Pacific cod	95,367	124,736	76%
Yellowfin sole	680,389	2,776,981	25%
Pollock/AMCK/Other species	1,566	72,428	2%
Rockfish	0	40,237	0%
GTRB/ARTH/SABL	170	40,238	0%
Total:	882,639	4,023,750	22%

TRAWL RED KING CRAB

Fishery group	Crabs (#'s)	Cap (#'s)	%
Rock sole/Other flatfish	62,073	59,782	104%
Pacific cod	12,735	11,664	109%
Yellowfin sole	15,146	16,664	91%
Pollock/AMCK/Other species	1	1,615	0%
Total:	89,955	89,725	100%

NMFS/AKR  
11/29/02  
10:48:47

2002 BERING SEA / ALEUTIAN ISLANDS FISHERIES  
TRAWL HALIBUT BYCATCH MORTALITY (METRIC TONS)

MWD	PACIFIC COD	YELLOWFIN SOLE	ROCK SOLE/ FLATHEAD SOLE/ OTHER FLATFISH		PLCK/AMCK/ OTHER	ROCKFISH	ARROWTOOTH/ SABLEFISH/ TURBOT
			ROCK SOLE/ FLATHEAD SOLE/ OTHER FLATFISH	PLCK/AMCK/ OTHER			
02/02/02	2	0	0	0	0	0	0
02/02/02	42	0	48	3	0	0	0
02/02/02	110	0	35	6	0	0	0
02/09/02	27	0	37	8	0	0	0
02/16/02	34	0	95	7	0	0	0
02/23/02	53	0	174	4	0	0	0
02/23/02	70	1	199	2	0	0	0
03/02/02	40	56	0	2	0	0	0
03/09/02	40	20	0	4	0	0	0
03/16/02	20	43	0	2	0	0	0
03/23/02	33	44	0	2	0	0	0
03/30/02	45	25	0	1	0	0	1
04/06/02	43	13	54	0	0	0	0
04/13/02	46	18	58	0	0	0	5
04/20/02	44	20	46	0	0	0	4
04/27/02	39	78	0	0	0	0	1
05/04/02	39	135	0	0	0	0	7
05/11/02	48	41	0	0	0	0	7
05/18/02	45	1	0	0	0	0	4
05/25/02	28	2	0	0	0	0	2
06/01/02	1	15	0	0	0	0	0
06/08/02	1	18	0	0	0	0	0
06/15/02	1	30	0	0	0	0	0
06/22/02	68	0	0	4	0	0	0
06/29/02	67	0	0	11	0	0	0
07/06/02	8	0	17	3	44	0	2
07/13/02	8	0	11	3	3	0	1
07/20/02	2	0	17	3	15	0	2
07/27/02	2	6	38	5	0	0	2
08/03/02	4	112	0	9	0	0	0
08/10/02	7	69	0	13	0	0	3
08/17/02	10	58	0	12	0	0	0
08/24/02	4	73	0	13	0	0	1
08/31/02	24	33	0	5	0	0	0
09/07/02	9	32	0	28	0	0	3
09/14/02	10	25	0	5	0	0	0
09/21/02	10	19	0	13	1	0	0
09/28/02	2	15	0	13	0	0	1
10/05/02	4	38	0	4	0	0	2
10/12/02	5	57	0	2	0	3	0
10/19/02	5	82	0	2	0	0	0
10/26/02	22	2	0	0	0	0	0
11/02/02	12	0	0	0	0	0	0
	1,094	1,162	827	187	68	48	
SEASONAL							
CAP:	1,434	886	779	232	69	0	
% OF CAP:	76%	131%	106%	81%	98%	0%	
REMAINING:	340	-276	-48	45	1	-48	
ANNUAL CAP:	1,434	886	779	232	69	0	
% OF CAP:	76%	131%	106%	81%	98%	0%	
TOTAL HALIBUT MORTALITY :							3,386
TOTAL FINAL HALIBUT CAP :							3,400



2002 BERING SEA / ALEUTIAN ISLANDS FISHERIES  
FIXED GEAR HALIBUT BYCATCH MORTALITY (METRIC TONS)

WED	PACIFIC COD HOOK & LINE		OTHER SPECIES HOOK & LINE, JIG		ALL GROUND FISH POT GEAR	
	WEEKLY	TOTAL	WEEKLY	TOTAL	WEEKLY	TOTAL
01/05/02	15	15	0	0	0	0
01/12/02	26	41	0	0	0	0
01/19/02	15	56	0	0	0	0
01/26/02	15	72	0	0	0	0
02/02/02	15	87	0	0	0	0
02/09/02	21	108	0	0	0	0
02/16/02	20	128	0	0	0	0
02/23/02	30	158	0	0	0	0
03/02/02	23	181	0	0	0	0
03/09/02	20	201	0	0	0	0
03/16/02	0	201	0	0	0	0
03/23/02	0	201	1	1	0	0
03/30/02	0	202	0	1	0	0
04/06/02	0	202	0	1	0	0
04/13/02	0	202	0	1	0	1
04/20/02	1	203	5	5	0	1
04/27/02	0	203	1	7	0	1
05/04/02	1	204	0	7	0	1
05/11/02	1	205	11	18	0	1
05/18/02	0	205	0	18	0	1
05/25/02	0	205	6	25	2	4
06/01/02	2	207	1	25	4	8
06/08/02	2	209	1	26	0	8
06/15/02	0	209	0	26	0	8
06/22/02	0	210	0	26	0	8
06/29/02	0	210	0	26	0	8
07/06/02	0	210	0	27	0	8
07/13/02	0	210	1	27	0	8
07/20/02	0	210	0	28	0	8
07/27/02	0	210	5	32	0	8
08/03/02	0	210	1	33	0	8
08/10/02	1	210	7	40	0	8
08/17/02	21	231	0	40	0	8
08/24/02	36	267	0	40	0	8
08/31/02	32	300	0	40	0	8
09/07/02	27	326	0	40	0	8
09/14/02	29	356	0	40	0	9
09/21/02	28	384	0	40	1	9
09/28/02	22	406	0	40	0	10
10/05/02	30	436	0	40	1	10
10/12/02	17	454	0	40	0	10
10/19/02	22	476	0	40	0	10
10/26/02	19	495	0	40	0	10
11/02/02	20	514	0	40	0	11
11/09/02	24	538	0	40	0	11
11/16/02	24	563	0	40	0	11
11/23/02	21	583	0	40	0	11

PCOD SEASONAL CAP: 775      OTHER SEASONAL CAP: 58      Pot gear is exempt  
 % OF SEASONAL CAP: 75%      % OF SEASONAL CAP: 69%      from bycatch allowances

REMAINING PCOD: 192      REMAINING OTHER: 18

2002 BSAI NON-TRAWL PACIFIC COD FISHERY HALIBUT BYCATCH ALLOWANCES

(Jan 01 - Jun 10)	320 MT
(Jun 10 - Aug 15)	0 MT
(Aug 15 - Dec 31)	455 MT
-----	-----
Annual Total	775 MT

# **Alaska Region**

**National Marine Fisheries Service**

**Inseason Management Report**

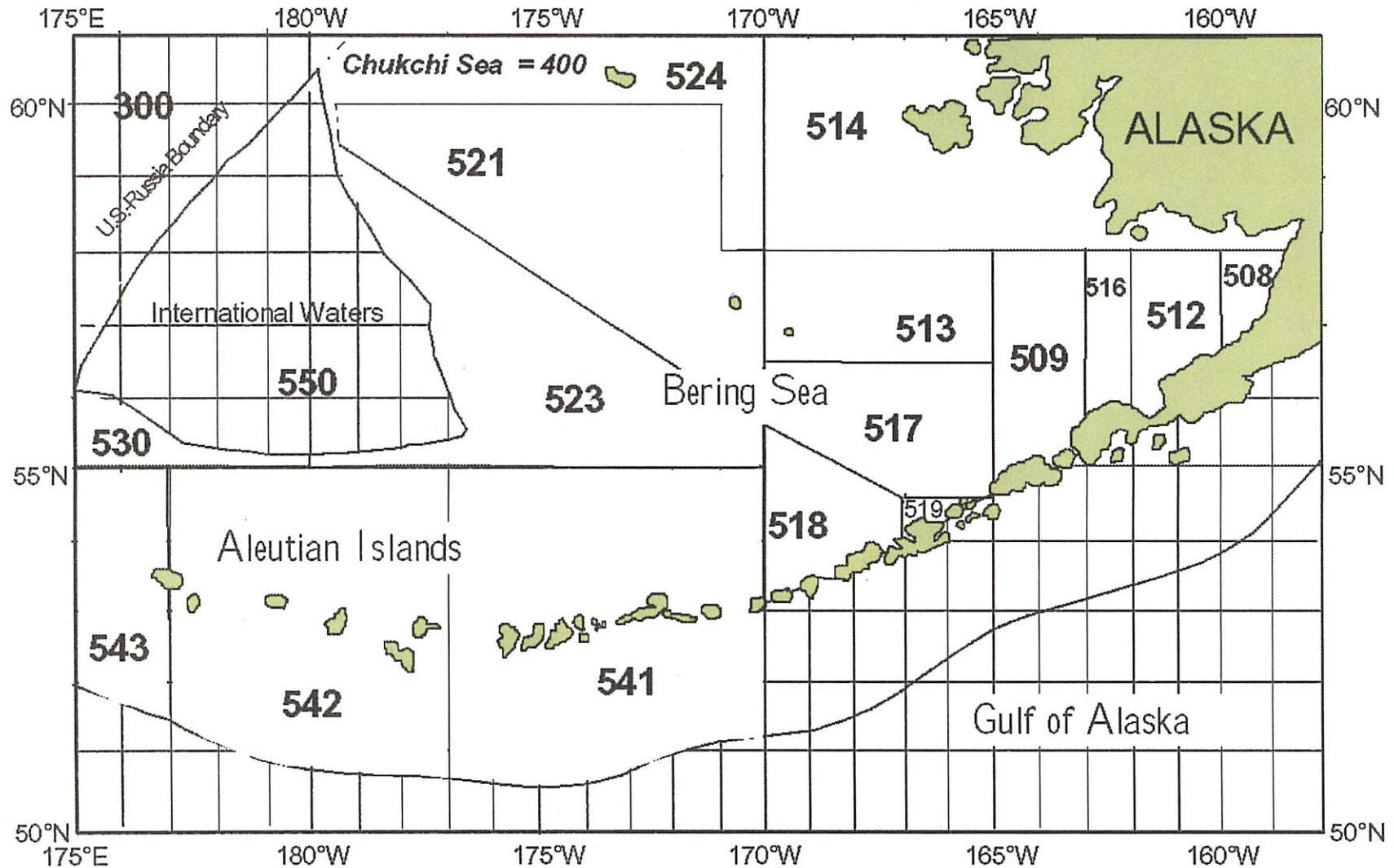
**December 2002**



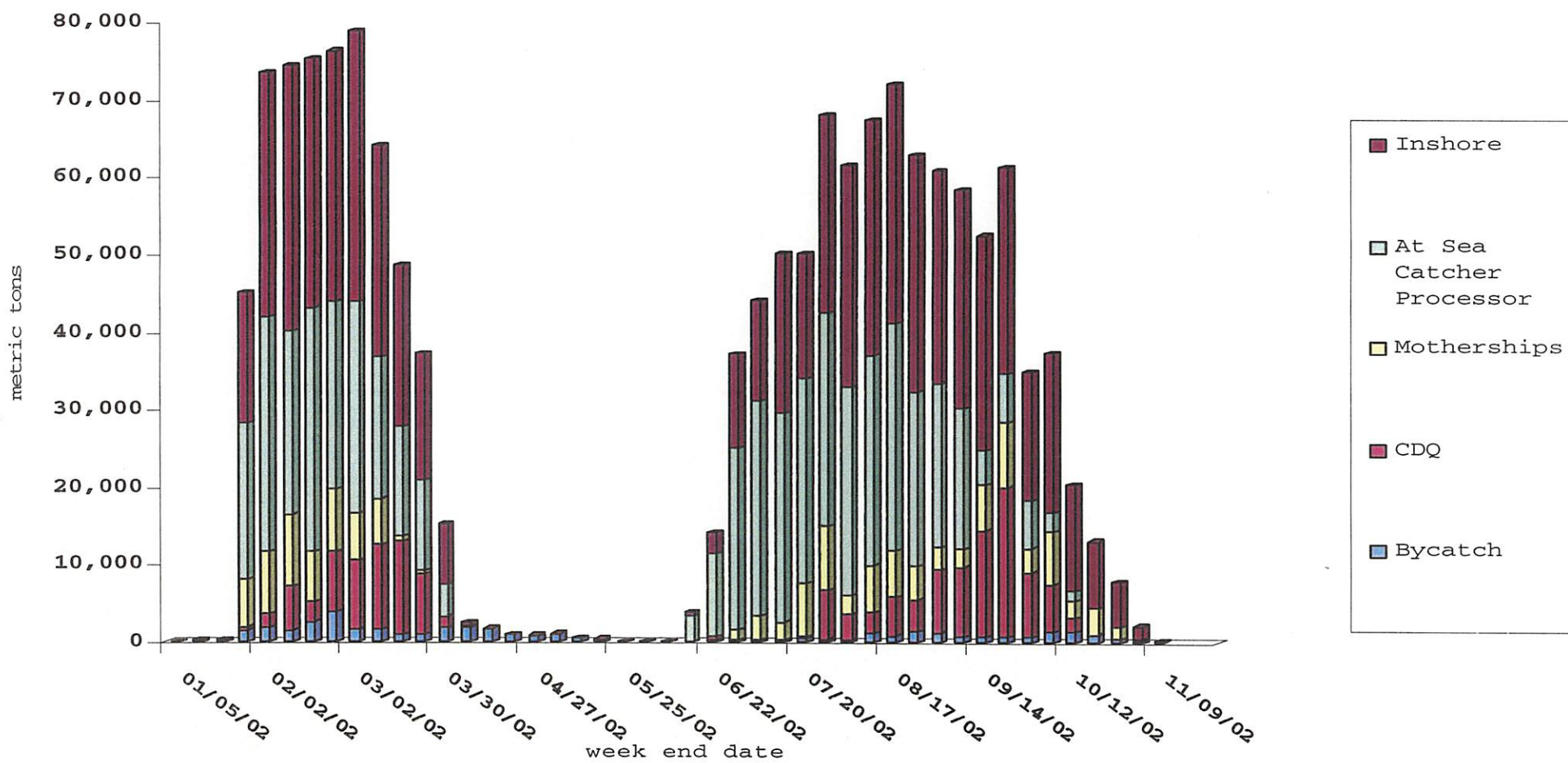
Catch data are through November 9, 2002



# BSAI Reporting Areas



# 2002 Bering Sea Pollock Catch by Week & Fishery



# 2002 Bering Sea Pollock Catch by Fishery Component

Fishery Component	TAC Apportionment	Catch
Incidental catch	44,460	40,489
Community Development Quota	148,500	144,598
Motherships	129,204	129,141
At Sea Catcher Processor	516,816	516,743
Inshore	646,020	643,689
Total	1,485,000	1,474,661

Includes Reallocation of September 9, 2002

# 2002 BSAI Atka Mackerel Apportionments Catch & Closure Dates

Regulatory Area	Apportionment	Catch % in HLA*	Open	Close
Eastern AI/Bering Sea (metric tons)				
A season	2,518	2,403	20-Jan	21-Jan
B season	2,518	2,059	1-Sep midnight	2-Sep noon
Central Aleutian District				
A season	11,008	9,706	20-Jan	11-Feb
HLA limit	6,605	5,743 52%		
B season	11,008	7,675	1-Sep	27-Sep
HLA limit	6,605	6,397 58%		
Western Aleutian District				
A season	9,111	6,184	20-Jan	15-Apr
HLA limit	5,467	4,503 49%		
B season	9,111	9,724	1-Sep	26-Sep
HLA limit	5,467	5,245 58%		

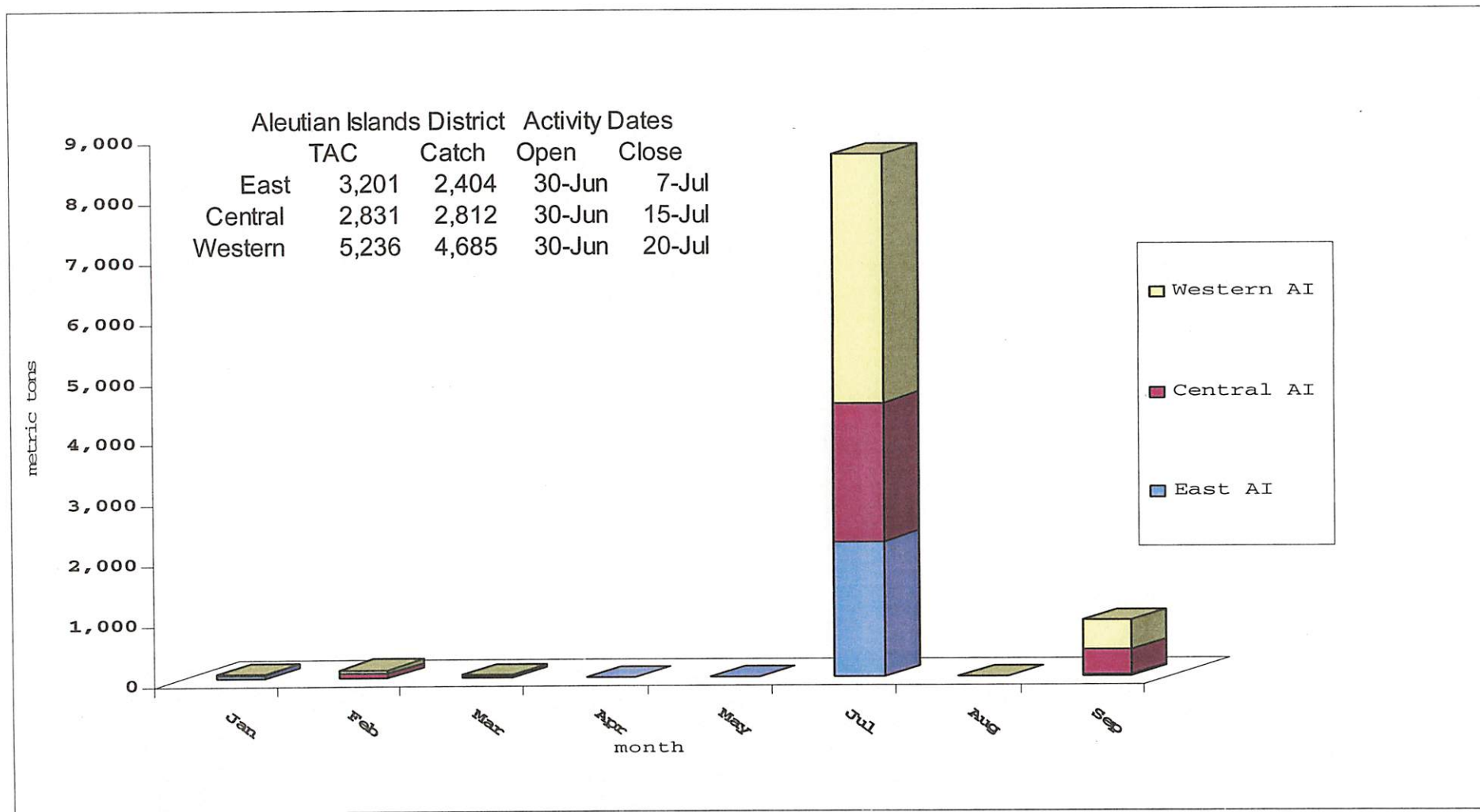
\*inside HLA catch relative to seasonal apportionment

# 2002 Area 542 & 543 Harvest Limitation Area Fishery

Season	Platoon	Vessels	HLA		Fishery		Dates	
			Area 542		Area 543		Open	Close
			Open	Close			Open	Close
A	Platoon A	Seafreeze Alaska	23-Jan		28-Jan		30-Jan	4-Feb
		Alaska Victory						
		Seafisher						
		Alaska Spirit						
	Platoon B	Alaska Juris		30-Jan		4-Feb	23-Jan	28-Jan
		Ocean Peace						
		Alaska Ranger						
		Alaska Warrior						
B	Platoon A	Alaska Victory		4-Sep		8-Sep	11-Sep	16-Sep
		Alaska Spirit						
		Alaska Ranger						
		Ocean Peace						
	Platoon B	American No. 1*						
		Alaska Juris		11-Sep		15-Sep	4-Sep	9-Sep
		Alaska Warrior						
		Seafisher						
		Seafreeze Alaska						

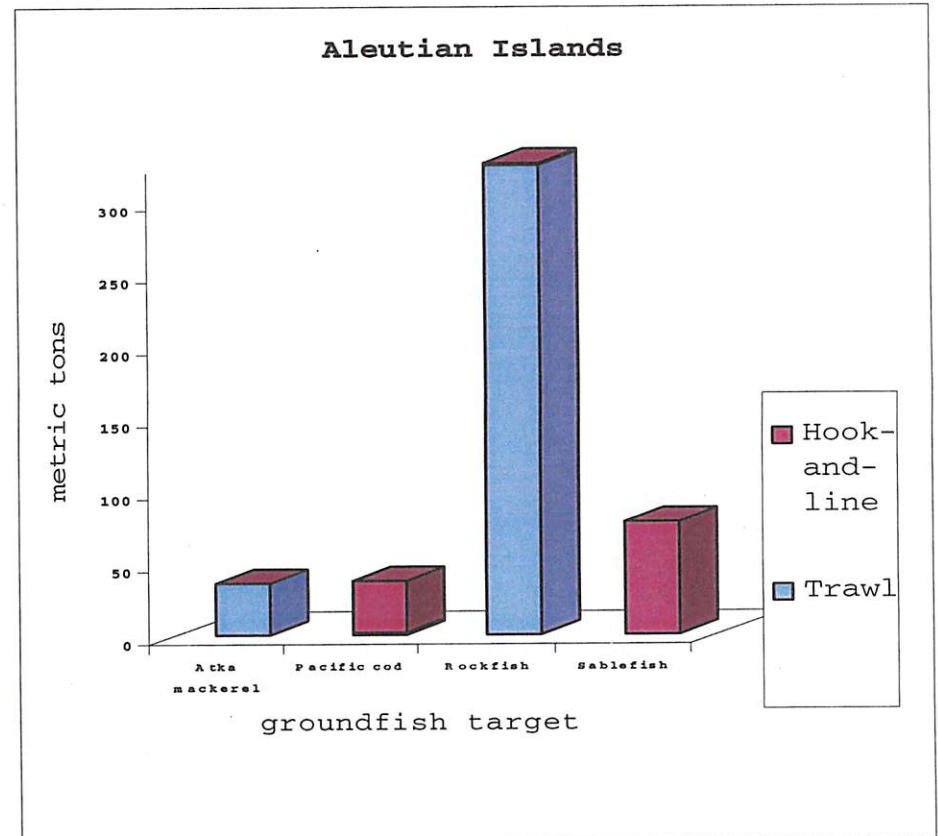
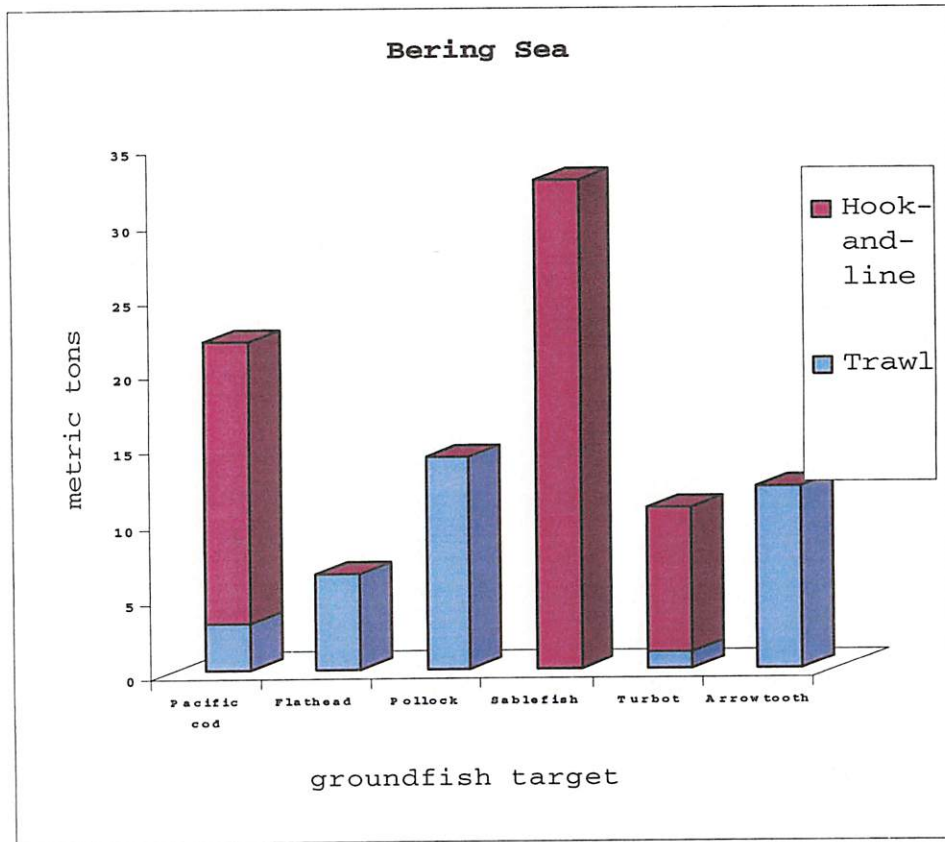
\* indicates vessels registered only in 542

# 2002 Aleutian Islands Pacific Ocean Perch Fishery



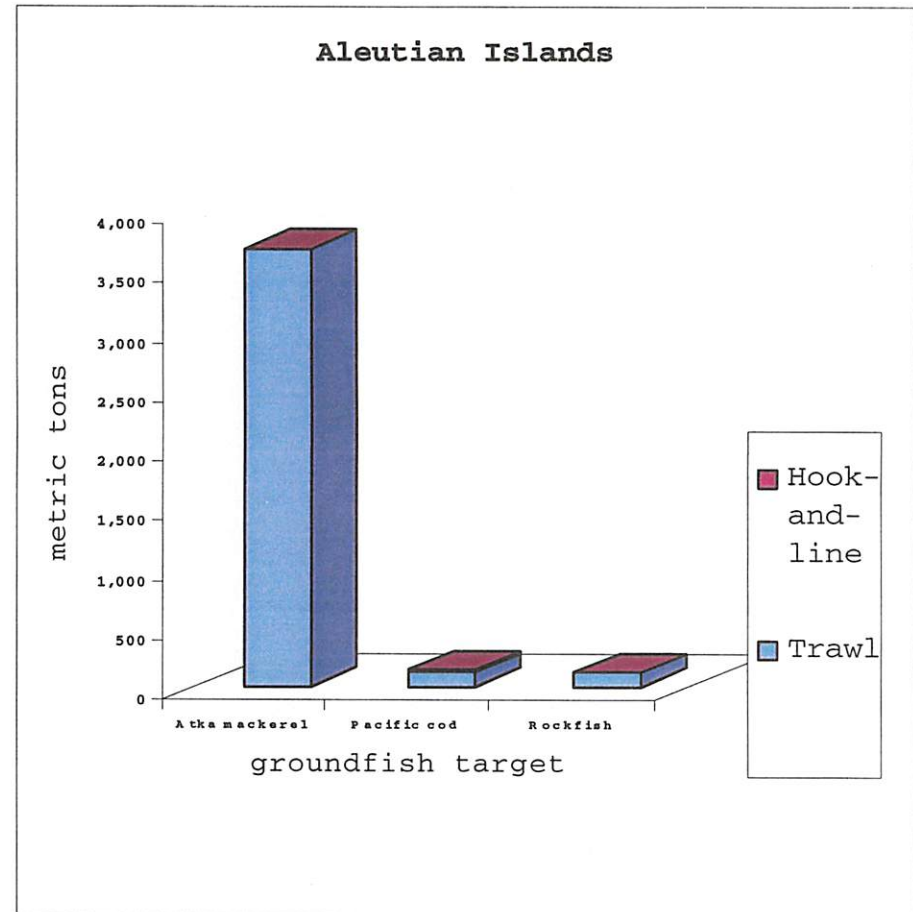
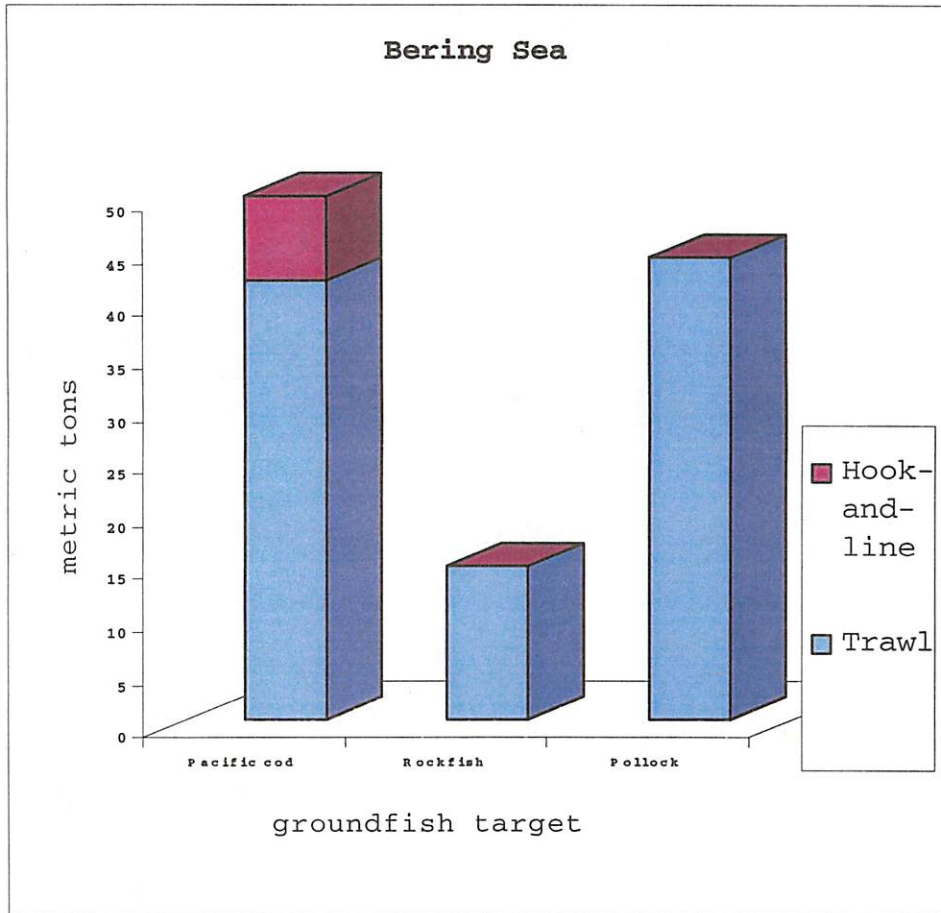


# 2002 BSAI Shortraker/Rougheye Rockfish Catch by Gear & Target



Area	OFL	ABC	TAC	Catch	Status
BSAI	1,369	1,028			
Bering Sea			116	101	1-Jan
Aleutian Islands			912	478	1-Jan
Totals	1,369	1,028		579	

# 2002 BSAI Northern Rockfish Catch by Gear & Target

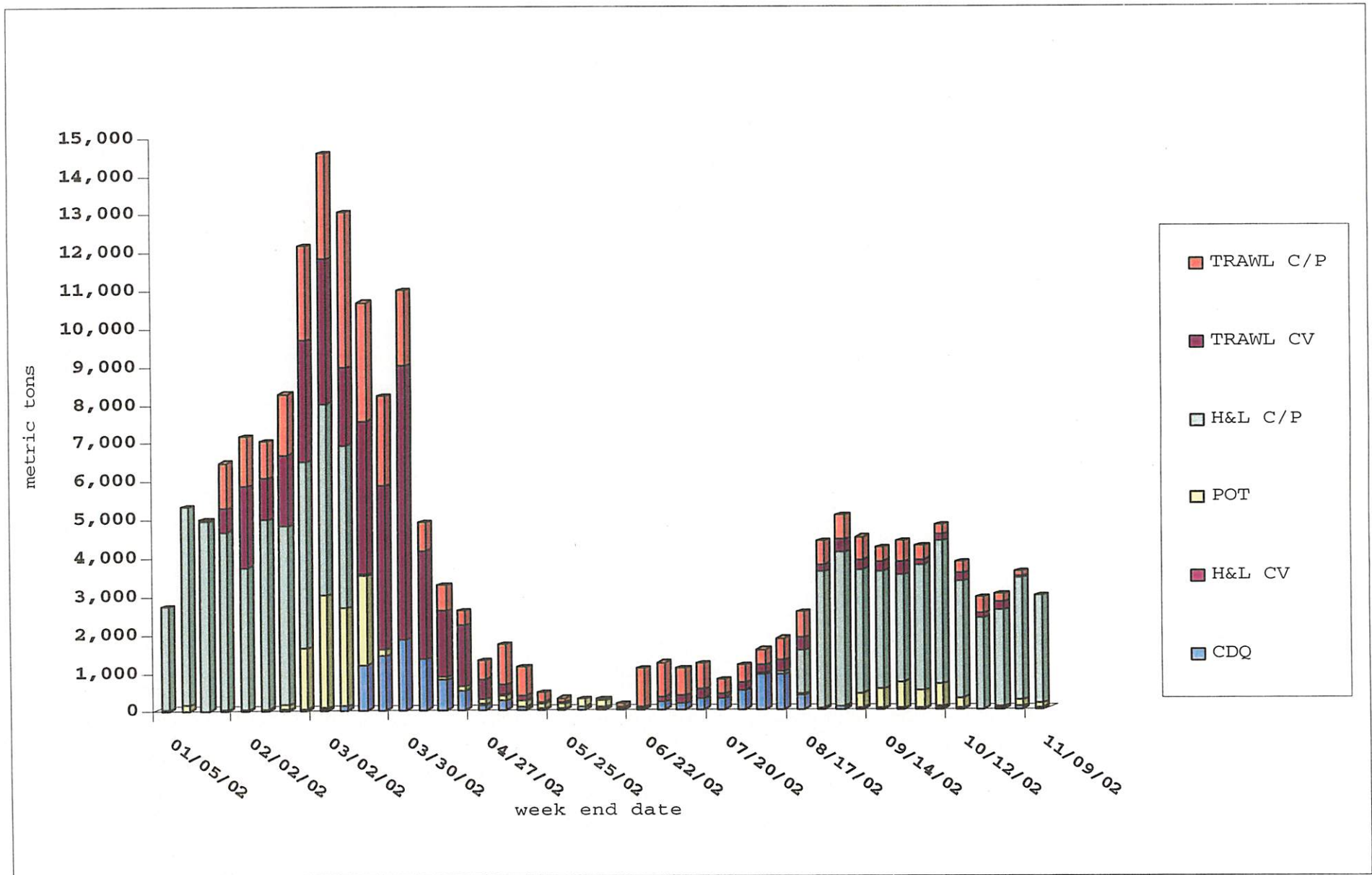


note: Flahead sole, 'other flatfish', rocksole, arrowtooth flounder, sablefish, and yellowfin sole targets each have less than 1 metric ton of northern rockfish catch in the Bering Sea in 2002.

Area	OFL	ABC	TAC	Catch	Status	bycatch	prohib
BSAI	9,020	6,760					
Bering Sea			19	113	1-Jan		11-May
Aleutian Islands			6,741	3,495	1-Jan		
Totals	9,020	6,760		4,058			



# 2002 BSAI Pacific Cod Catch



# 2002 BSAI Pacific Cod Apportionments & Catch

Fishery Component	Apportionment	Catch
Jig Gear	300	164
Hook and Line/Pot Gear		
H&L Catcher Processor	89,920	83,744
H&L Catcher Vessel	482	404
Pot gear	14,035	13,069
H&L & Pot C/Vs < 60'	1,314	1,261
Trawl gear		
Catcher Processor	36,975	36,490
Catcher Vessel	41,475	41,278
Community Development Quota	15,000	11,530

Includes 10/2/02 and 11/20/02 reapportionments

# 2002 BSAI H&L Halibut Mortality & H&L & Pot Gear Closures

## Hook-and-line gear

	Mortality Apportionment	
	Pacific cod	Other non-trawl (turbot)
Mortality Apportionment	775	58
Halibut Mortality Taken	538	40
Groundfish Catch	103,262	3,995

## Hook-and-line and Pot gear Pacific cod fishery

	Closure Activity		
	Open	Closure	Cause
Hook-and-line gear			
catcher processors	1-Jan 15-Aug	8-Mar 25-Nov	TAC
catcher processors < 60 ft	1-Jan 1-Aug	10-Jun	TAC
catcher vessels < 60 ft	1-Jan 15-Aug	10-Jun	halibut
catcher vessels >= 60 ft	1-Jan 15-Aug	10-Jun	TAC
Pot Gear			
catcher processor	1-Jan 1-Sep	16-Mar	TAC
catcher vessel >= 60	1-Jan 1-Sep	16-Mar	TAC
catcher vessel < 60	1-Jan 1-Sep	11-Jun	TAC

# 2002 BSAI Trawl PSC Closures by Target Fishery

Target Fishery	Cause of Closure	Activity Dates	
		Open	Closure
Rock Sole/ Flathead Sole/ Other Flatfish	Halibut Mortality	20-Jan	1-Mar
		1-Apr	20-Apr
		30-Jun	29-Jul
Yellowfin Sole	Zone 1 Red King Crab	20-Jan	22-Feb
	Halibut Mortality	20-Jan	11-May
		21-May	15-Jun
Pacific cod Pollock	Zone 1 Red King Crab	30-Jun	20-Oct
	Zone 1 Red King Crab	20-Jan	21-May
	Zone 1 Red King Crab	20-Jan	1-Jul
Pollock	Chum Salmon Savings Area		
	Regulatory Closure	20-Jan	1-Aug
	'Other Salmon' bycatch CVOA	31-Aug	21-Sep
	Regulatory Opening	14-Oct	

# 2002 BSAI Trawl Halibut Mortality by Target

Trawl Target	Allowance	Mortality
P Cod	1,334	1,069
Y Sole	911	1,164
Mixed Flats	854	827
Pollock	232	188
Rockfish	69	68
Arrow	0	48
Total	3,400	3,363

## Trawl Target

Pacific cod

Yellowfin Sole

Rocksole/Flathead/'Other flatfish'

Pollock/Atka mackerel/Other species

Rockfish

Greenland turbot/Sablefish/Arrowtooth Flounder

## Abbreviation

P Cod

Y Sole

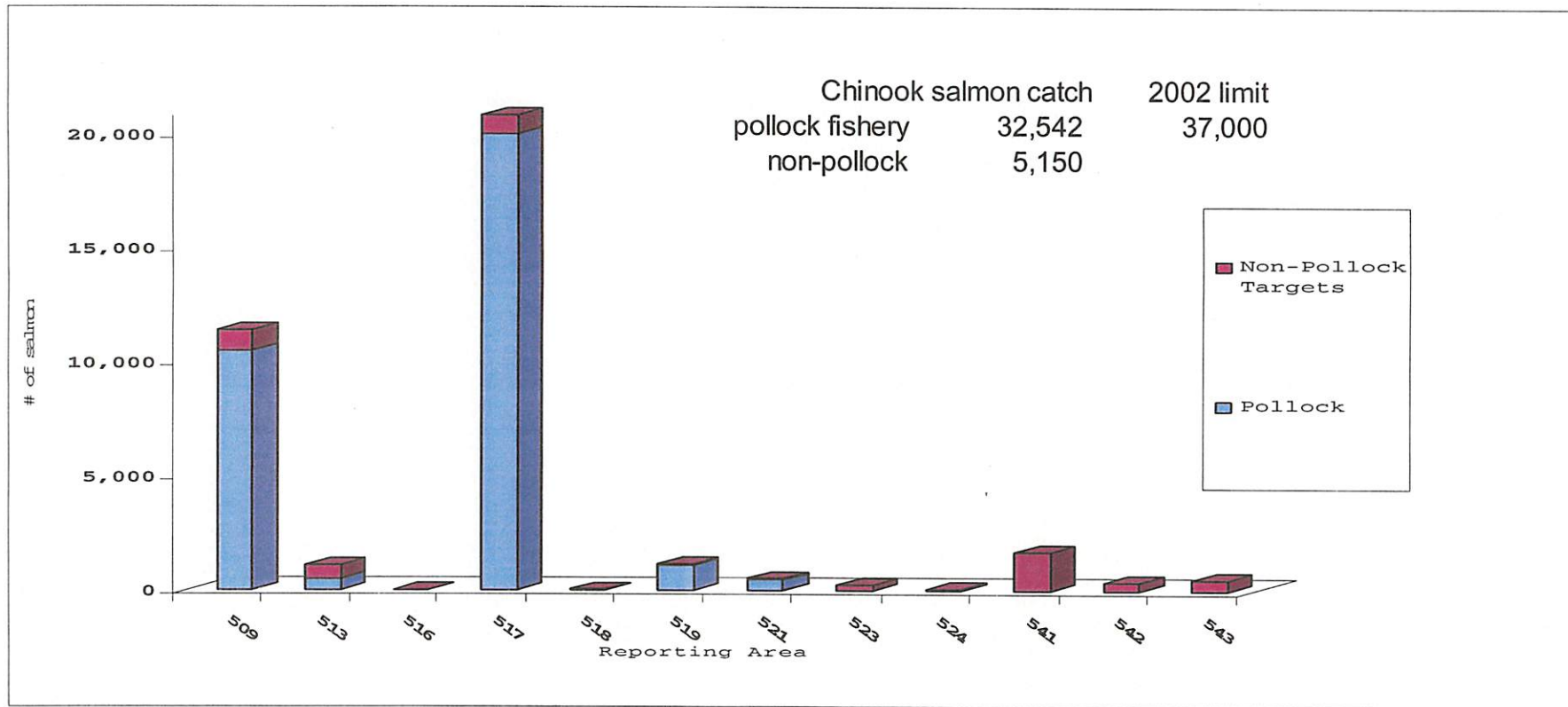
Mixed Flats

Pollock

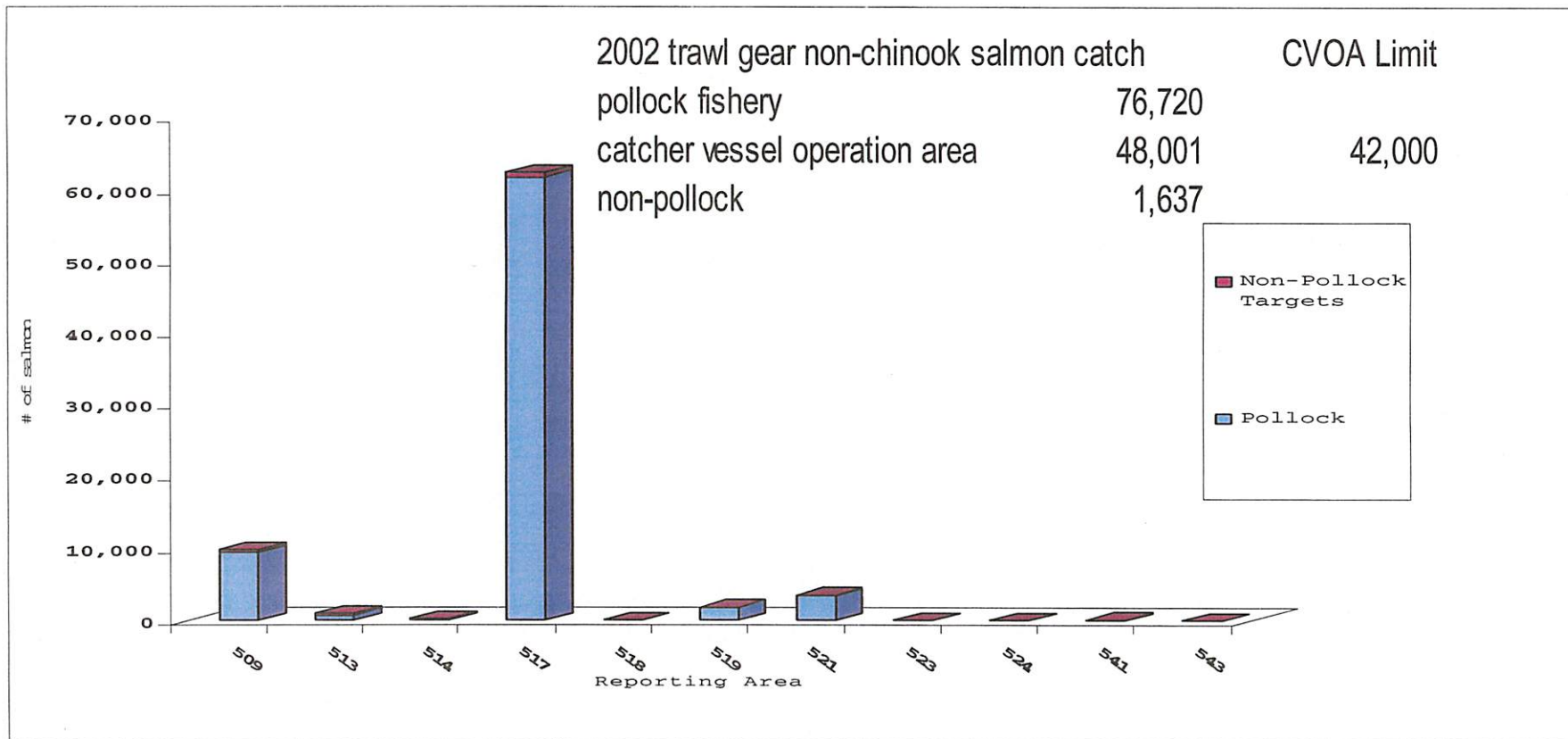
Rockfish

Arrow

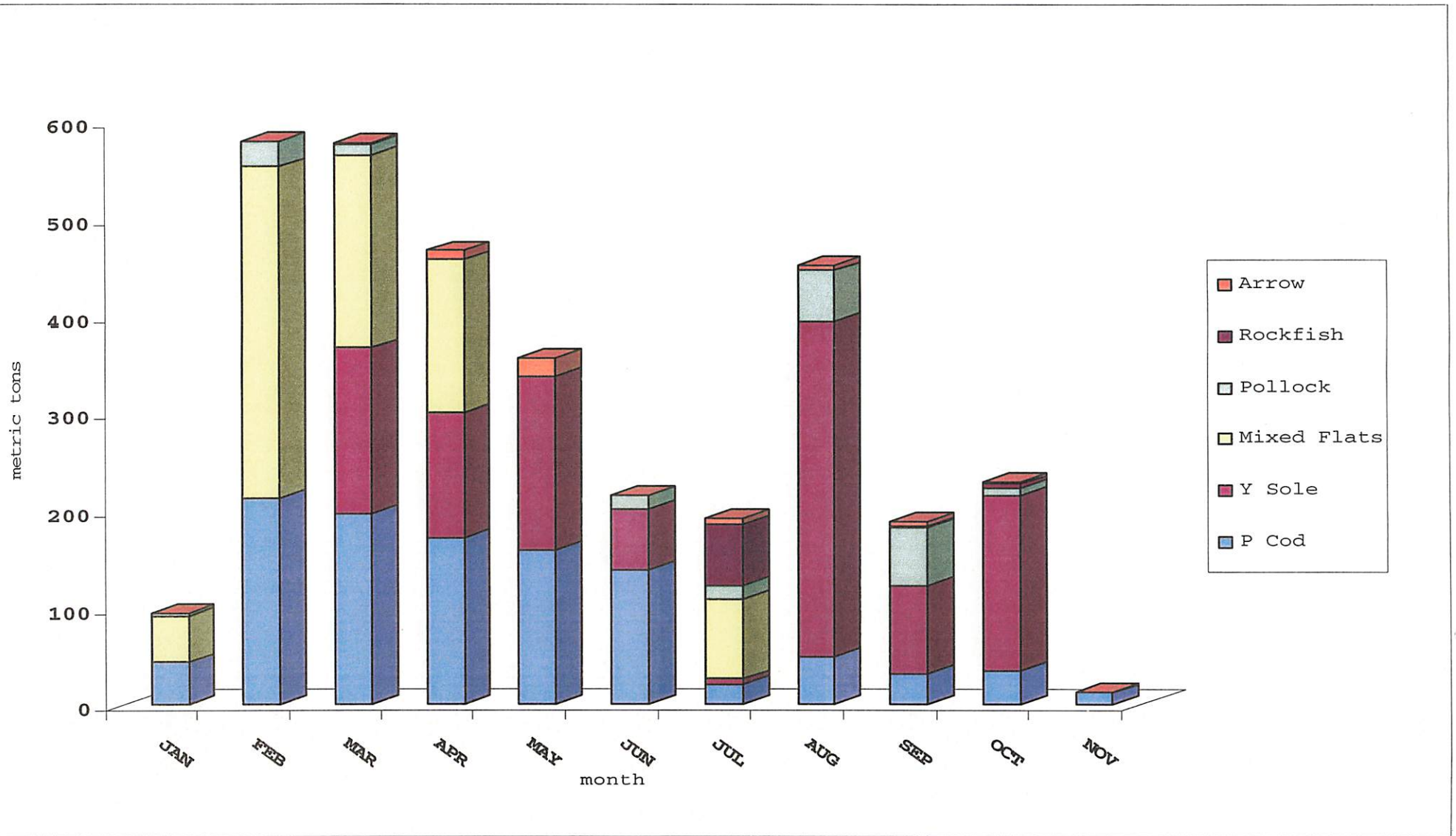
# 2002 BSAI Trawl Chinook Salmon Catch by Reporting Area



# 2002 BSAI Trawl 'Other' Salmon Catch by Reporting Area

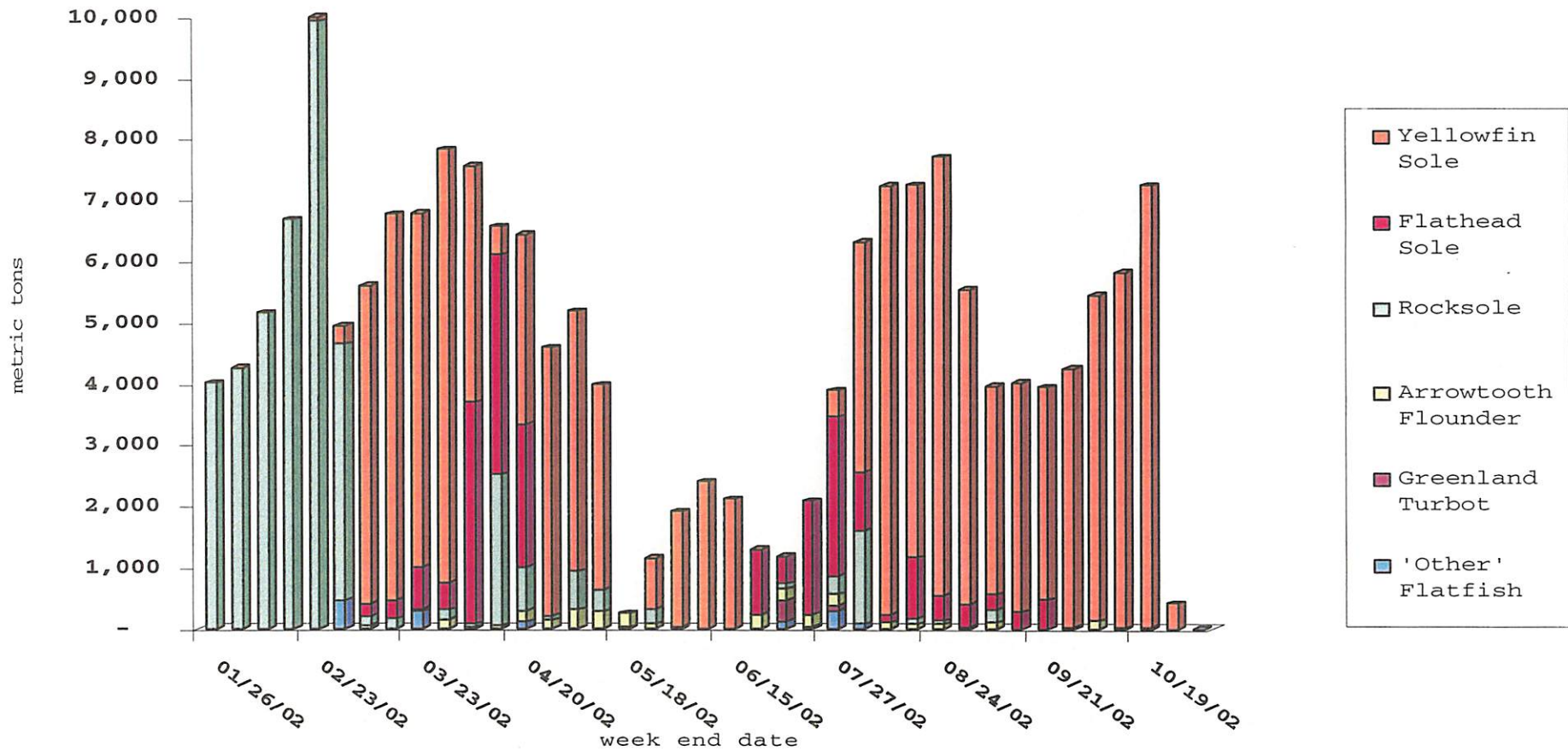


# 2002 BSAI Trawl Halibut Mortality by Month and Target



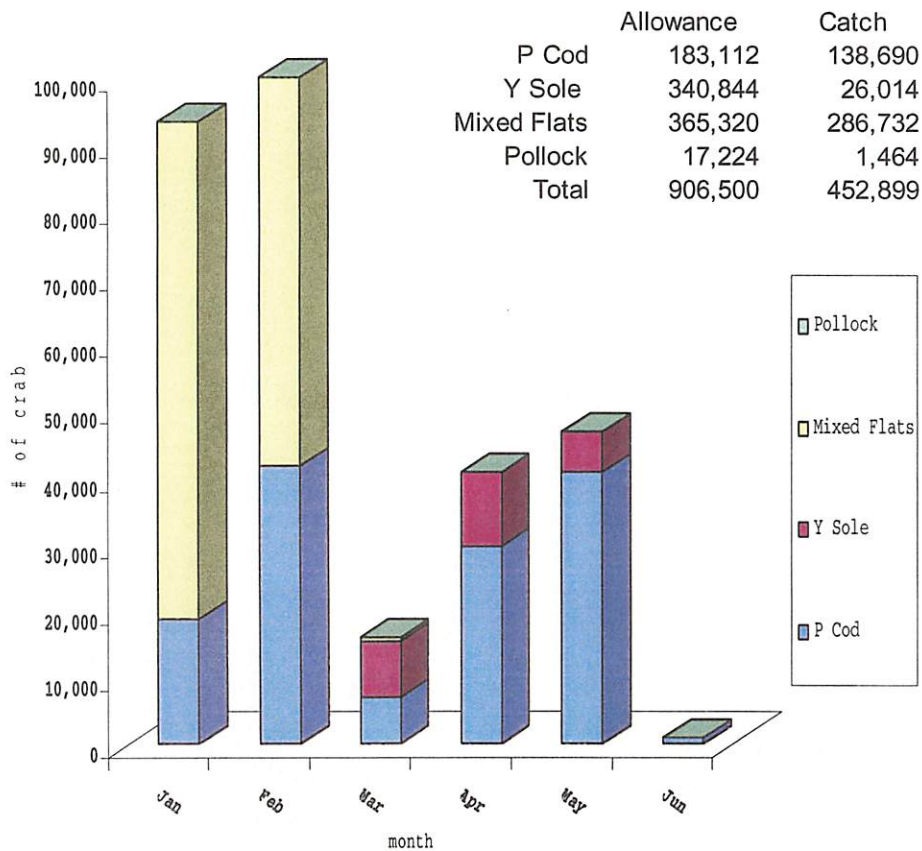


# 2002 BSAI Trawl Groundfish Catch by Flatfish Target

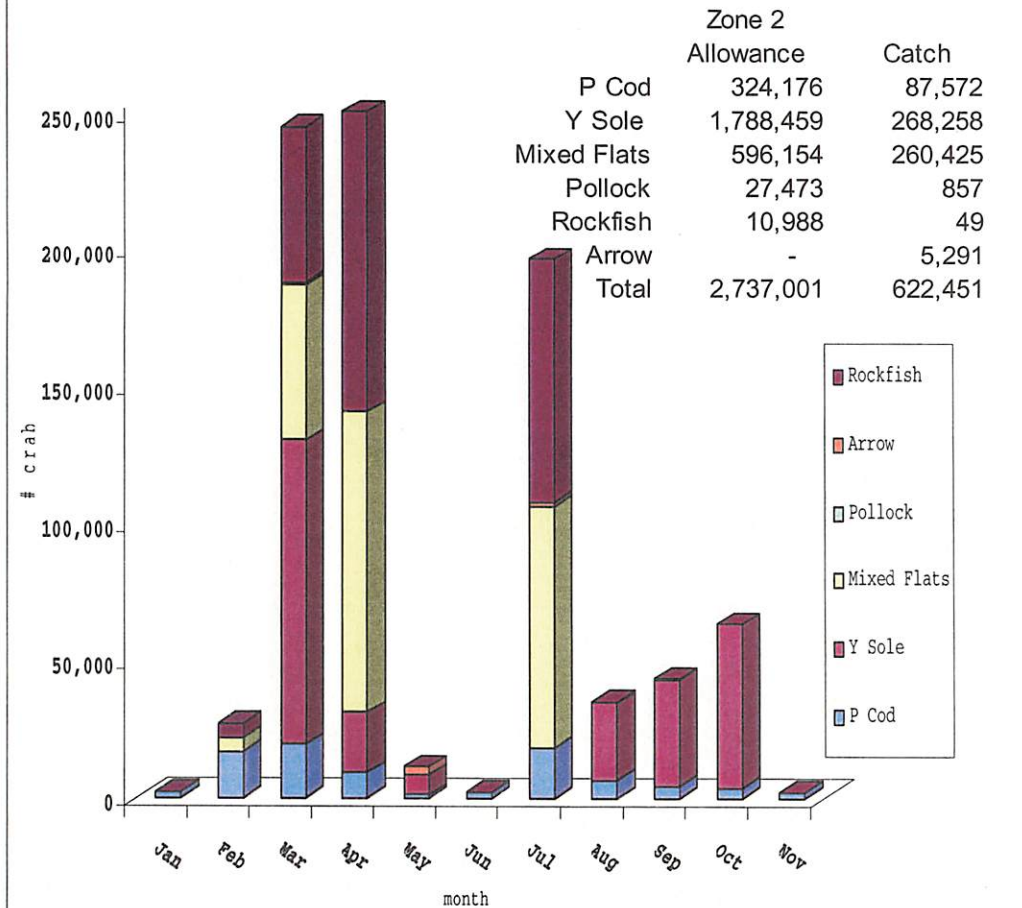


# 2002 Zone 1&2 Trawl C.bairdi Catch by Trawl Target

## Zone 1 (area 508,509,512,516)

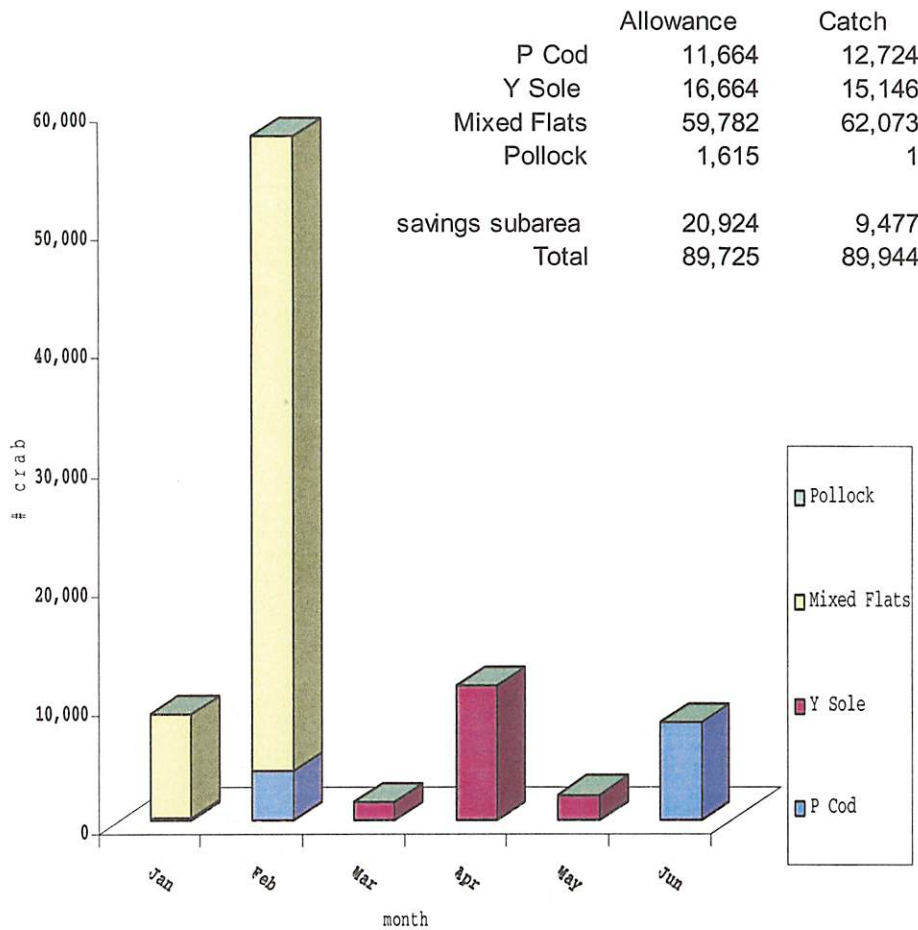


## Zone 2 (area 513,517,521)

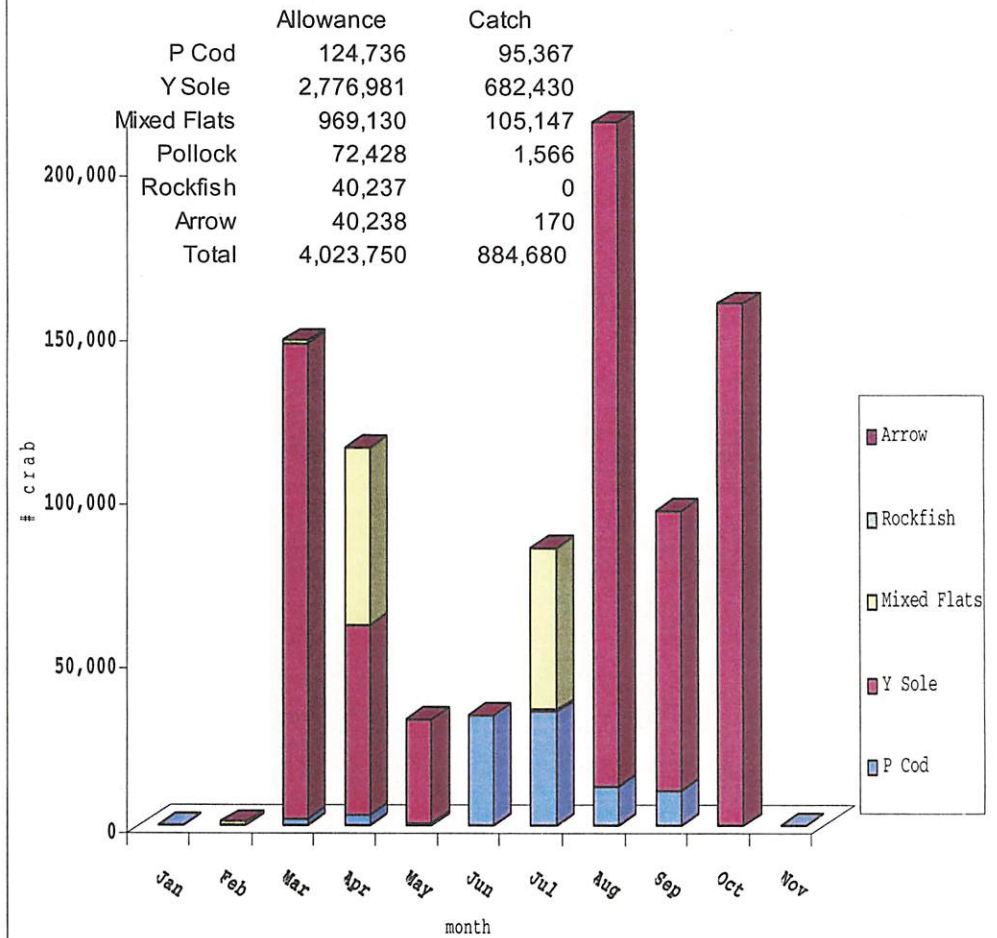


# 2002 Trawl Zone 1 Red King & COBLZ C.opilio Crab Catch by Trawl Target

## Zone 1 Red King Crab

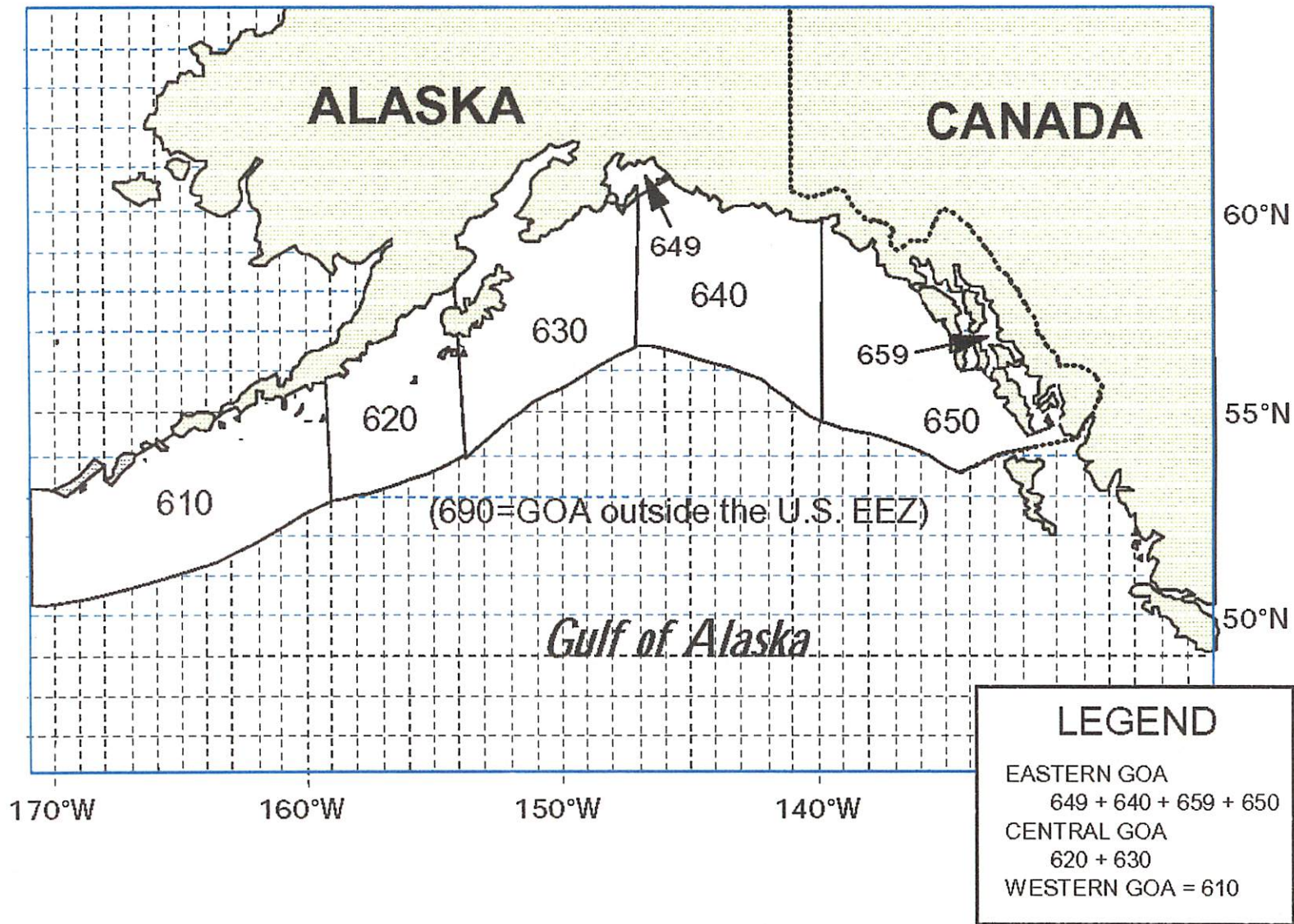


## COBLZ C.opilio



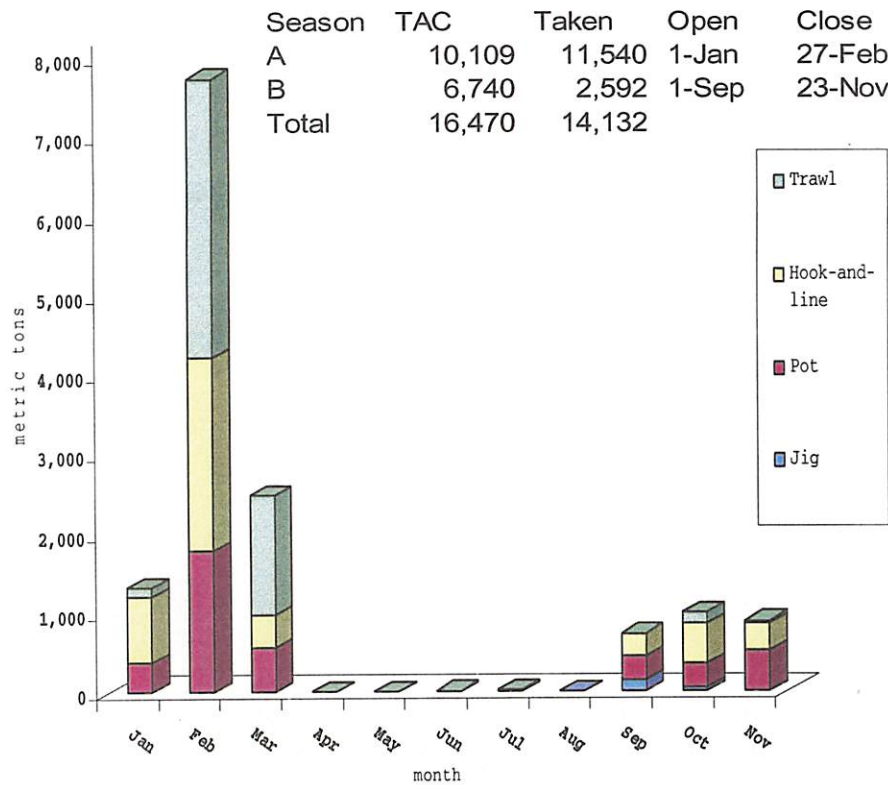


# Gulf of Alaska Reporting Areas

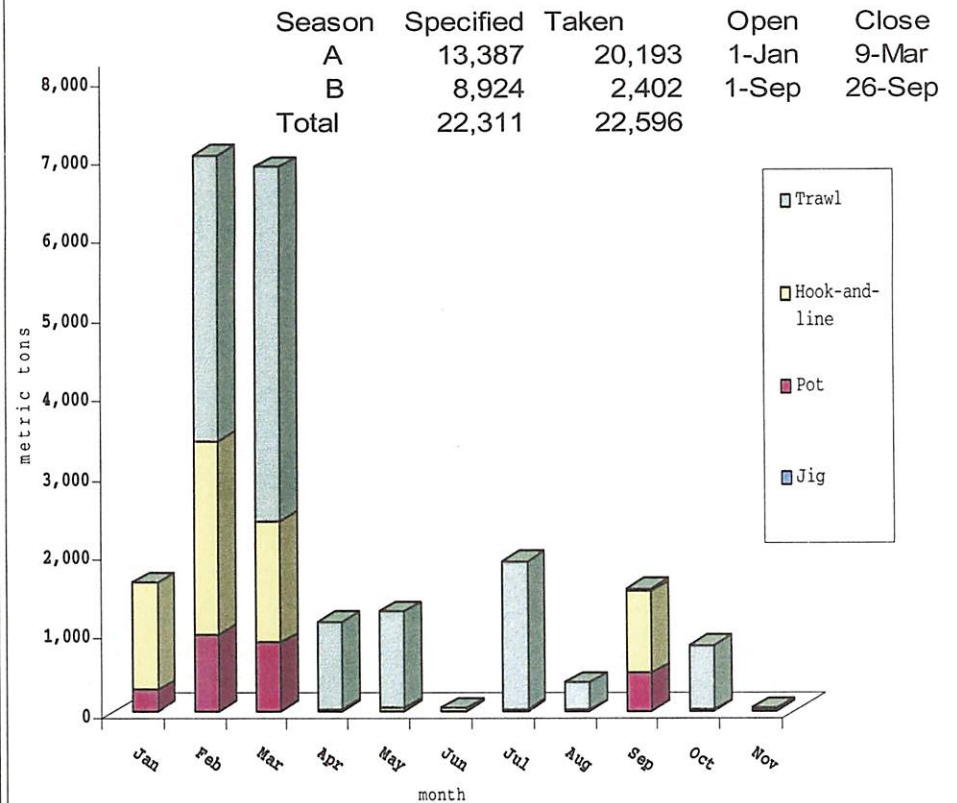


# 2002 Western & Central GOA Inshore Pacific Cod

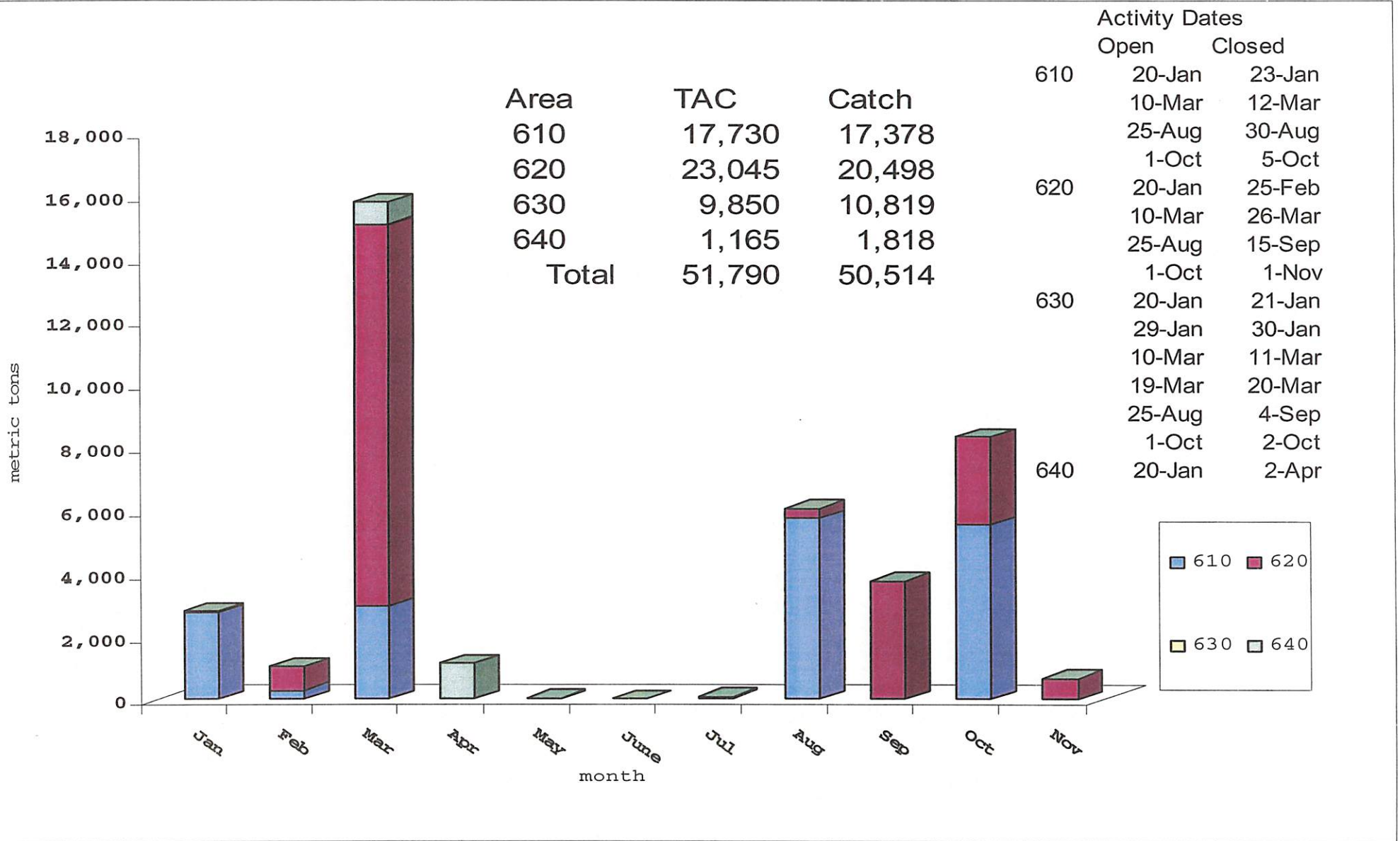
## Western GOA



## Central GOA

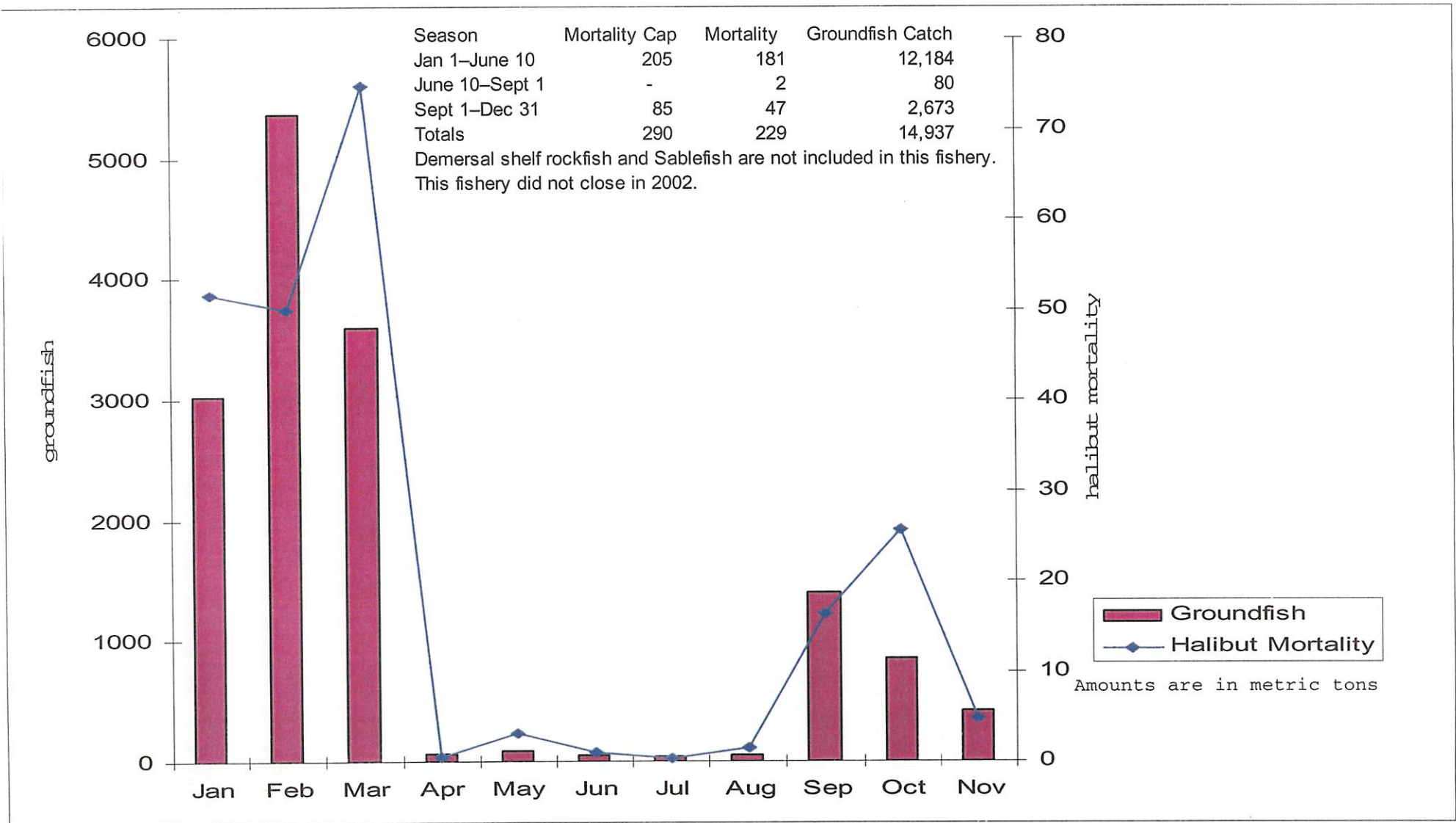


# 2002 GOA Pollock Catch

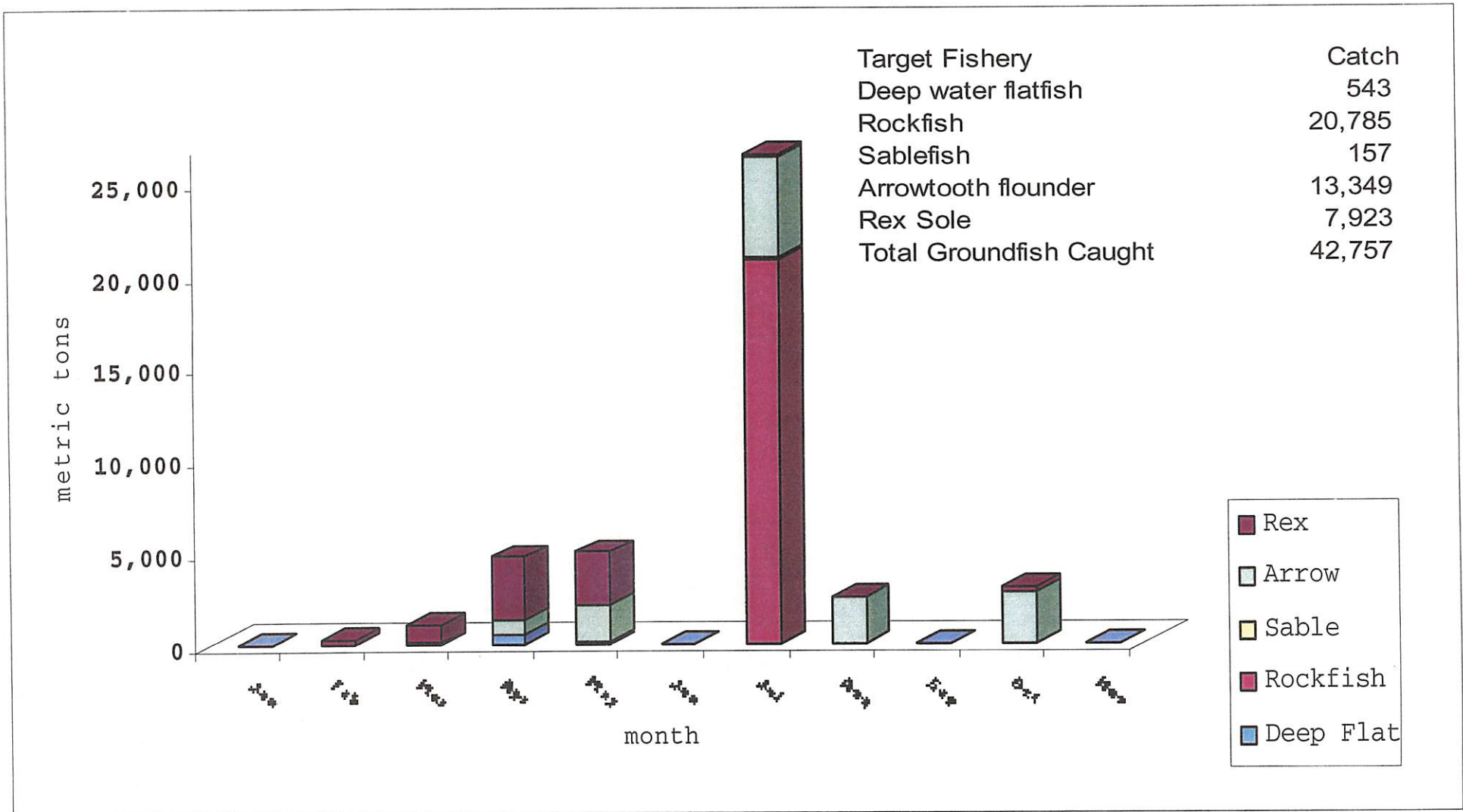




# 2002 GOA Hook-and-line Halibut Mortality

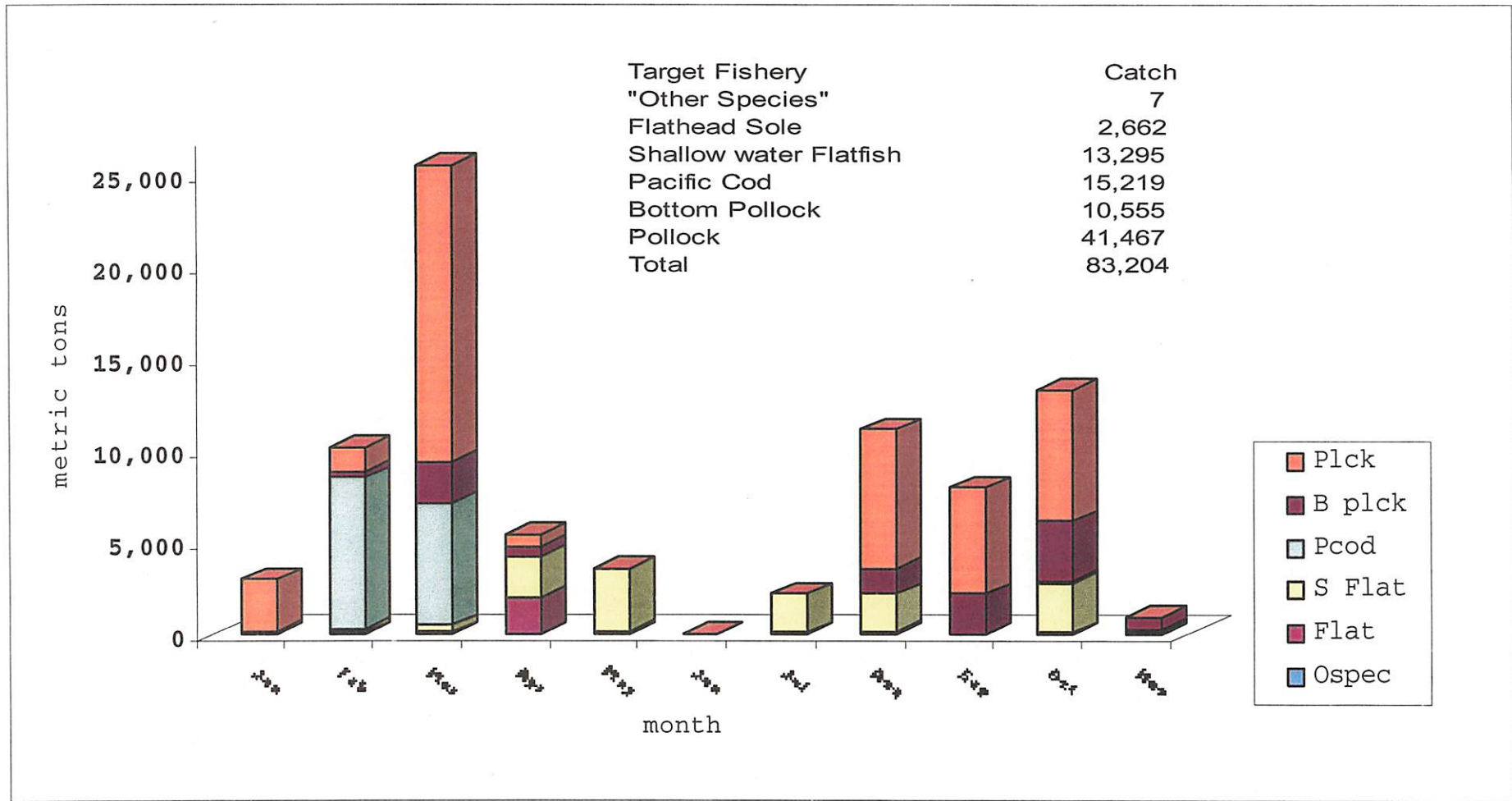


# 2002 GOA Trawl Deep Water Complex Groundfish Catch





# 2002 GOA Trawl Shallow Water Complex Groundfish Catch



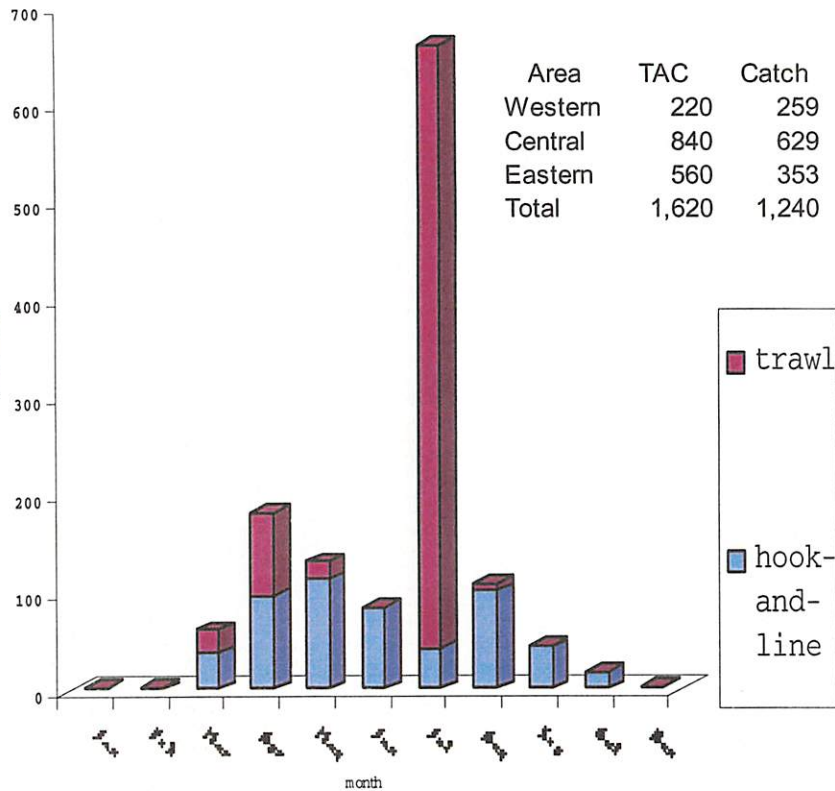
# 2002 GOA Trawl Halibut Mortality

## Catch and Closure Activity

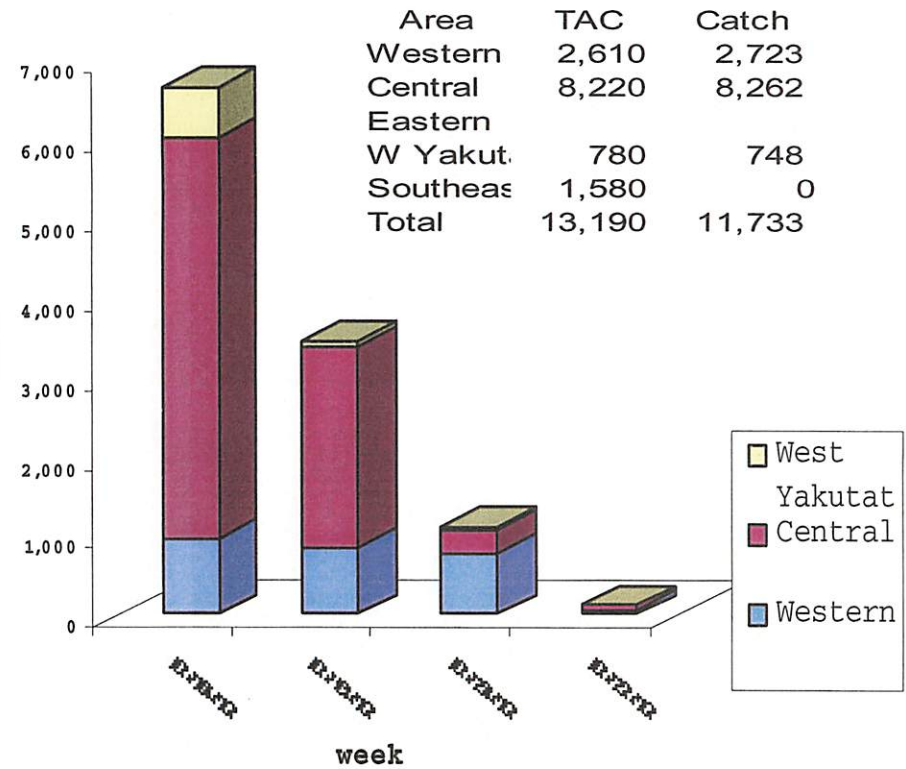
Target Fishery	Season	Apportionment	Catch	Open	Closed
		amounts are in metric tons			
Shallow Complex	Jan 01 - Apr 01	450	217	20-Jan	
	Apr 01 - Jun 30	100	341		15-May
	Jun 30 - Sep 01	200	313	30-Jun	5-Aug
	Sep 01 - Oct 01	150	0		
Deep Complex	Jan 01 - Apr 01	100	39	20-Jan	
	Apr 01 - Jun 30	300	354		24-May
	Jun 30 - Sep 01	400	432	30-Jun	2-Aug
	Sep 01 - Oct 01	any rollover			
- No Apportionment	Oct 01 - Dec 31	300	259	1-Oct 6-Nov	13-Oct 10-Nov
Total Allocation	2,000				
Total Mortality Taken	1,956				

# 2002 GOA Pacific Ocean Perch & Shortraker/Rougheye Rockfish Catch

GOA Shortraker/Rougheye Rockfish



GOA Pacific ocean perch by week in July



## Status of Rulemaking Actions

### Status of FMP Amendments

November 29, 2002

FMP Amendment Status: <u>Actions Since October 2002 Council Meeting</u>	Date of Council Action	Start Regional Review	Transmittal Date of action to NMFS HQ for Review	Proposed FMP Amendment Notice of Availability Published	Proposed Rule Published in Federal Register	Final Rule Published in Federal Register
Amend. 60 GOA: Cook Inlet bottom trawl ban (Approved August 13, 2002)	Sept 2000	PR 4/01/02  FR - 9/28/02	PR - May 6, 2002  FR - Oct. 22, 2002	May 14, 2002 67 FR 34424  <u>Comment period ends 7/15/02</u>	June 13, 2002 67 FR 40680  <u>Comment period ends 7/29/02</u>	
Amends. 61/61/13/8: AFA management of co-ops and sideboards  <u>Amends. approved on February 27, 2002</u>	June 1999 June 2000 Sep. 2000	PR - 2/15/02  FR - 7/5/02	PR - Nov. 13, 2001  FR - Sept 27, 2002	Nov. 27, 2001 66 FR 59225  <u>Comment period ends January 28, 2002</u>	<u>Dec. 17, 2001</u> <u>66 FR 65028</u>  <u>Comment period ends January 31, 2002</u>	NOA of final EIS published 03/01/02 (67 FR 9448)  <i>Under review in headquarters</i>
Amend. 69 BSAI: AFA 1, inshore co-op contracts with CVs outside co-op (Decision date 10/3/02)	June 2001	PR - 4/5/02  FR - 11/13/02	PR - June 2, 2002	July 5, 2002 67 FR 44794  <u>Comment period ends September 3, 2002</u>	August 23, 2002 67 FR 54610  <u>Comment period ends October 7, 2002</u>	
Amend. 71 BSAI: CDQ administrative changes	June 2002					
Amend. 72/64: IFQ Vessel Clearance and Recordkeeping and Reporting changes <b>Decision date 1/24/03</b>	Apr. 2002	5/13/02	PR - October 14, 2002	Oct. 29, 2002 67 FR 65941 <u>Comment period ends December 27, 2002</u>		
Amendment 75 (BS) - Increased retention/ increased utilization - PR	Oct. 2002					



# Status of Regulatory Amendments

November 29, 2002

Regulatory Amendment Status: <u>Actions Since October 2002 Council Meeting</u>	Date of Council Action	Start Regional Review of Rule	Transmittal Date of Rule to NMFS Headquarters	Proposed Rule Published in <u>Federal Register</u>	Final Rule Published in <u>Federal Register</u>
<b>Groundfish Regulations</b>					
2003 Proposed BSAI Groundfish Harvest Specifications	October 2002	PR - 10/12/02	PR - November 5, 2002		
2003 Proposed GOA Groundfish Harvest Specifications	October 2002	PR - 10/11/02	PR - November 5, 2002		
2003 Interim BSAI Groundfish Harvest Specifications	October 2002	FR - 10/11/02	November 12, 2002		
2003 Interim GOA Groundfish Harvest Specifications	October 2002	FR - 10/11/02	November 12, 2002		
Steller sea lion protection measures for 2002 and beyond	October 2001	PR - 01/31/02  FR - 10/15/02	PR - May 14, 2002  FR - November 21, 2002	Sept. 4, 2002 67 FR 56692 <u>Comment period ends Oct. 4, 2002</u>	
Revision of at-sea observer communication system requirements	Feb 2000	PR - 11/30/01  Final rule in prep	PR - Feb 21, 2002	July 25, 2002 67 FR 48604 <u>Comment period ends Aug. 26, 2002</u>	
Observer omnibus rule	June 2000	PR - 2/16/01  FR - 9/25/02	PR - November 2, 2001  FR - October 30, 2002	April 2, 2002 67 FR 15517 <u>Comment period ends May 1, 2002</u>	<i>Under review in headquarters</i>
Observer Program extension through 2007	April 2002	PR 6/3/02  FR - 10/23/02	PR - June 28, 2002  FR - November 5, 2002	Sept 16, 2002 67 FR 58452 <u>Comment period ends Oct. 11, 2002</u>	<i>Filed with OFR by November 29, 2002</i>
DSR full retention and donation rule	June 1999	PR - 3/29/02			
Caton Island/Cape Barnabas - Removal of Pacific cod pot fishing restrictions	October 2002	PR - 10/16/02			
Revision to pollock roe retention standards	February 1999 See NMFS letter dated Jan 30, 2002	PR - 10/24/02			
Revised seabird avoidance measures	December 2001	PR- 8/26/02			

<b>Regulatory Amendment Status: <u>Actions Since October 2002 Council Meeting</u></b>	<b>Date of Council Action</b>	<b>Start Regional Review of Rule</b>	<b>Transmittal Date of Rule to NMFS Headquarters</b>	<b>Proposed Rule Published in <u>Federal Register</u></b>	<b>Final Rule Published in <u>Federal Register</u></b>
ape Sarichef Experimental Trawl Closure	Oct. 2002	PR - 11/13/02			
<b>Halibut Regulations</b>					
Halibut charter boat GHL	February 2000: December 2000	PR - 2/26/01  See NMFS letter dated 9/6/02	PR - October 11, 2001	January 28, 2002 67 FR 3867 End of comment period Feb. 27, 2002	
Halibut charter boat IFQ	April 2001; October 2001	<i>Waiting receipt of draft analysis</i>			
Halibut Subsistence fishing provisions	October 2000	PR - 3/22/02	PR - May 30, 2002	Aug. 26, 2002 67 FR 54767 Comment period ends Sept. 25, 2002	
Halibut 4D/4E issues: trip limits	October 1998 December 2001	PR - 5/13/02	PR - Aug. 30, 2002	<u>October 15, 2002</u> <u>67 FR 63600</u> <u>Comment period</u> <u>ends Nov. 14, 2002</u>	<i>Under review in AK Region</i>
Community Quota Share	April 2002				
<b>Crab Regulations</b>					
Crab LLP license and vessel buyback program	Congress December 2000	<i>Proposed rule and analysis developed at HQ.</i>		<i>Proposed rule and analysis under review in OMB since 5/2/02.</i>	
<b>Notices</b>					
Bycatch rate standards notice for 1 <sup>st</sup> half of 2003			Notice - 11/27/02		
IFQ cost recovery fee notice		11/20/02	Notice - 11/22/02		
Technical Correction notice to correct typos in regulations		10/25/02	November 1, 2002		Nov. 29, 2002 67 FR 71112