

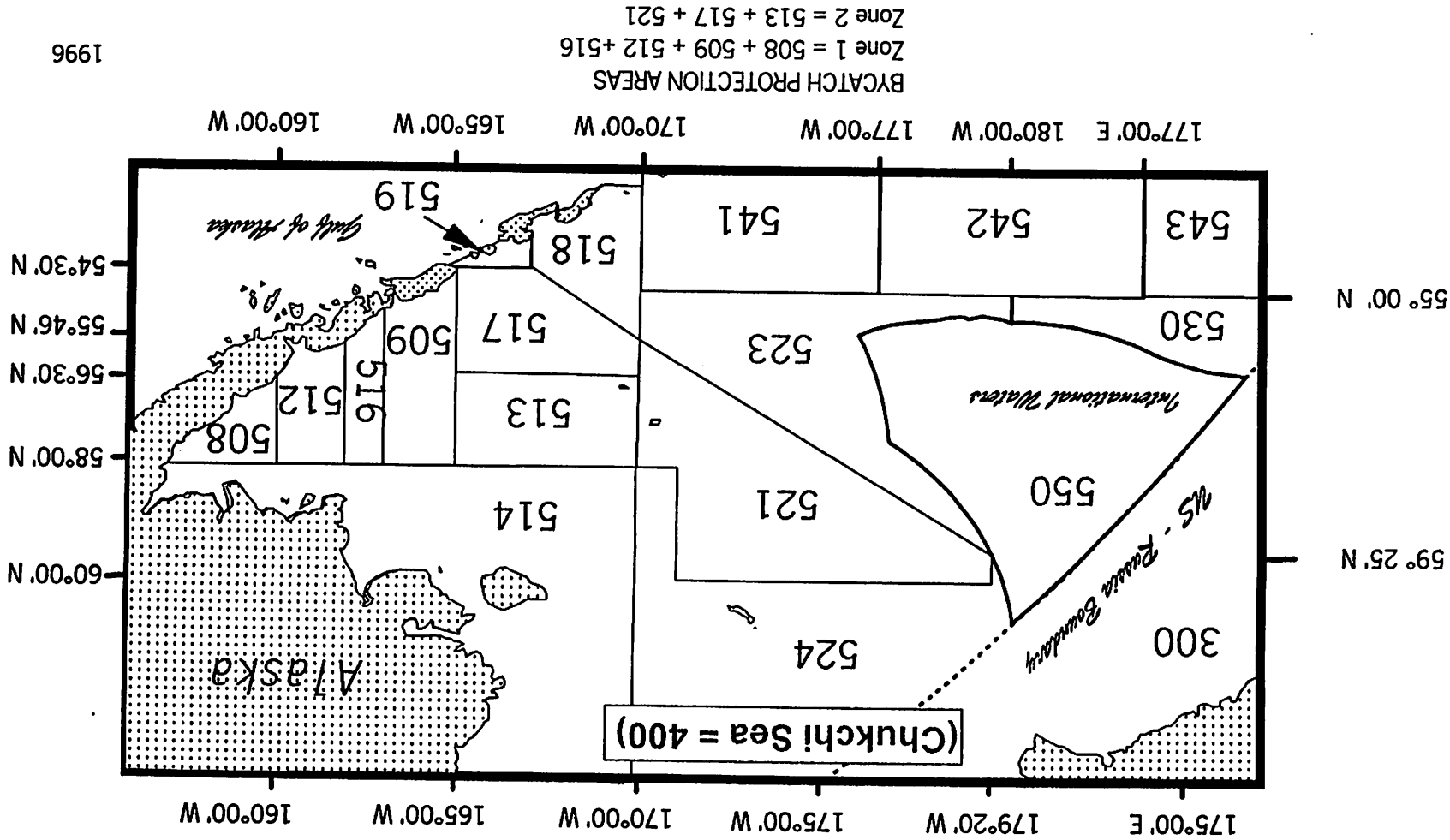
JUNE 1996

**NMFS FISHERIES
MANAGEMENT REPORT**

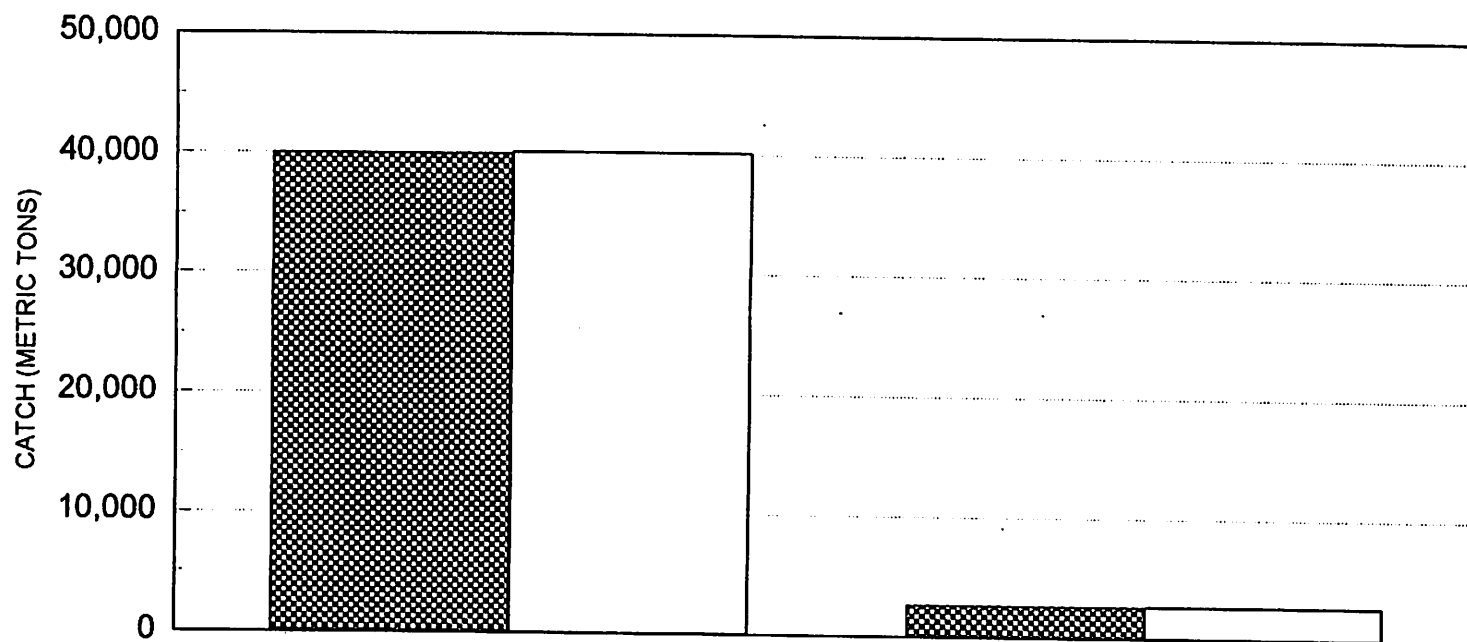




**BERING SEA &
ALEUTIAN ISLANDS**

1996 REPORTING AREAS OF THE BERING SEA/ALEUTIAN ISLANDS



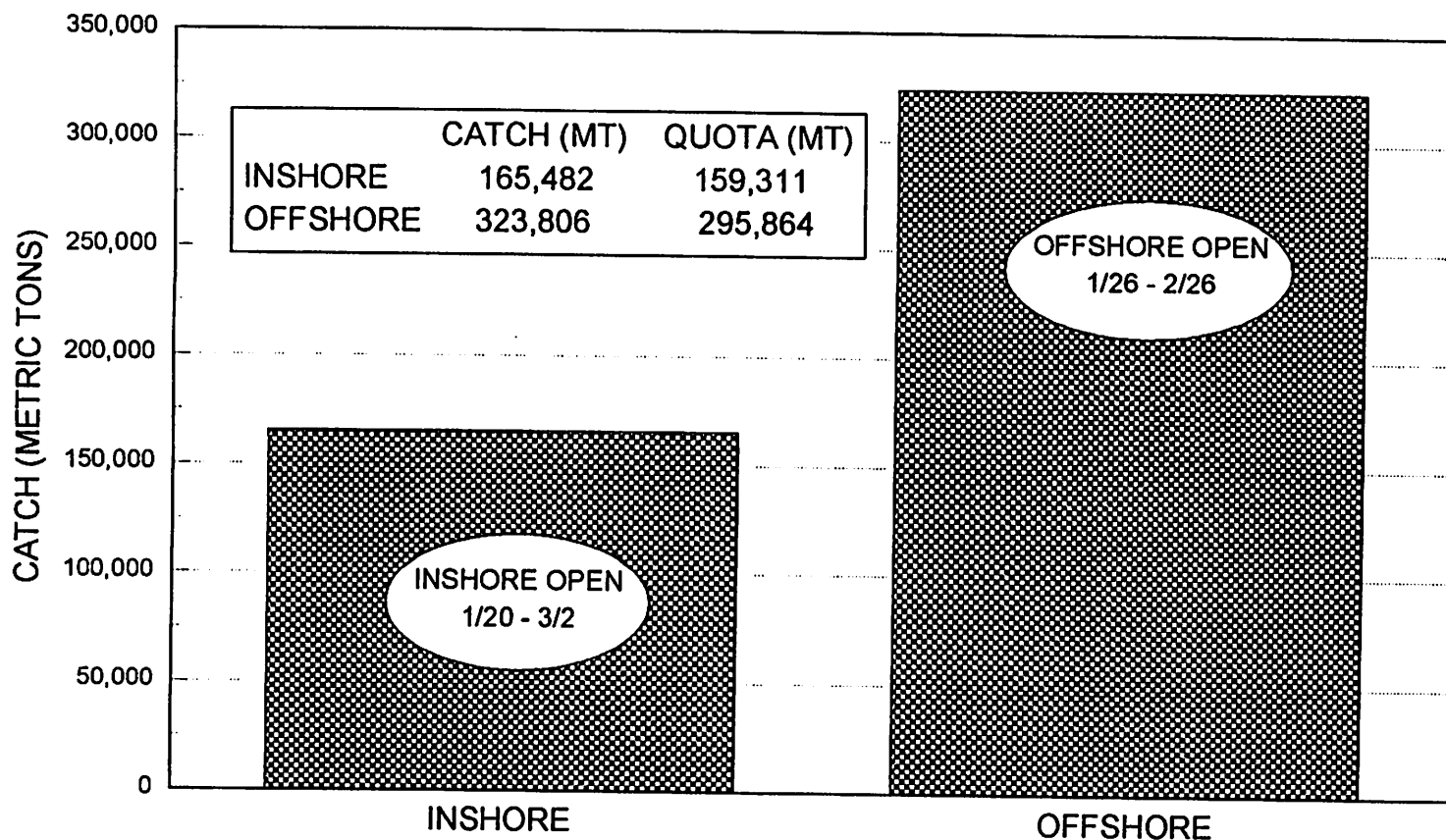
1996 BSAI CDQ POLLOCK



	BS 'A' Season	Aleutians
CATCH 	40,031	2,623
QUOTA 	40,163	2,670

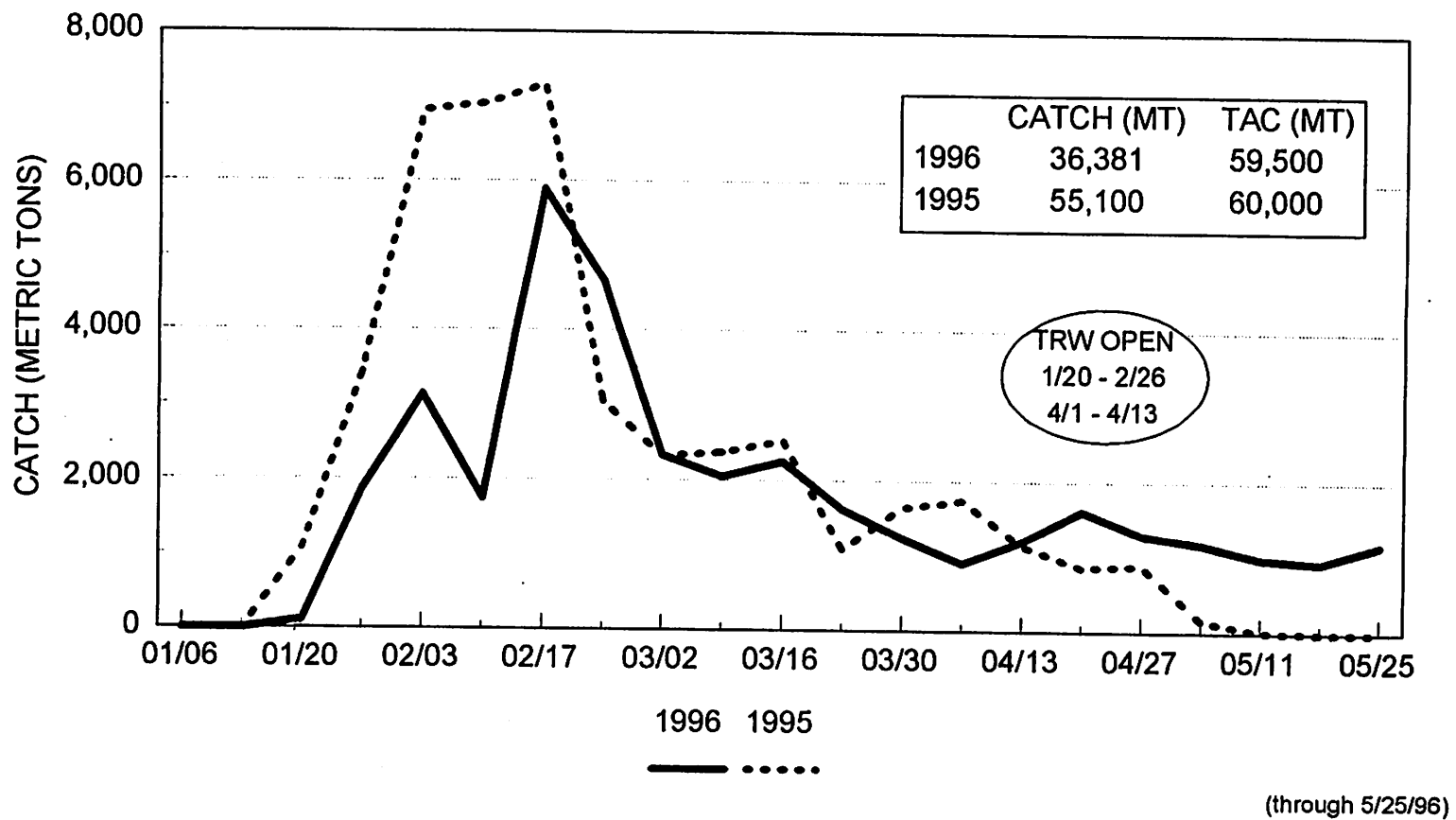
(through 5/25/96)

1996 BS 'A' SEASON INSHORE/ OFFSHORE POLLOCK CATCH*

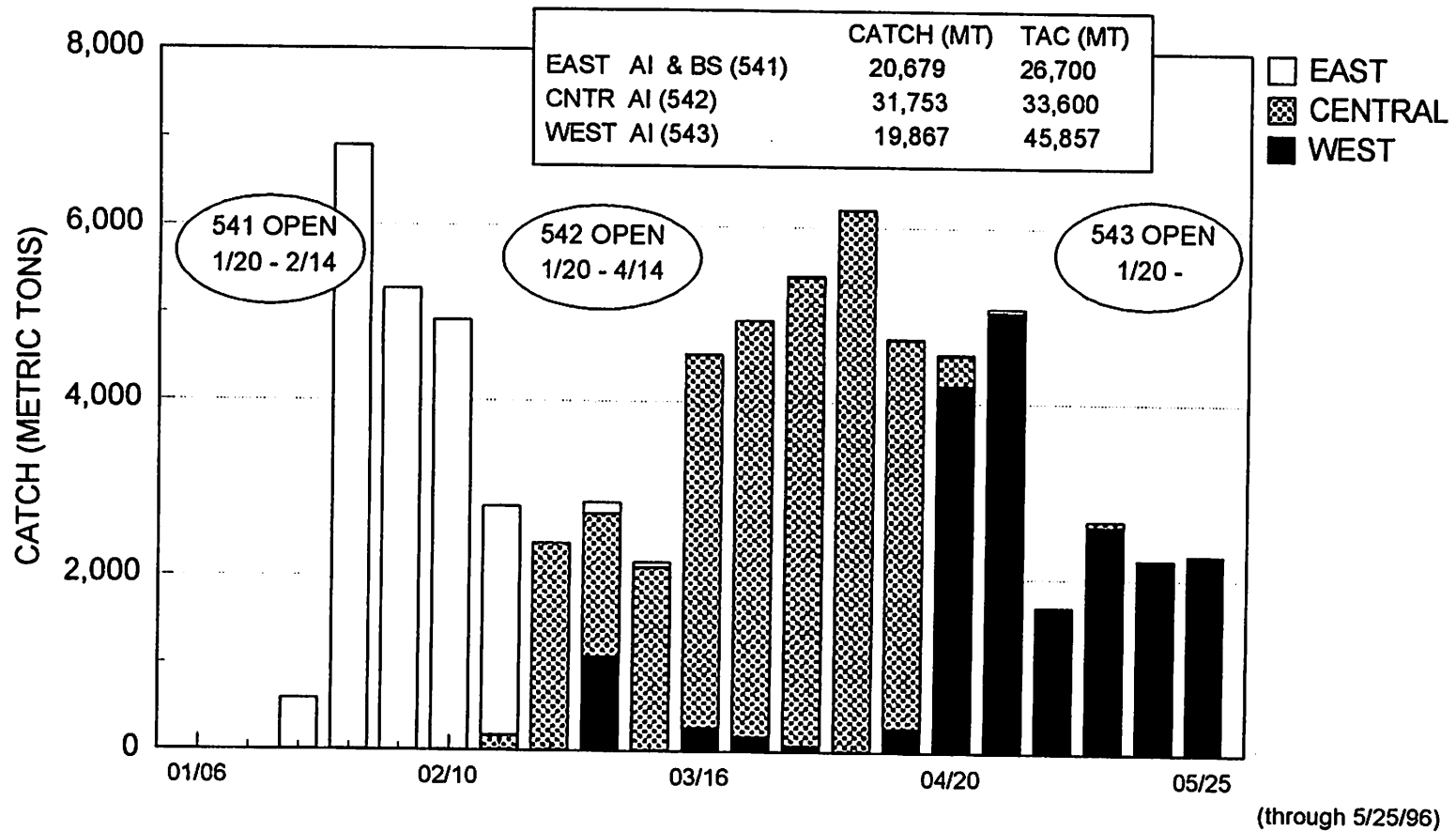


*EXCLUDES CDQ POLLOCK
(through 5/25/96)

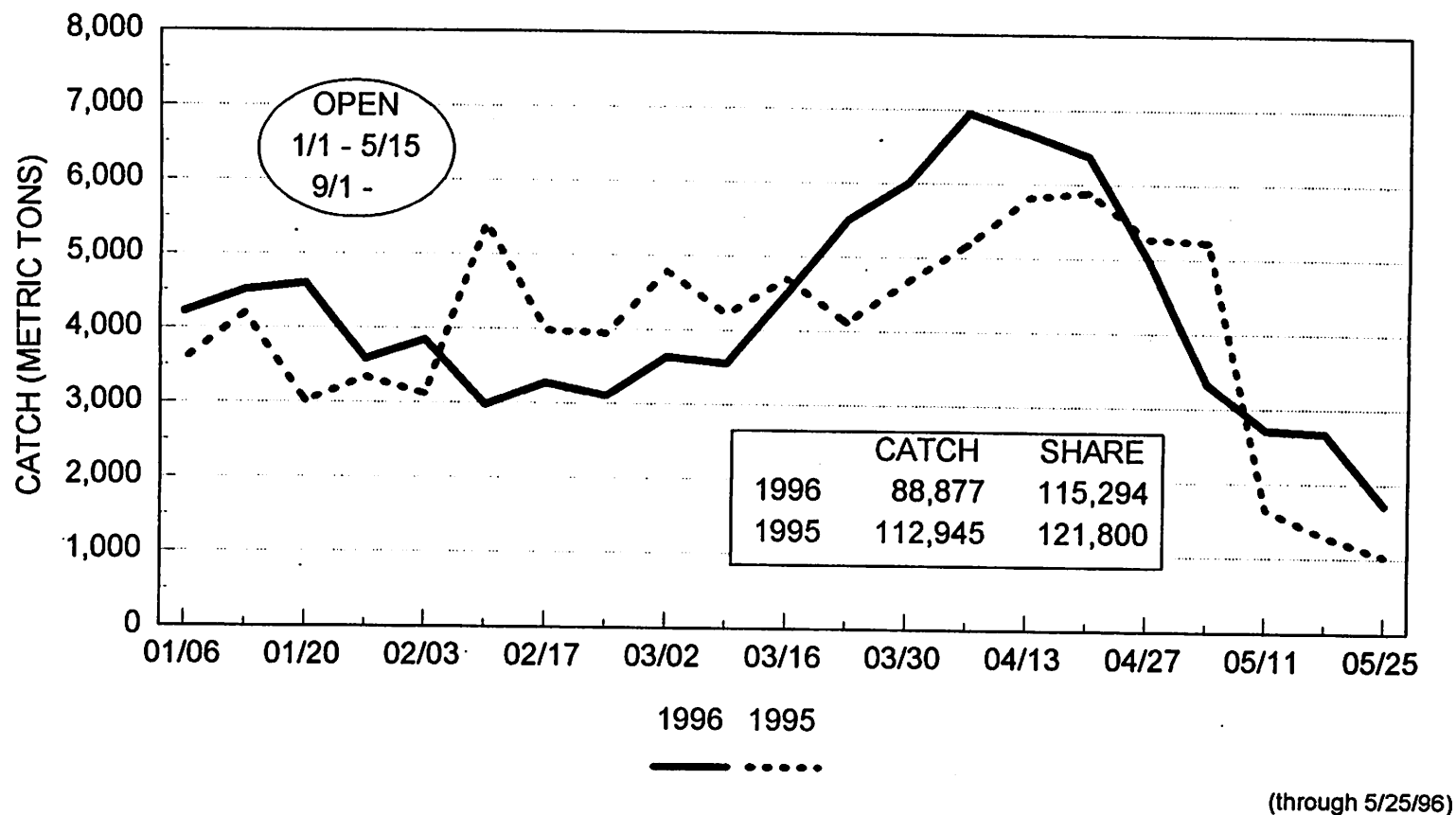
1995-96 BSAI ROCK SOLE CATCH, ALL GEAR



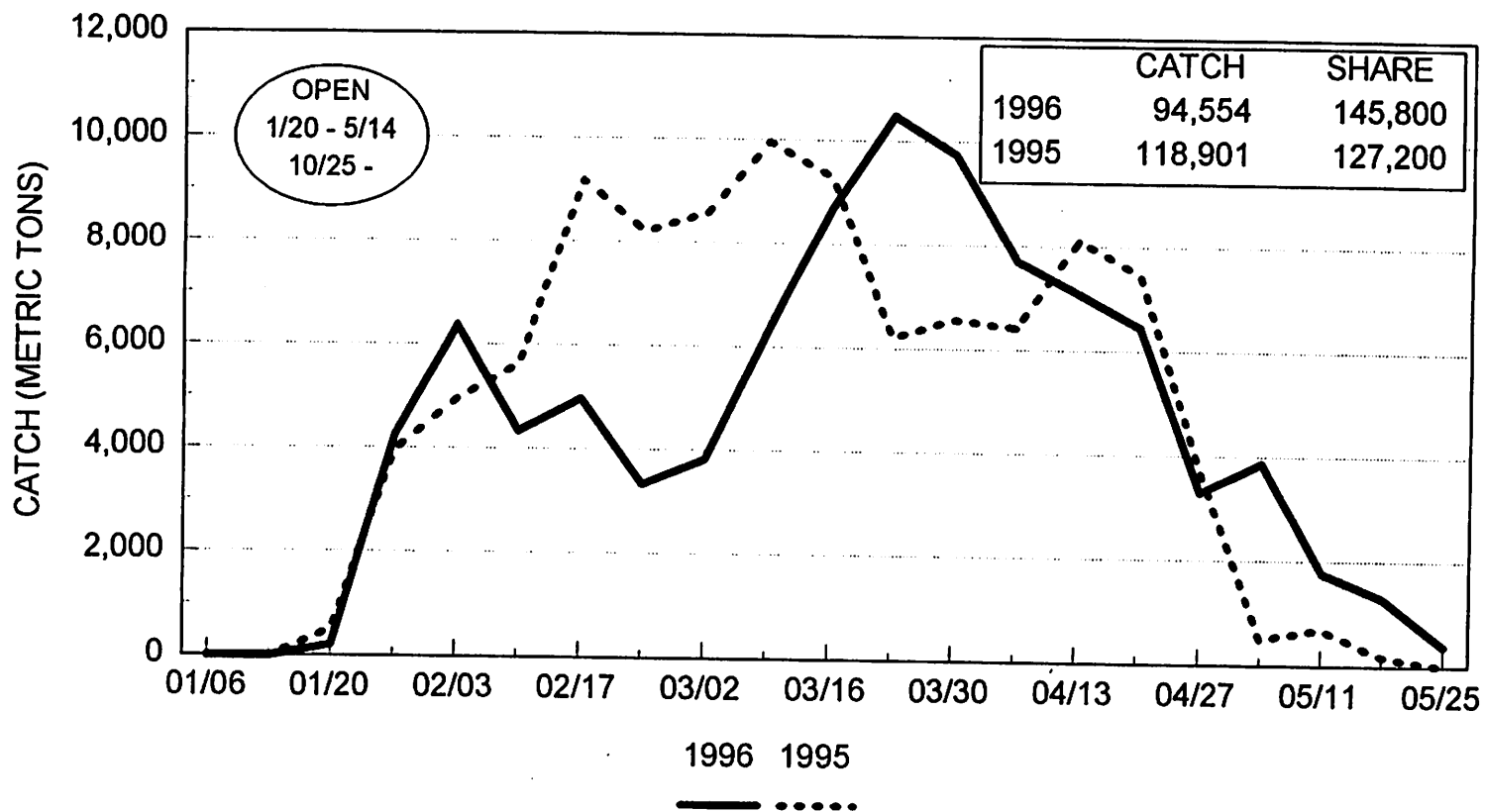
1996 BSAI TRAWL ATKA MACKEREL CATCH



1995-96 BSAI FIXED GEAR PACIFIC COD CATCH

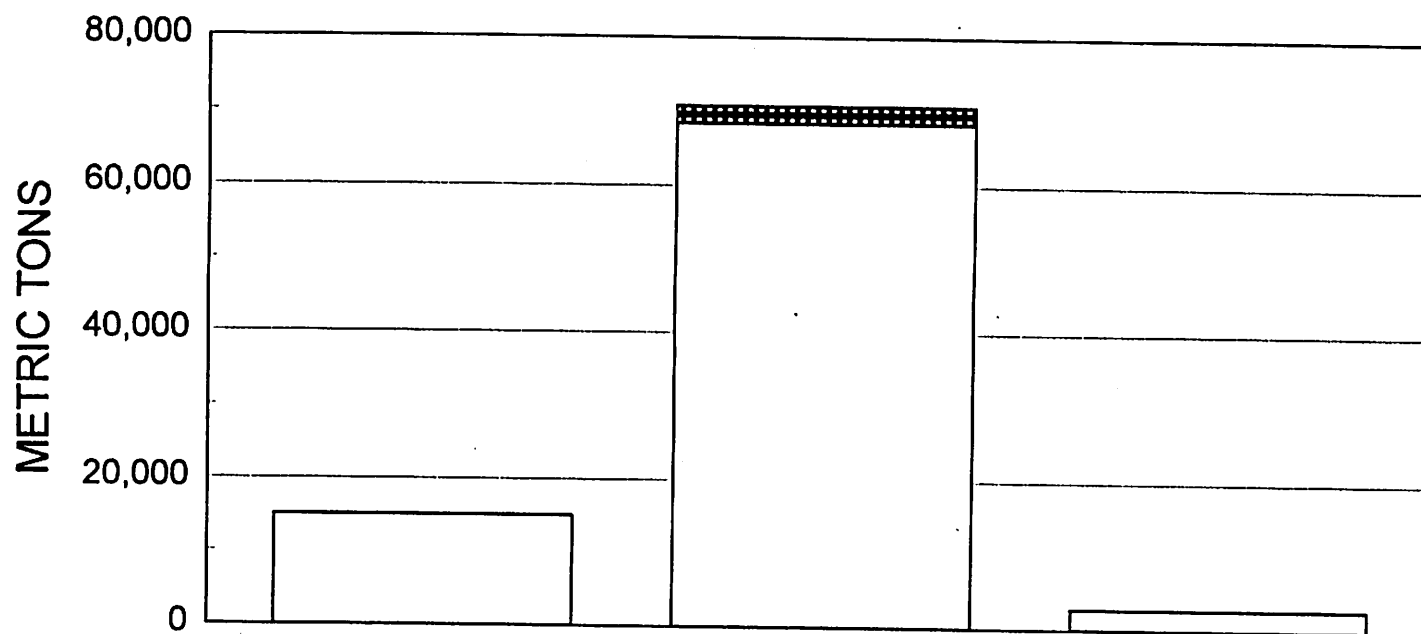


1995-96 BSAI TRAWL PACIFIC COD CATCH



(through 5/25/96)

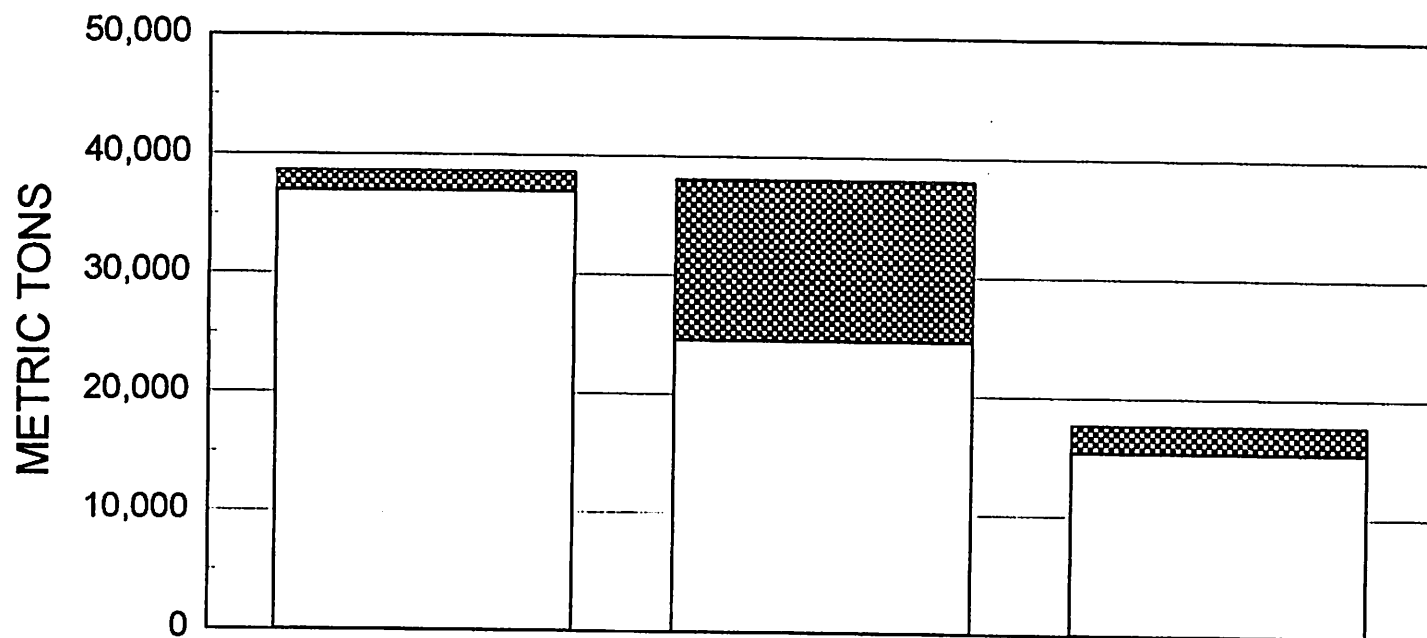
1996 BSAI FIXED GEAR, PCOD DISCARDS, ALL FISHERIES



	SHORESIDE	CATCH/PROC	MOTHERSHIP
RETAIN <input type="checkbox"/>	15,001	68,391	2,778
DISCARD <input checked="" type="checkbox"/>	184	2,490	32

(through 5/25/96)

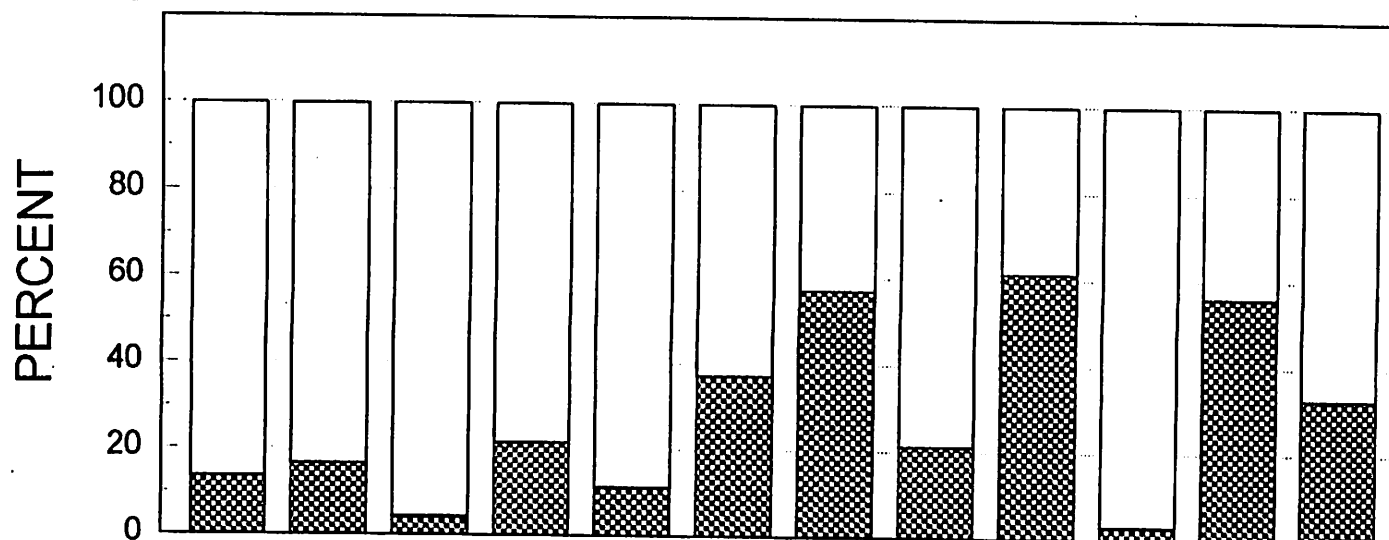
1996 BSAI TRAWL, PACIFIC COD DISCARDS, ALL FISHERIES



	SHORESIDE	CATCH/PROC	MOTHERSHIP
RETAIN <input type="checkbox"/>	36,965	24,582	15,438
DISCARD <input checked="" type="checkbox"/>	1,695	13,554	2,300

(through 5/25/96)

1996 BSAI GROUND FISH DISCARDS BY GEAR & TARGET

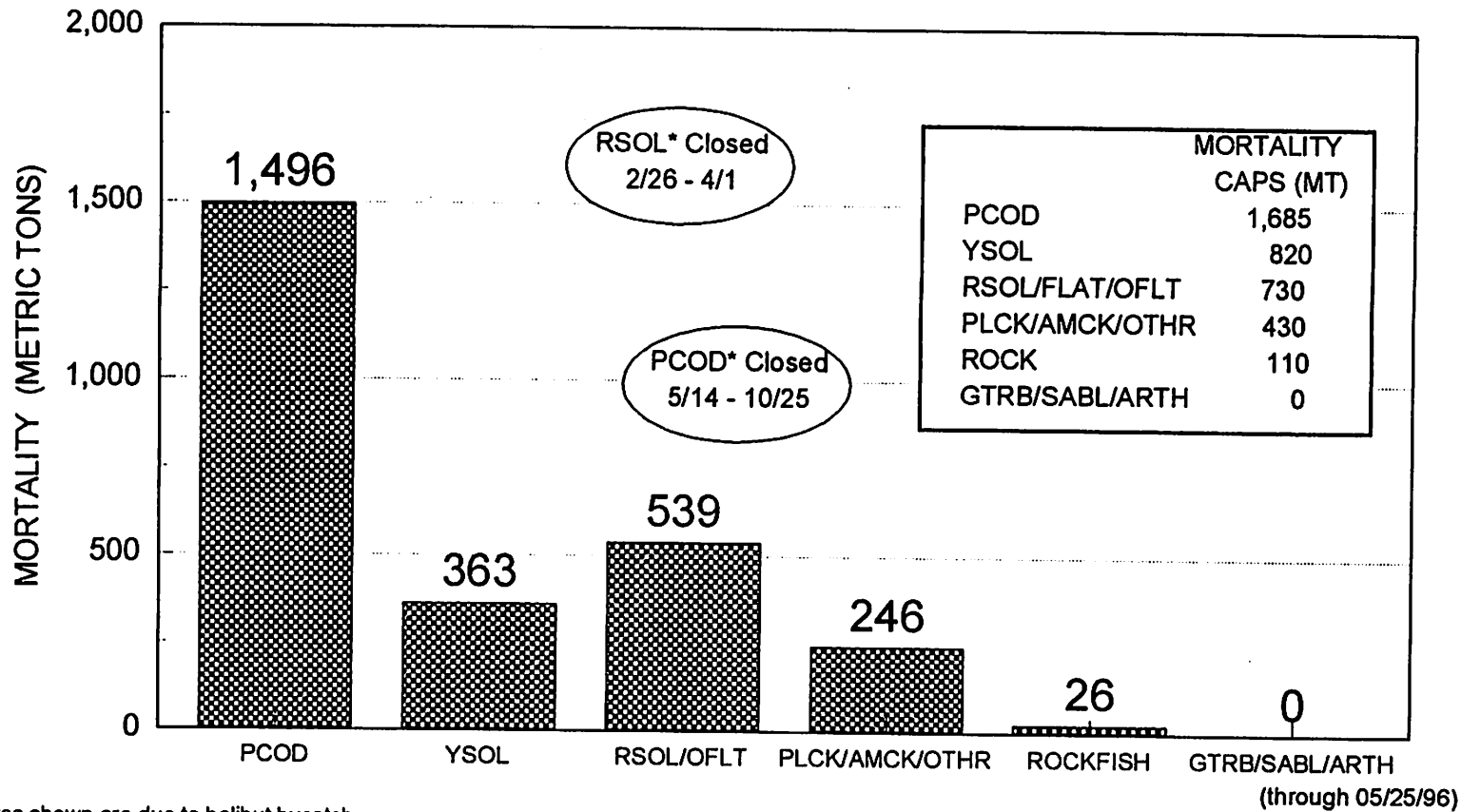


	C-HAL	T-HAL	C-POT	A-TRW	B-TRW	C-TRW	F-TRW	K-TRW	L-TRW	P-TRW	R-TRW	Y-TRW
DISCARDED	10,494	651	917	17,514	6,553	39,648	1,154	3,369	4,049	14,906	22,084	30,791
RETAINED	67,196	3,291	20,485	63,978	51,414	66,875	867	12,484	2,560	485,348	17,450	63,174

(through 05/25/96)

TARGETS	A - Atka mackerel	P - Midwater pollock
	B - Bottom pollock	R - Rock sole
	C - Pacific cod	T - Greenland turbot
	F - Other flatfish	Y - Yellowfin sole
	K - Rockfish	
	L - Flathead sole	

1996 BSAI TRAWL HALIBUT BYCATCH MORTALITY

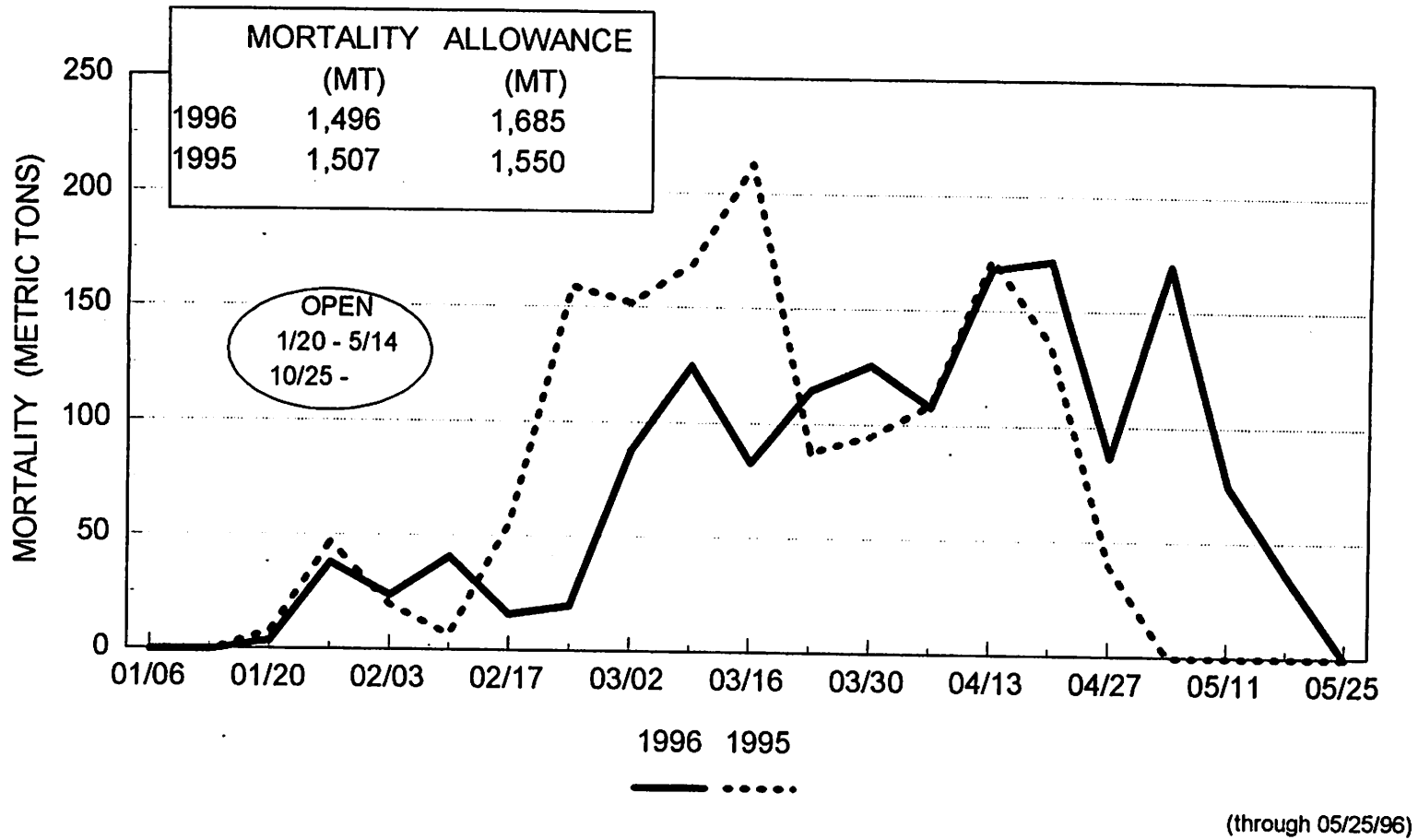


*Closures shown are due to halibut bycatch

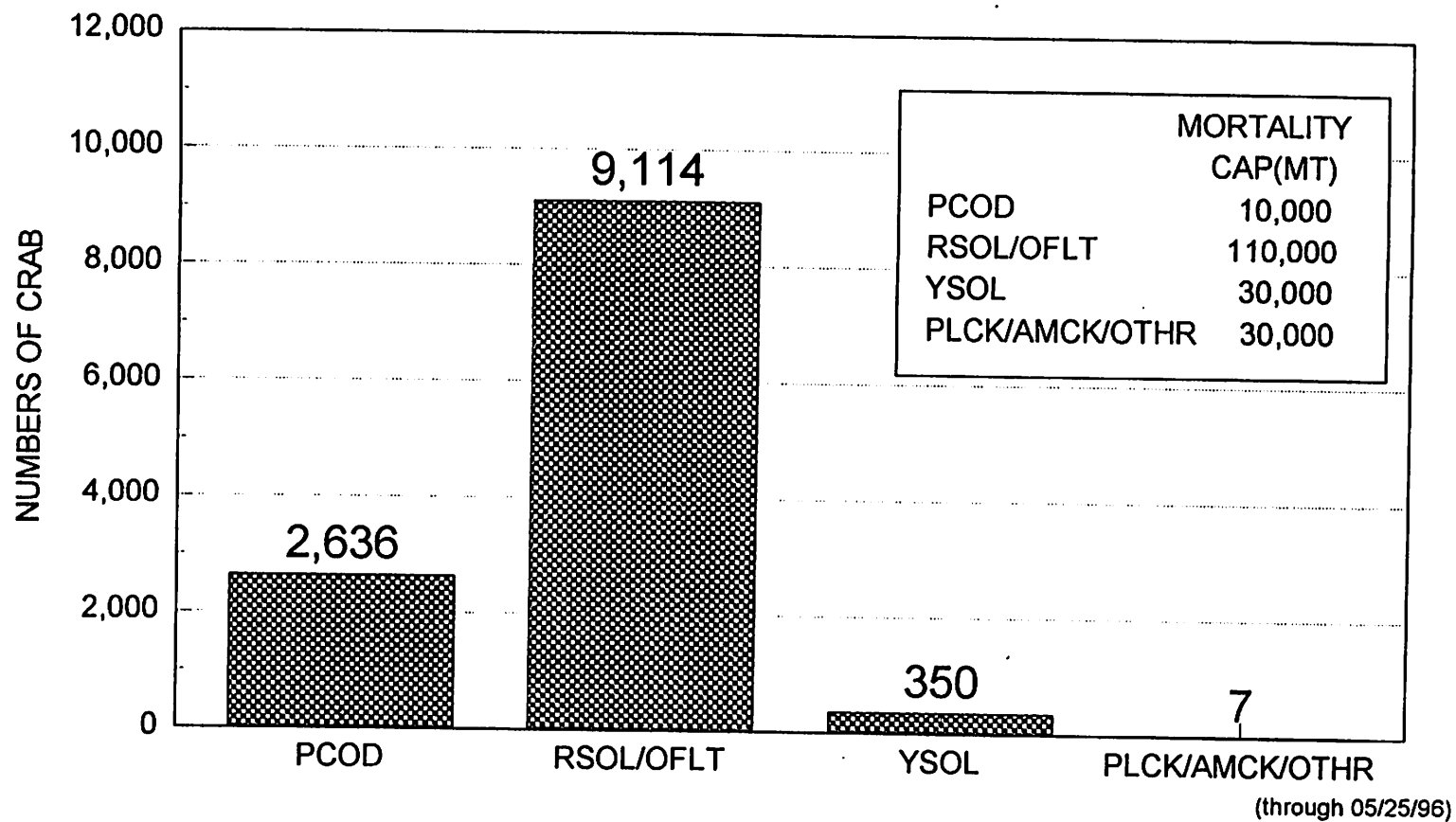
Total halibut mortality thru 5/25: 2,671

Annual total halibut cap: 3,775

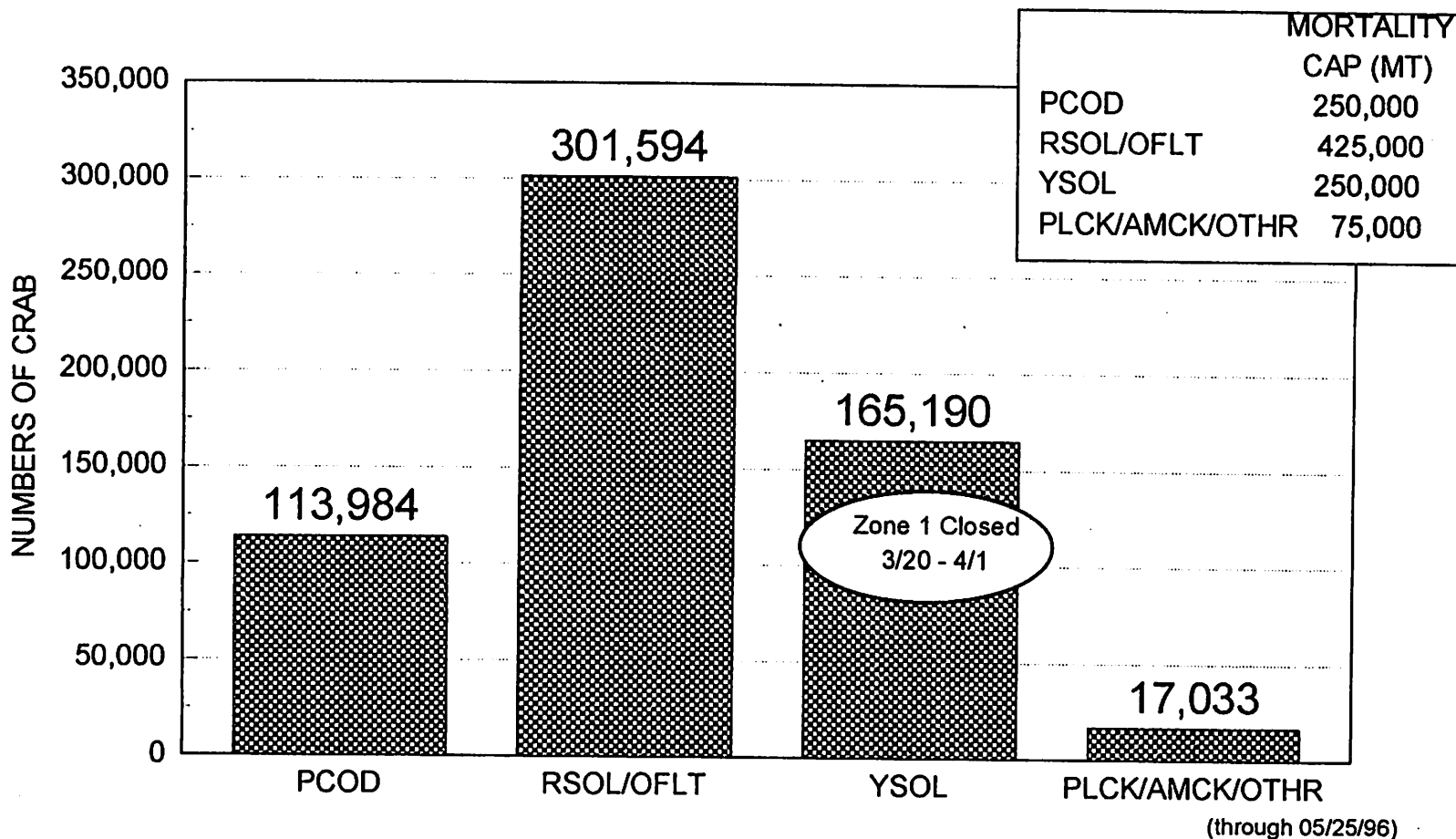
1995-96 BSAI TRAWL HALIBUT BYCATCH MORTALITY, PCOD



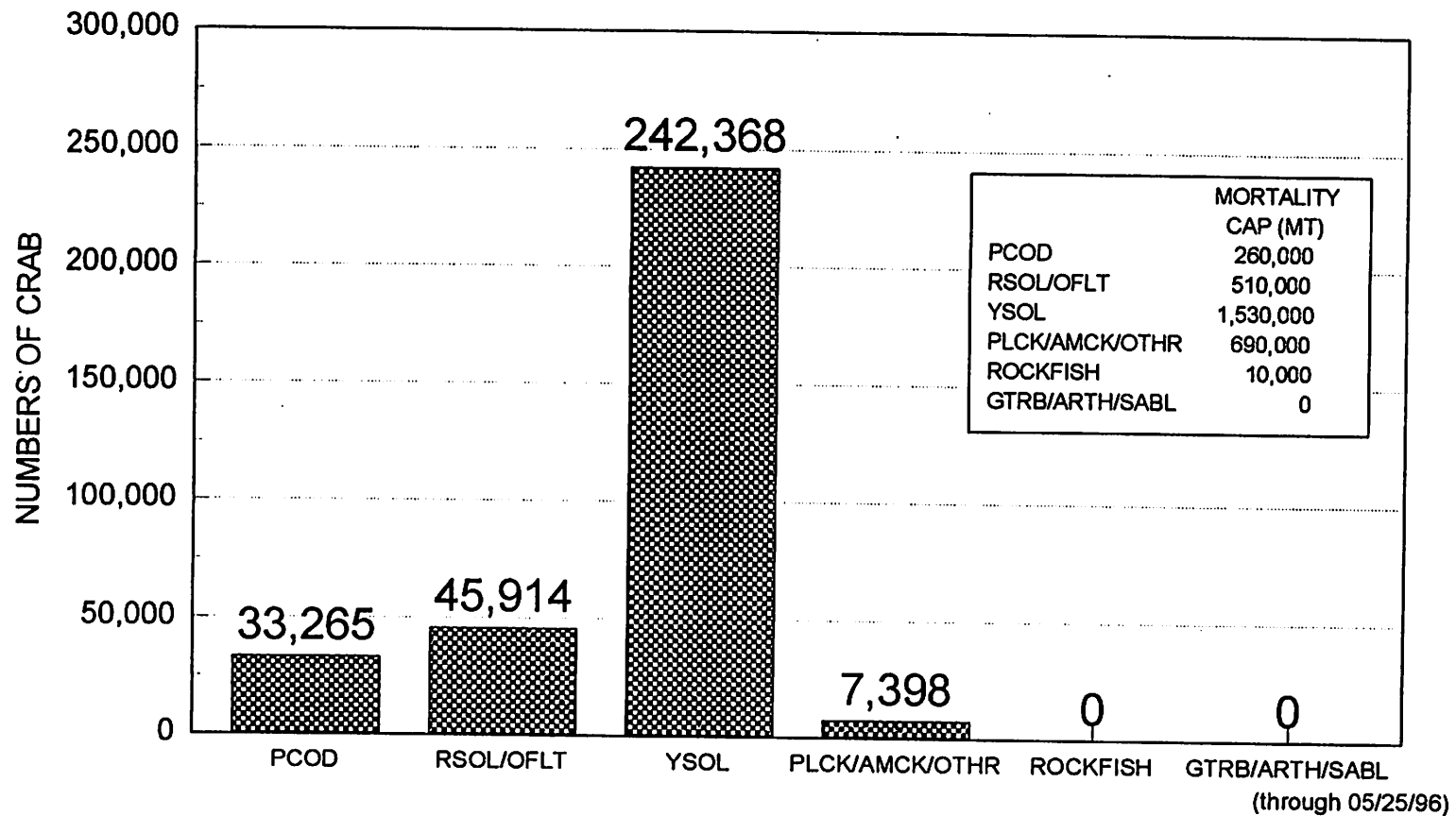
1996 BSAI ZONE 1, TRAWL RED KING CRAB BYCATCH



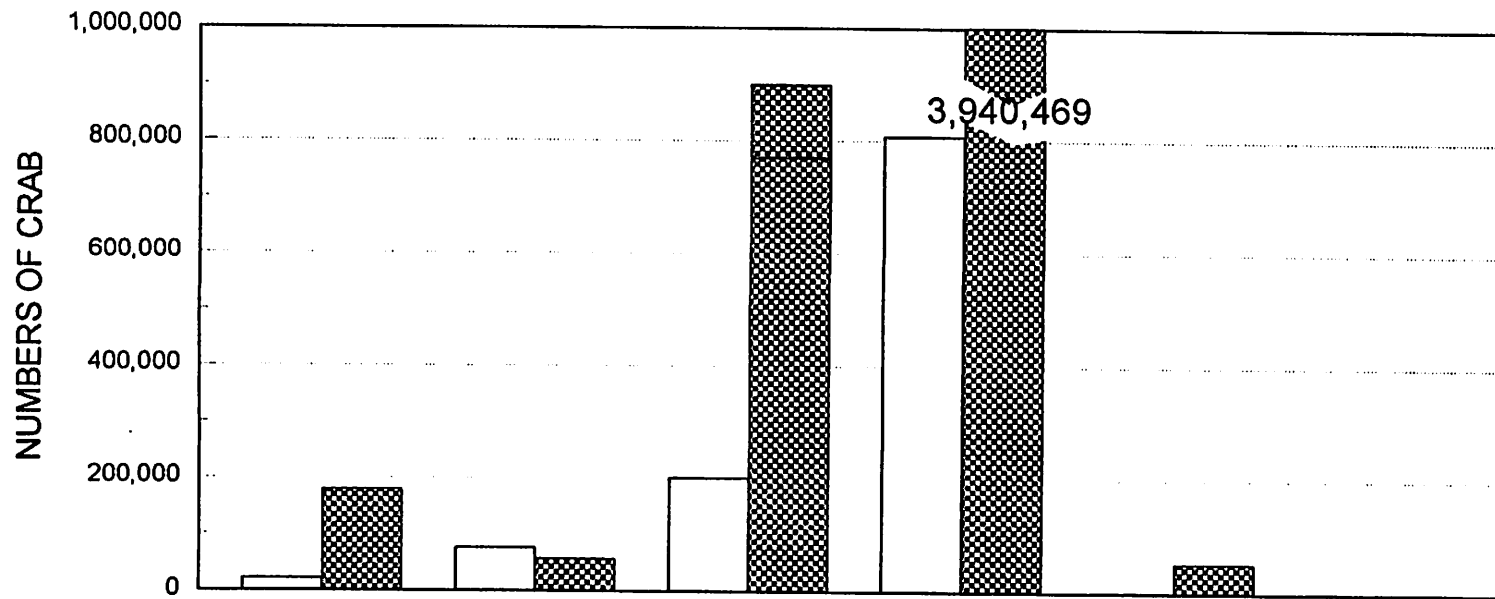
1996 BSAI ZONE 1 TRAWL, BAIRDI TANNER CRAB BYCATCH



1996 BSAI ZONE 2, TRAWL BAIRDI TANNER CRAB BYCATCH



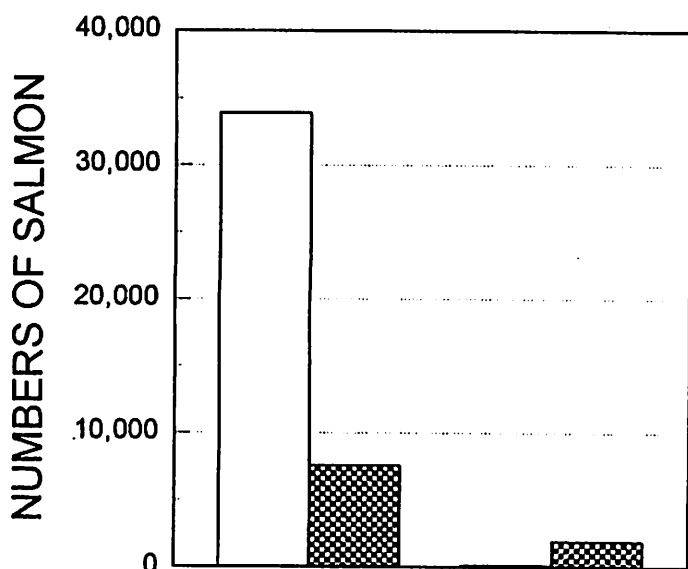
1995-96 BSAI TRAWL, OPILIO TANNER CRAB BYCATCH



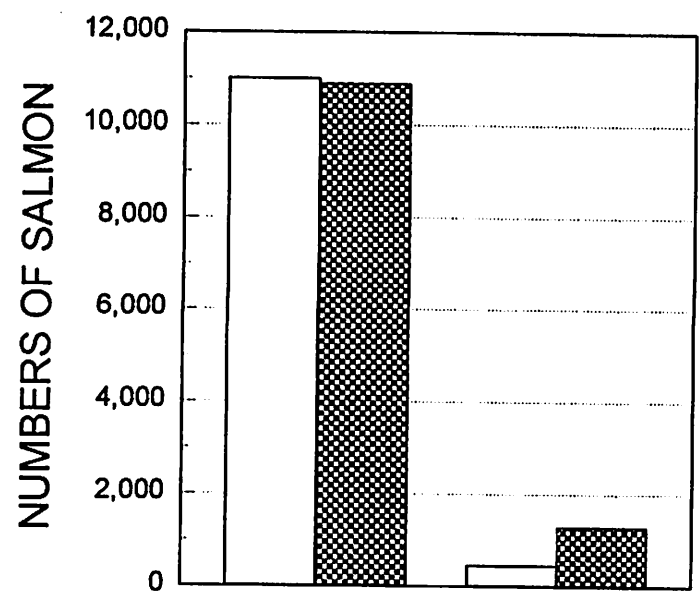
	PLCK/AMCK/OTHER	PCOD	RSOL/FSOL/OFLT	YSOL	GTRB/ARTH/SABL	ROCKFISH
1996 □	22,079	76,752	201,922	808,676	111	100
1995 ▨	180,315	56,907	914,978	3,940,469	52,935	75

(through 05/25/96)

1995-96 BSAI TRAWL, CHINOOK & OTHER SALMON BYCATCH



MIDWATER POLLOCK

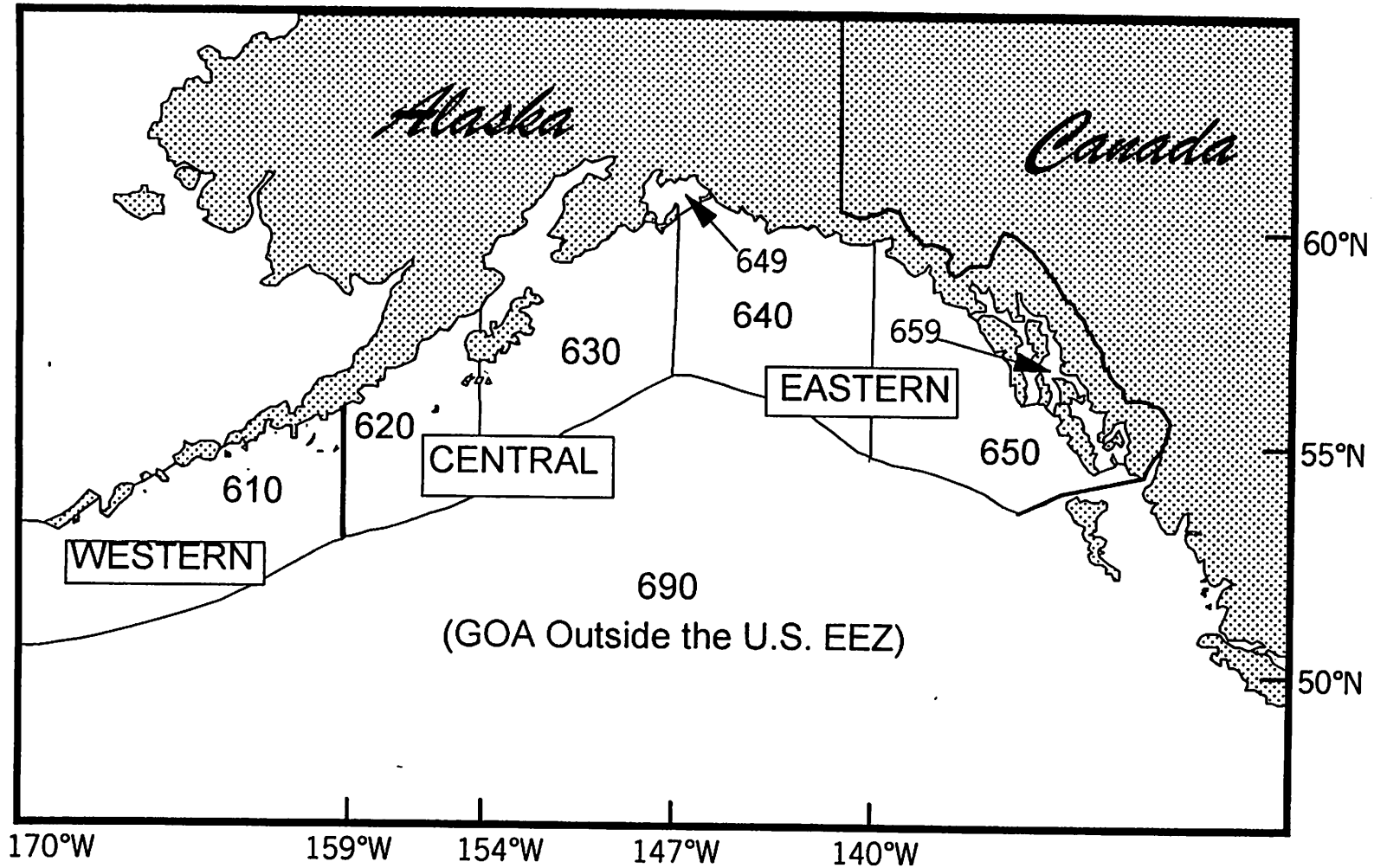


OTHER FISHERIES

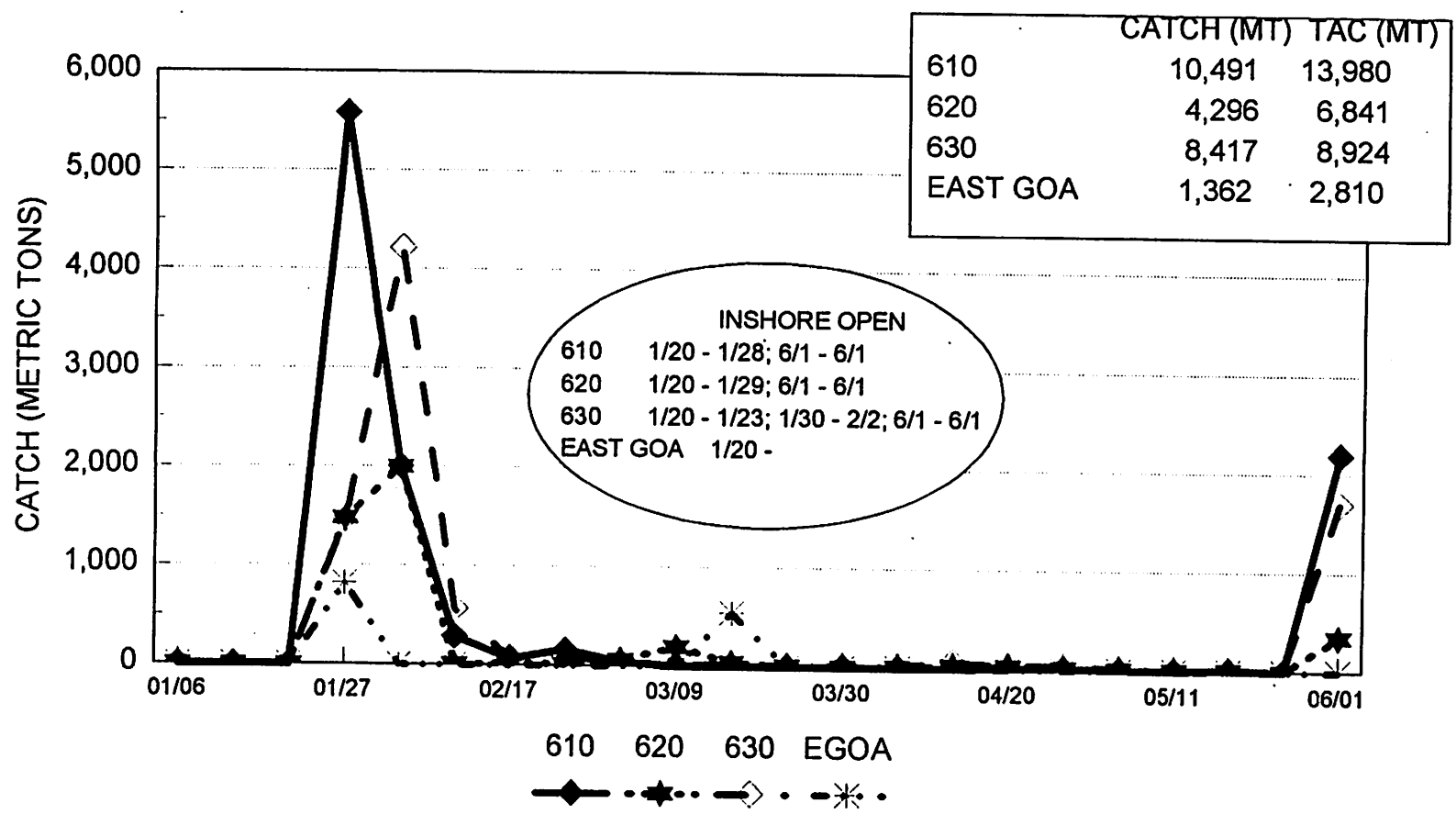
(through 05/27/95 and 05/25/96)

GULF OF ALASKA

1996 REPORTING AREAS OF THE GULF OF ALASKA

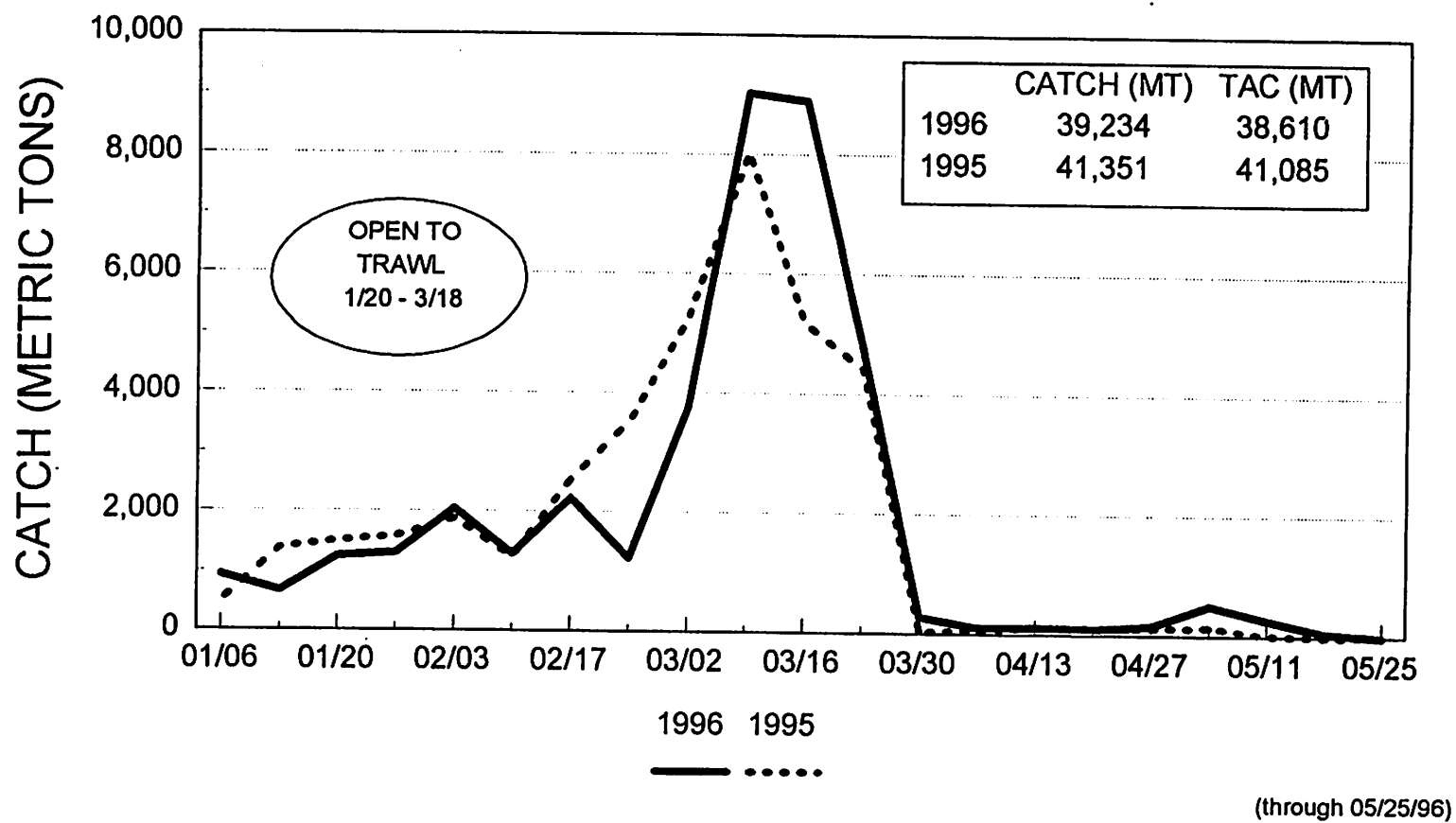


1996 GOA POLLOCK CATCH

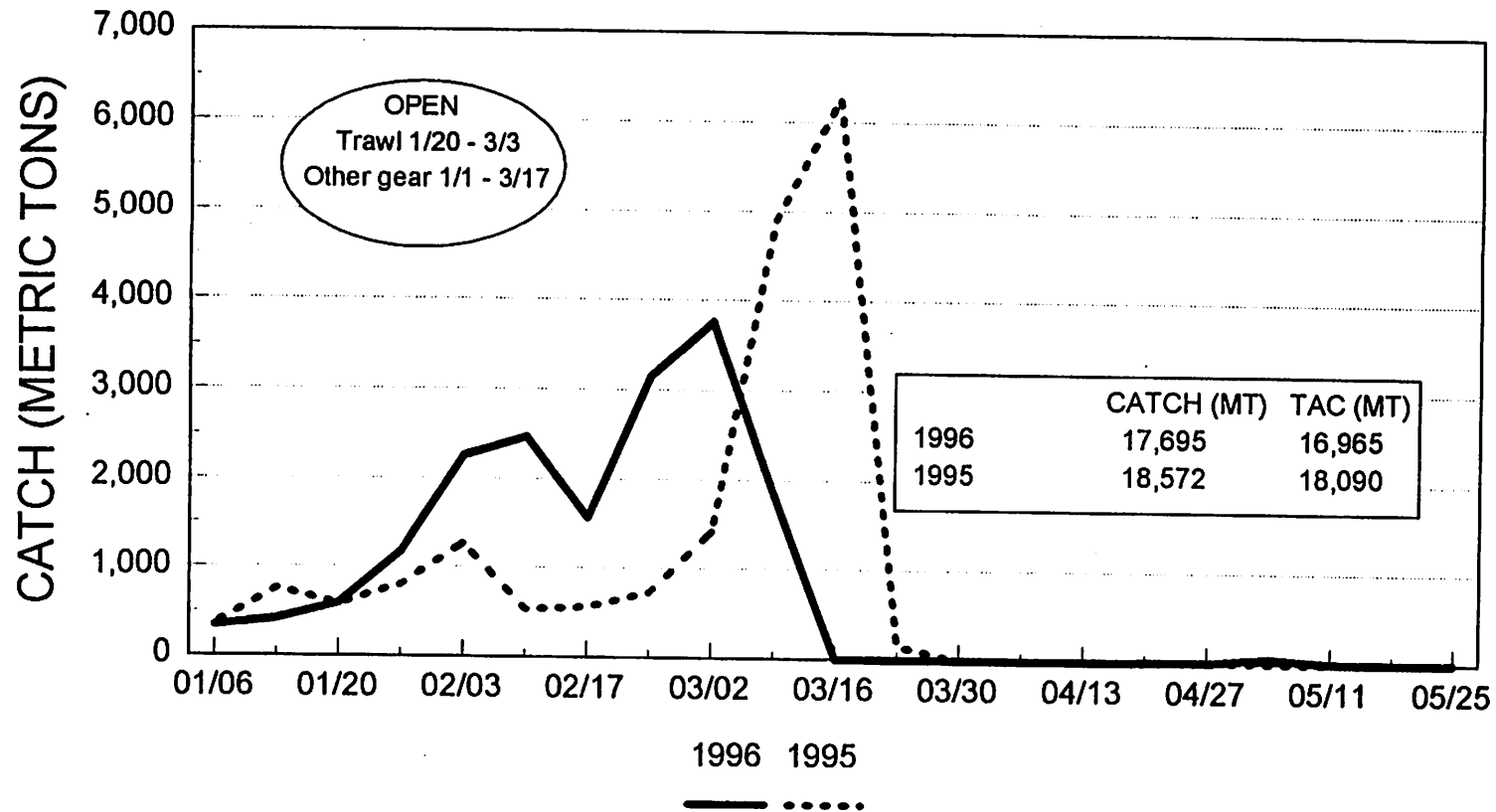


(through 06/01/96)

1996 CENTRAL GOA INSHORE PACIFIC COD CATCH



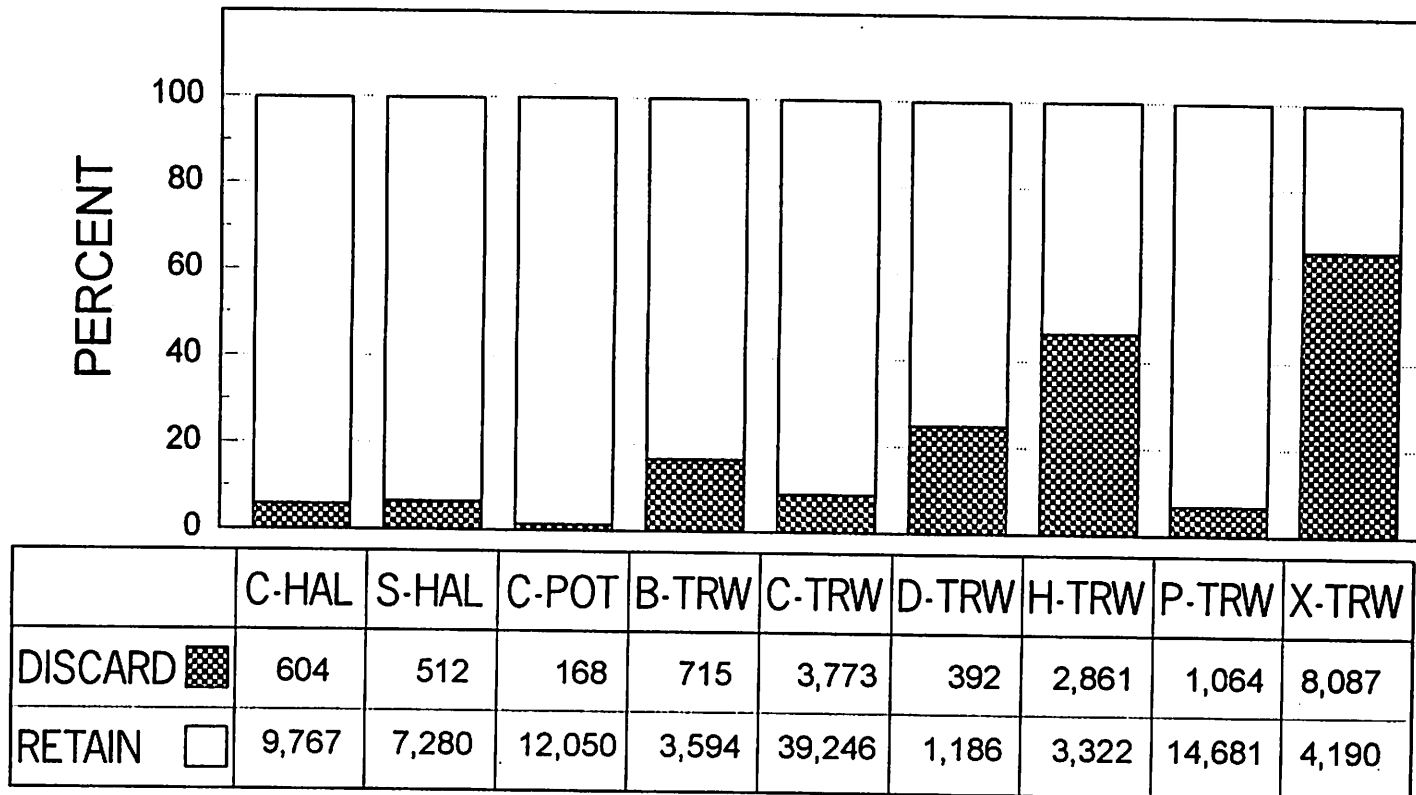
1996 WESTERN GOA INSHORE PACIFIC COD CATCH



NOTE: Discard of Pacific cod attributed to 610 Inshore Pacific cod through 3/30/96 = 342 mt

(through 05/25/96)

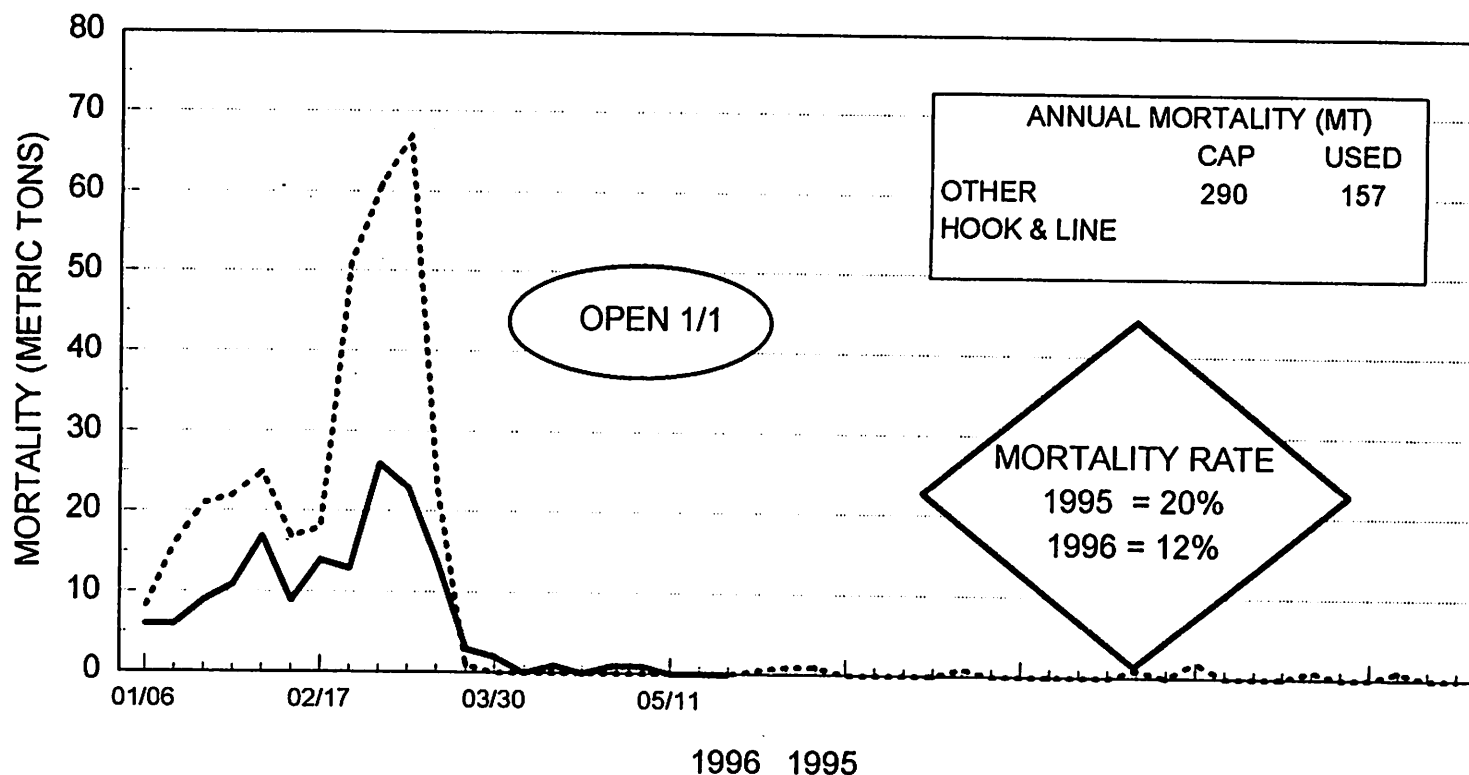
1996 GOA GROUND FISH DISCARDS BY GEAR & TARGET



(through 05/25/96)

TARGETS	B - Bottom pollock	P - Midwater pollock
	C - Pacific cod	S - Sablefish
	D - Deep Water Flatfish	X - Rex sole
	H - Shallow Water Flatfish	

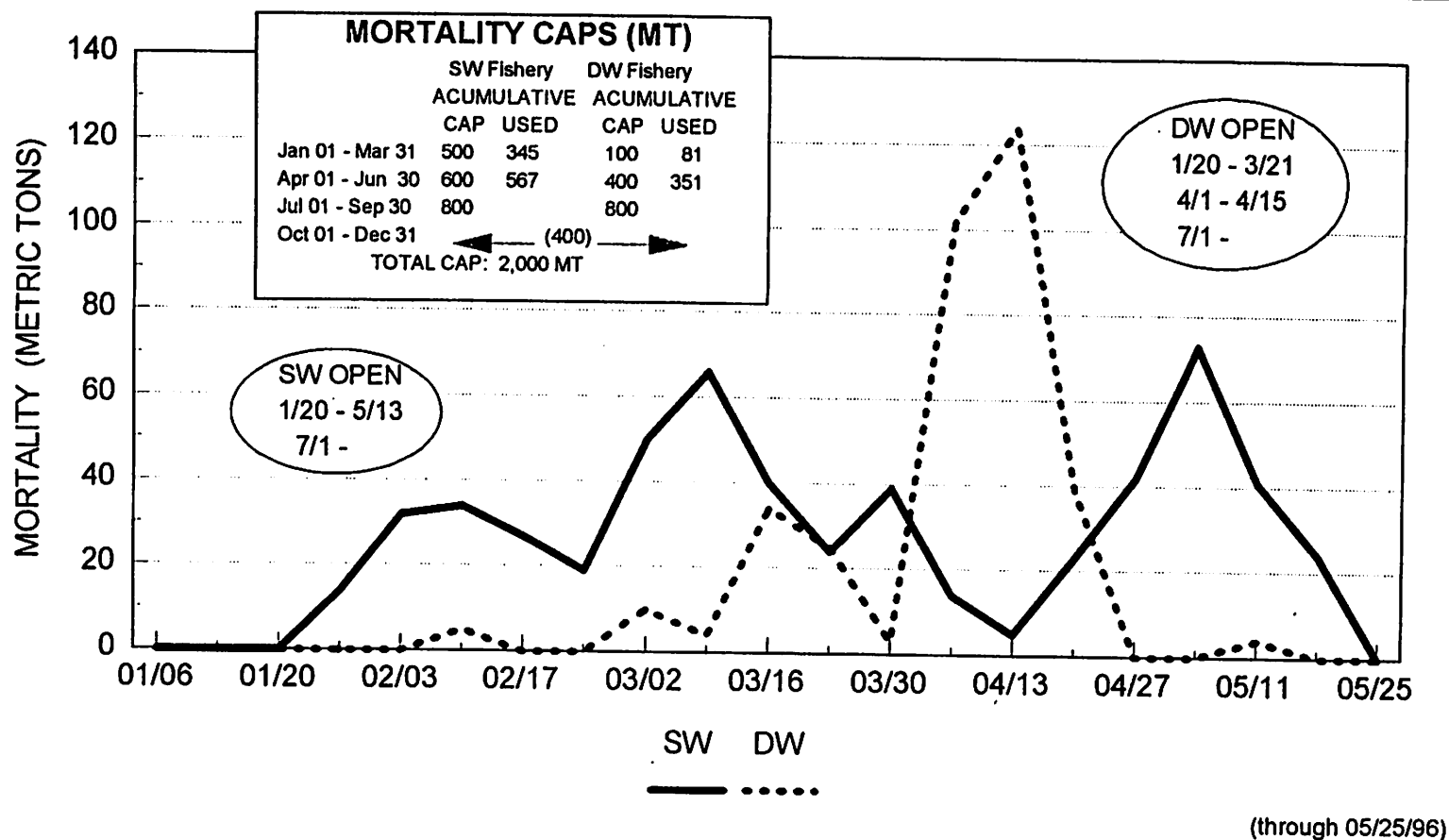
1995-96 GOA HOOK & LINE*, HALIBUT BYCATCH MORTALITY



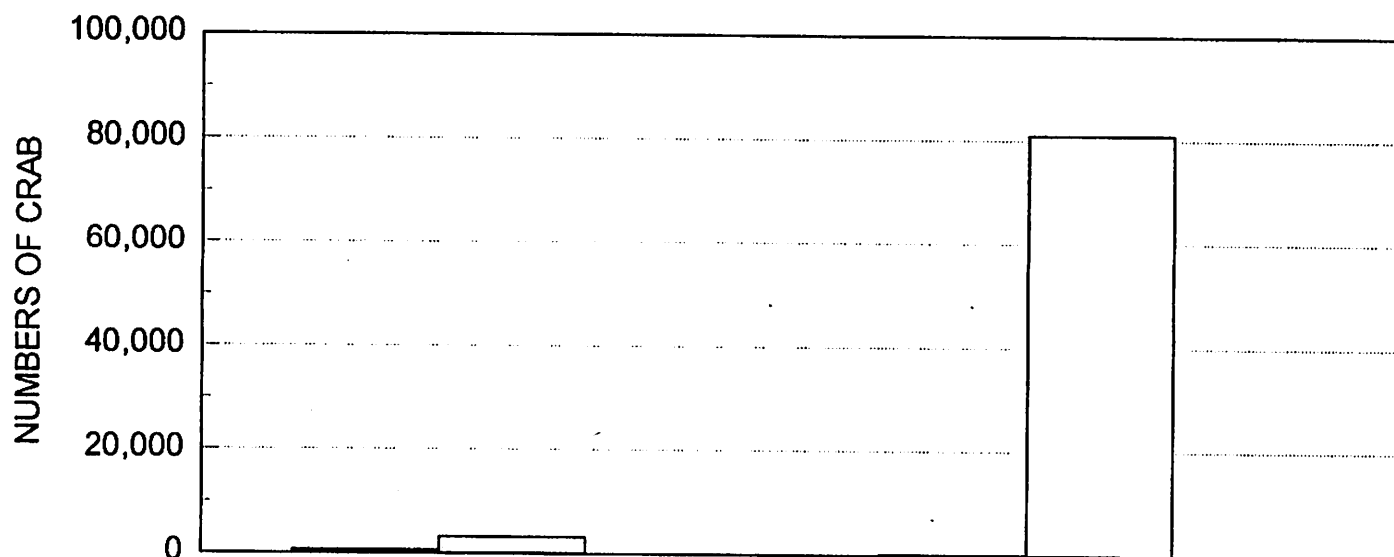
*Sablefish not included

** 1995 demersal shelf rockfish fishery, Southeast District is not listed due to insufficient observer coverage. (through 05/25/96)

1996 GOA SW & DW TRAWL HALIBUT BYCATCH MORTALITY



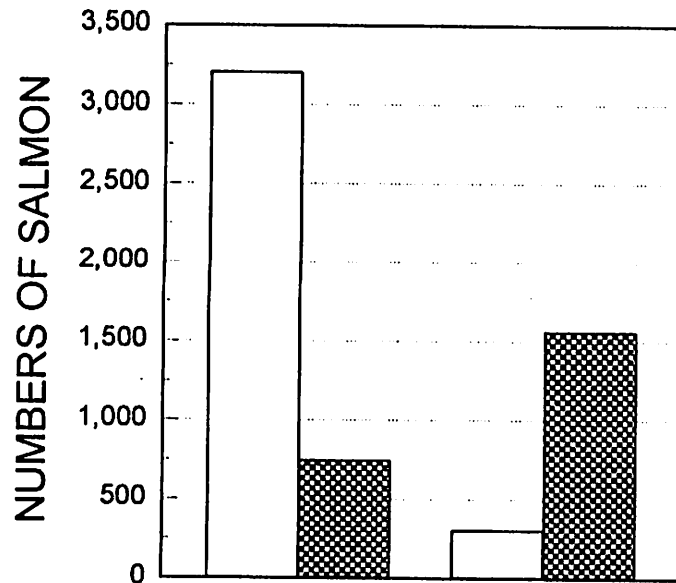
1996 GOA TRAWL, TANNER & RED KING CRAB BYCATCH



	DW FISHERY	SW FISHERY
OTANNER ■	715	209
BAIRDI □	3,228	81,009
RED KING ▨	0	99

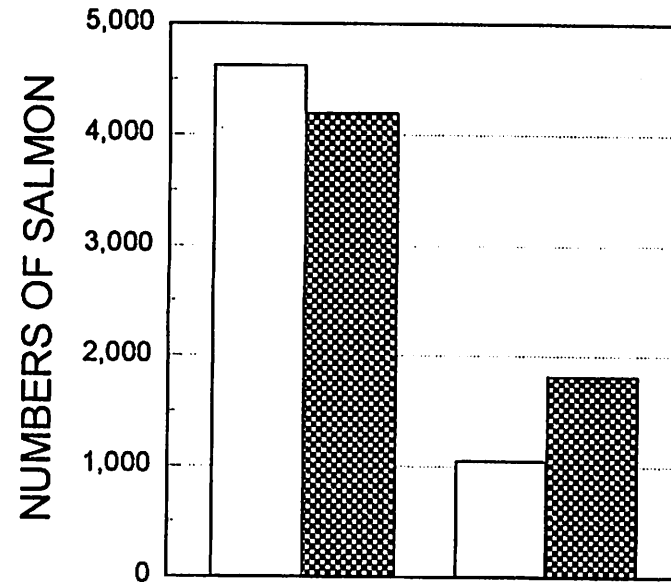
(through 05/25/96)

1995-96 GOA TRAWL, CHINOOK & OTHER SALMON BYCATCH



	CHINOOK	OTHER SALMON
1996 □	3,202	300
1995 ▣	749	1,561

MIDWATER POLLOCK



	CHINOOK	OTHER SALMON
1996 □	4,629	1,051
1995 ▣	4,200	1,816

OTHER FISHERIES

(through 05/27/95 and 05/25/96)

National Marine Fisheries Service
Alaska Region
Juneau, Alaska
06/11/96

Status of Regulatory Actions Through June 11, 1996

Discontinue the 1995 NP Research Plan Fee collection process & refund all fees collected	Final rule effective March 25, 1996
Pollock trimester allocations in Gulf of Alaska (Amd 45)	Final rule effective May 30, 1996
Inseason adjustment closing trawling in part of the Red King Crab Savings Area	Final rule effective April 1-June 15, 1996
Consolidation of current regulations	Technical amendment effective July 1, 1998
Add Akutan to list of eligible CDQ communities	Comments invited through June 13, 1996
Amd 1 to the Commercial Scallop Fishery Off Alaska (Federalize certain State regulations)	Comments invited through June 21, 1996
Amd 2 to the Commercial Scallop Fishery Off Alaska (establish a moratorium on further entry into the scallop fishery)	Proposed regulations being prepared by Regional Office
Authorize voluntary retention of salmon for foodbank program (Amds 26/29)	Comments invited through July 1, 1996
Fishing down across vessel classes ("Buy-down" amds 42/42)	Comments invited through August 2, 1996
Allow processing of non-IFQ catcher vessel on freezer vessels (Amds 33/37)	Final regulations being reviewed by WDC offices

Status of Regulatory Actions (continued)

Withdrawal of the salmon FMP	Final regulations being prepared by Regional Office
Omnibus II - sablefish/halibut IFQ program	Final regulations being prepared by Regional office
Require computer and satellite/modem capability by processors for use by NMFS-certified observers	Final regulations being prepared by the Regional Office
Extension of sablefish season in Aleutians	Proposed regulations being prepared by Regional Office
Revise the GOA POP rebuilding plan (Amd 38)	Proposed amendment being prepared by Regional Office
Groundfish/Crab License Program and CDQs (Groundfish Amds 39/41 & BSAI Crab Amd 5)	Proposed regulations being prepared by Regional Office
Authorize blocks of halibut IFQ to be swept up to 3,000 lbs, and blocks of sablefish IFQ to be swept up to 5,000 lbs (Amds 42/42)	Proposed regulations being prepared by Regional Office
Interim observer plan (Amds 47/47 & Crab Amd 6)	Proposed regulations being prepared by Regional Office
Cod end mesh size restrictions	Proposed regulations being considered by Regional Office
Require groundfish vessels fishing on the GOA seamounts to have transponders on board	Proposed regulations being prepared by Regional Office
Require processors to use scales to weigh pollock caught in pollock fisheries	Proposed regulations being prepared by Regional Office

*Delay of BSAI Pollock
"B" Season*

*Comments invited through
about July 8, 1996*

STATUS OF COUNCIL TASKING

June 10, 1996

<u>ACTION</u>	<u>STATUS</u>	<u>TASKING</u>
REPORTS:		
1 Halibut Charter Management	Finalize Alternatives and RFP June 1996 Initial analysis in 1997	Council
2 Sablefish/Halibut IFQ Fisheries Analysis	Full report in September 96	State/RAM Division
3 Magnuson Act Reauthorization	Update in June 1996	Council
4 Modified Observer Program	Report/Initial Review in Sept 1996	Region/Council/OAC
REGULATORY AMENDMENTS:		
1 Seamount Restrictions	Proposed Rule in preparation	Region
2 AI extended sablefish season	Proposed Rule in preparation	Council/Region
3 Mesh Size Reg. Amendment	Proposed Rule pending	Council/Region
4 GOA Pollock Trimester allocations	Effective July 1, 1996	Region/Council
4a 80,000 mt quarterly allocations trigger	On hold pending staff availability	Region/Council
5 Pollock 'B' Season delay	Under Review in D.C.	Council
6 'C' Season for fixed gear cod	Developing Proposed Rule	Region
7 Directed Fishing Standards adjustments	Initial Review in September 1996	Region
8 Electronic Reporting Requirements	Initial Review in June 1996	Region
PLAN AMENDMENTS:		
1a Halibut/Sablefish IFQ Buydown	Submitted to D.C. on June 3	Council/Region

ACTION

STATUS

TASKING

1b	Halibut/Sablefish IFQ Sweep-up	Proposed Rule in Preparation	Council/Region
1c	BSAI Halibut Ownership Caps	Final Action June 1996	Council
1d	Longline pots for BSAI sablefish	Proposed Rule in Preparation	Council
2	Salmon Retention/Delivery	EFP extended through 1996 pollock 'A' season. PR for Am 26/29 published April 15. Comments due June 10	Region
3	Comp. Rationalization Plan (a) License Limitation (b) IFQ Program for BSAI pollock (c) IBQ/VBA program	(a) PR in preparation (b) & (c) On hold pending Magnuson Act Reauth <i>Approp.</i>	Council
4	Scallop FMP/Amendment 1	FMP Final on Aug 29, 1995 Am 1 forwarded to SOC Review	Region
5	Total Weight Measurement in Groundfish Fisheries	Advance Notice of Proposed Rulemaking on Feb 20. Comment period ended March 21.	Region
6	Allow freezing of non-IFQ species/prohibit halibut catcher QS use on FLs	Comments until May 16 Final Rule Pending	Council/Region
7	Bristol Bay Red King Crab Trawl Closure Area	In place for 1996. Final review of permanent action in June 1996	Council/ADFG
8	Distribute halibut PSC savings	On hold pending other actions.	Council
9	Demersal Shelf Rockfish License Limitation Program	Initial Review in Dec 1996	ADFG
10	Amend Overfishing Definitions	Final action June 1996	Center/Council/Region
11	Forage Fish Prohibition	Initial review in Sept 1996	Region
12	Amend POP Rebuilding Plan	PR Pending	Council/Region
13	Crab PSC Cap Analysis	Final Action June 1996	Council/ADFG/Center
14	Northeast Bristol Bay Closure	Final Action June 1996	Council/ADFG/Region

*MB-
CDAS?
PSC
in app.
inc?*

	<u>ACTION</u>	<u>STATUS</u>	<u>TASKING</u>
15	BSAI Cod Gear Allocations	Final Action June 1996	Council
16	Halibut Area 4 Catch Sharing Plan	Final Rule March 20 Effective March 15	Council/IPHC/Region
17	BSAI Improved Retention/ Utilization	Initial Review in June 1996 Final Action in Sept 1996	Region/Council/Center
18	Groundfish Plan Update	In progress. Initial review in late 1996	Council/Region
19	Ban Night Trawling for Cod	Report in June 1996	Council/Region
20	GOA Improved Retention/ Utilization	Report in Sept 1996	Center/Region/Council
21	Limited Processing for Catcher Vessels	Report in Sept 1996	Center/Region/Council
22	Pelagic Shelf Rockfish (dusky/ black rockfish separation)	Initial Review in Sept 96	Council/Center/Region

OTHER ACTIONS:

1	April 24, 1994 Scallop Control Date	Published on June 15, 1994	Region
2	Halibut Charter Control Date	Never published in F.R.	Region
3	Skipper License Program	On hold pending other priorities	Council/Region
4	Refund Research Plan Fees	Interim Final Rule on March 20. Comments by April 29.	Region

COUNCIL COMMITTEES:

1	Observer Advisory Committee	Meet in Aug/Sept 1996
2	Ecosystem Committee	Discuss in Sept 1996
3	Crab Rebuilding Committee	Discuss in Sept 1996
4	IR/IU Committee	Meet in Aug/Sept 1996
5	Enforcement Committee	Meet in June 1996



FM AN REGION +--- NPFMC 001
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668
May 31, 1996

AGENDA B-3
JUNE 1996

Mr. Richard B. Lauber
Chairman, North Pacific
Fishery Management Council
605 West 4th Avenue
Anchorage, Alaska 99501-2252



Dear Mr. Rich Lauber:

On May 20, 1996, the National Marine Fisheries Service (NMFS) approved Amendment 45 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Gulf of Alaska (GOA). The final rule will become effective by July 1, 1996. Amendment 45 authorizes seasonal allowances of pollock total allowable catch (TAC) to be specified by regulation for the combined Western and Central (W/C) Regulatory Areas of the GOA. The final rule implementing Amendment 45 combines the third and fourth quarterly allowances of pollock TAC in the W/C Regulatory Area into a single seasonal allowance that will become available on September 1.

Both the Council's recommendation to NMFS and the proposed rule published on March 12, 1996 (61 FR 9972) contained opening dates of September 1 for the Central Regulatory Area and October 1 for the Western Regulatory Area. We believe that at the time of the Council deliberations on this issue a number of factors were not clear that have been brought out through public testimony. Accordingly, NMFS has changed the final rule to establish a single opening date of September 1 for both areas. The reasons for this change are as follows:

NMFS has received extensive written comments from Western Regulatory Area-based fishermen and processors who believe that, under an October 1 opening date, they will be preempted by larger and more numerous Bering Sea-based vessels. A September 1 pollock opening date in the Western Regulatory Area will match the September 1 pollock opening dates in the rest of the Bering Sea and GOA and should eliminate these concerns. NMFS believes



that scheduling fisheries in various areas to operate during the same time period will disperse effort, resulting in more manageable fisheries and a more equitable distribution of opportunity.

Second, NMFS has received extensive written comments from Western Regulatory Area-based fishermen and processors who oppose an October 1 opening date for the Western Regulatory Area for safety reasons. This sector of the industry suggests that because weather conditions are likely to be worse in October, an October 1 opening date will pose greater safety risks for smaller vessels than would a September 1 opening date.

Lastly, the Council at its April 1996 meeting made a final recommendation on a regulatory amendment to delay the start of the Bering Sea pollock "B" season from August 15 to September 1. If approved, this regulatory amendment would become effective for the 1996 pollock "B" season. In 1995, the inshore sector Bering Sea pollock "B" season lasted 39 days and we expect the 1996 season to last approximately as long. Delaying the Bering Sea pollock "B" season until September 1 is likely to extend the season into the first or second week of October. Consequently, we understand that an October 1 opening date for the Western Regulatory Area no longer holds any particular advantage for the Bering Sea-based fleet, which was the only sector of the industry that supported an October 1 opening date in the Western Regulatory Area.

We believe that the final rule preserves the Council's original intent while responding to all the public comment we have received. Proceeding with the rule allows it to be in place for this season.

Sincerely,



Steven Pennoyer
Director, Alaska Region

(4) Any adjustments to the 12-month directed-fishery quota will be apportioned equally between the June 1 through November 30 and December 1 through May 31 semiannual periods.

(e) NMFS may adjust the December 1 through May 31 semiannual directed-fishery quota and gear quotas to reflect actual catches during the June 1 through November 30 semiannual period, provided that the 12-month directed-fishery and gear quotas are not exceeded.

7. In § 630.25, the second sentence of paragraph (b) is revised to read as follows:

§ 630.25 Closures and bycatch limits.

(b) * * * The procedures of paragraph (a)(1) of this section notwithstanding, during the June 1 through November 30 semiannual period, swordfish not exceeding 21,500 lb (9,752 kg), dressed weight, may be set aside for the harpoon segment of the fishery.

[FR Doc. 96-13690 Filed 5-28-96; 4:25 pm] BILLING CODE 3510-22-F

50 CFR Part 672

[Docket No. 960228053-6142-02; I.D. 022296E]

RIN 0648-A156

Groundfish of the Gulf of Alaska; Pollock Seasonal Allowances

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 45 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This rule combines the third and fourth quarterly allowances for pollock in the three statistical areas of the combined Western and Central (W/C) Regulatory Area into single seasonal allowances that will become available on September 1 of each fishing year. Changes to the final 1996 harvest specifications of Gulf of Alaska (GOA) pollock are also made to reflect the revised seasonal allowances. These measures are necessary to address management problems that have been identified by the fishing industry. They are intended to further the management objectives of the FMP.

EFFECTIVE DATE: May 30, 1996.

ADDRESSES: Copies of Amendment 45 and the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for Amendment 45 may be obtained from the North Pacific Fishery Management Council, 605 W. 4th Ave. Suite #306, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Kent Lind, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The pollock fishery in the exclusive economic zone of the GOA is managed by NMFS under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations found at 50 CFR part 672. General regulations governing U.S. fisheries are also found at 50 CFR part 620.

Background

Amendment 45 removes the requirement that the total allowable catch (TAC) specified for pollock in three statistical areas of the W/C Regulatory Area be divided into four equal quarterly allowances and replaces it with more flexible language requiring that the TACs be divided into seasonal allowances rather than quarterly allowances. Amendment 45 authorizes NMFS to establish the number and timing of seasonal allowances in regulation. The Council's objective in adopting Amendment 45 was to allow NMFS to combine by regulatory amendment the third quarter (July 1) and fourth quarter (October 1) allowances for pollock in the statistical areas of the W/C Regulatory Area into single seasonal allowances that would become available in September or October.

The action has the following objectives: (1) Reduced chum salmon bycatch, which has been high during the third quarter (July 1) opening; (2) reduced scheduling conflicts with summer salmon processing activities; (3) reduced operating costs for industry; and (4) reduced risk of harvest overruns during extremely short openings. Additional information on this action may be found in the preamble to the proposed rule published in the Federal Register on March 12, 1996 (61 FR 9972) and the EA/RIR prepared for this action. Public comment on the proposed action was invited through April 22, 1996. NMFS received 11 written letters of comment. The comments are summarized and responded to below in the response to comments section.

The only change from the proposed rule is a modification in the opening date for the Western Regulatory Area

from October 1 to September 1 for the reasons stated below. This change is reflected in § 672.23(e), which establishes fishing seasons, and section 4 and table 3 of the final 1996 harvest specifications.

At its January 1996 meeting, the Council considered opening date options of September 1, September 15, and October 1 that would apply to the third season in both the W/C Regulatory Areas. However, the Council subsequently recommended that NMFS implement a modified proposal that would establish separate third season opening dates of September 1 in the Central Regulatory Area and October 1 in the Western Regulatory Area. This modified proposal was submitted to the Council by a coalition of Bering Sea-based processors and fishermen with the intent of preserving the ability of Bering Sea-based vessels to fish in the Western Regulatory Area after the closure of the Bering Sea pollock non-roe season. The proposed rule included these separate opening dates as recommended by the Council.

Based on changing circumstances in the pollock fishery and information submitted during the comment period on the proposed rule, NMFS has changed the final rule from the proposed rule to reflect a single opening date of September 1 for both the W/C Regulatory Areas. The reasons for this change are as follows: First, the Council at its April 1996 meeting made a final recommendation that NMFS delay the start of the Bering Sea pollock non-roe season from August 15 to September 1 for both the inshore and offshore sectors. If approved, this regulatory amendment would become effective for the 1996 pollock non-roe season. In 1995 the inshore sector Bering Sea pollock non-roe season lasted 39 days and NMFS expects the 1996 season to last approximately as long. Delaying the Bering Sea pollock non-roe season until September 1 is likely to extend the season into the first or second week of October. Consequently, NMFS believes that an October 1 opening date for the Western Regulatory Area no longer holds any particular advantage for the Bering Sea-based fleet, which was the only sector of the industry that supported this particular opening date.

Second, NMFS has received extensive written comments from Western Regulatory Area-based fishermen and processors who oppose an October 1 opening date for the Western Regulatory Area for safety reasons. This sector of the industry suggests that because weather conditions are likely to be worse in October, an October 1 opening date will pose greater safety risks for

smaller vessels than would a September 1 opening date.

Third, NMFS has received extensive written comments from Western Regulatory Area-based fishermen and processors who believe an October 1 opening date would cause them to be preempted by larger and more numerous Bering Sea-based vessels. Although a delay in the Bering Sea pollock non-roe season would largely eliminate these concerns, NMFS believes that a compelling reason no longer exists to treat the Western Regulatory Area separately from the rest of the GOA.

Finally, scheduling fisheries in various areas to operate simultaneously will disperse effort resulting in more manageable fisheries and a more equitable distribution of fishing opportunity. A September 1 pollock opening date for the Western Regulatory Area would bring the season for this area into line with the rest of the GOA, as well as the Bering Sea if the Council's recommendation to delay the pollock non-roe season is approved.

Regulatory Changes Made by This Action

This action combines the third and fourth quarterly allowances of pollock TAC for the statistical areas of the W/C Regulatory Area into single seasonal allowances equal to 50 percent of the annual pollock TAC for each statistical area. This combined seasonal allowance will become available on September 1. This action retains the requirements that (1) within any fishing year, shortfalls in the harvest of one seasonal allowance be proportionately added to subsequent seasonal allowances, resulting in a sum for each seasonal allowance not to exceed 150 percent of the original seasonal allowance; and (2) harvests in excess of a seasonal allowance be deducted proportionately from subsequent seasonal allowances.

Response to Comments

No comments opposed Amendment 45 in general (or supported retaining the status quo of four quarterly allowances). Six letters of comment from representatives for Western Regulatory Area-based pollock fishermen and processors supported a September 1 opening date for this area but opposed an October 1 opening date. One letter of comment from a representative for Central Regulatory Area-based pollock fishermen and processors supported a September 1 opening date for this area but was neutral on the Western Regulatory Area opening date. No comments were received that favored an

October 1 opening date for the Western Regulatory Area. The following paragraphs summarize and respond to the comments received on the proposed rule.

Comment 1. Prior to the Council's decision at the January 1996 meeting to establish separate opening dates, no discussion or analysis occurred of separate opening dates for the W/C Regulatory Areas. Both the Council's Scientific and Statistical Committee and Advisory Panel recommended that the Council establish a September 1 opening date for both the W/C Regulatory Areas. In addition, no prior notice was provided to the public that the Council was considering separate opening dates. As a result, Western Regulatory Area-based fishermen did not have adequate opportunity to comment on the effects of an October 1 opening date on their fleet.

Response. NMFS has changed the proposed rule to establish a single opening date of September 1 for both the W/C Regulatory Areas.

Comment 2. Considerable support exists within the industry for reconsidering the decision to separate the W/C Regulatory Area opening dates, as evidenced by the 17 to 2 vote by the Advisory Panel at the April 1996 Council meeting, in support of a simultaneous W/C Regulatory opening date of September 1.

Response. See response to comment 1.

Comment 3. The Council's adoption of different opening dates for the W/C Regulatory Areas was extremely unfair to Western Regulatory Area fishermen who have sought to increase their involvement in the administrative process. The Council's action was taken without any public notice, with little or no understanding of potential impacts on small boat fishermen and communities, and with no public discussion of this unanticipated alternative by Council members or NMFS. This action can best be described as a "sneak attack" because Western Regulatory Area fishermen were not given a reasonable opportunity to defend themselves on this issue.

Response. See response to comment 1.

Comment 4. When the Council and NMFS make decisions that result in allocations among fishermen, both fundamental fairness and the law dictate a heightened level of public participation and a strong administrative record. This process is necessary so that the Council, NMFS, and the Secretary of Commerce are fully informed of the potential impacts of the proposed actions. Although case law allows a tainted administrative record to be cured by subsequent comments and

internal Agency analysis of the objections raised, this "after the fact" procedure does not cure the fundamentally unfair nature of this particular decision by the Council. NMFS should not attempt to cure this tainted administrative record simply to justify an improperly motivated decision.

Response. This comment is mute in light of NMFS' decision to adopt a single opening date of September 1 for both the Western and Central Regulatory Areas.

Comment 5. The EA/RIR did not evaluate the impacts of an October 1 Western Regulatory Area opening date on resident small-boat fishermen or the coastal communities of the Western GOA which are dependent on the flow of fish products for employment and local tax revenues. Nor did the analysis address the possible loss of the October 1 third trimester release to all fishermen if NMFS believes that the vessel capacity will exceed the quota. A separate October 1 date for the Western Regulatory Area was beyond the scope of the EA/RIR, and we seriously question the legality of adopting a measure that was not subject to a proper analytical or public review.

Response. See response to comment 4.

Comment 6. The proposed October 1 opening date for the Western Regulatory Area is a substantial reallocation of the pollock resource, which treats local small-boat fishermen unfairly. National standard 4 requires that any allocation of fishing privileges be done in a manner that is fair and equitable to all fishermen. An October 1 opening will invite massive participation by the Bering Sea-based pollock fleet to the disadvantage of smaller vessels based in the Western Regulatory Area. In addition, eliminating the July opening would effectively eliminate this small boat fleet's fishery, which has occurred primarily in the third quarter and secondarily in the fourth quarter of each year. These vessels have traditionally and almost exclusively fished in the third quarter (July 1) opening in the Western Regulatory Area and will face increased safety risks if required to fish this quota in October. If the July allowance is combined with the fourth quarter allowance and exposed to the escalating fishing pressure of the entire Bering Sea and GOA fleet, the impact will be to reallocate the entire third quarter fishery from a resident small-boat fleet to the Dutch Harbor and Kodiak fleets. The majority of these small Western Regulatory Area-based vessels will be unable to establish Kodiak markets to participate in the September 1 Central Regulatory Area

opening and their small size makes it impossible for them to participate in the Bering Sea pollock non-roe season.

Response. See response to comment 1.

Comment 7. Delaying the third seasonal allowance in the Western Regulatory Area until October 1 when the Bering Sea pollock fishery is closed will greatly increase effort in the Western Regulatory Area. This will make the fishery more difficult to manage and is in conflict with one of the stated objectives of Amendment 45, easing the effort in the GOA pollock fisheries. No substantive justification exists for how the October 1 opening date satisfies the third and critical objective of the proposed amendment.

Response. The changes made in the final rule which establish a single opening date of September 1 for both the Central and Western Regulatory Areas and the Council's April 1996 recommendation to delay the Bering Sea pollock non-roe season until September 1, if adopted, would result in a single opening date of September 1 for both the Bering Sea and GOA.

Comment 8. An October 1 start date in the Western Regulatory Area is nothing more than punishment to Sand Point Boats for political reasons. These boats are the smallest boats in the pollock fleet. Asking operators of these boats to start their fishery on October 1 is to invite injuries or worse.

Response. See response to comment 1.

Comment 9. The decision to delay the Western Regulatory Area opening until October 1 means the difference between a multi-day fishery and a fishery that may well be measured in hours. This means that local boats will have taken away from them a reasonable opportunity to make a living so that bigger Kodiak and Dutch Harbor boats can swoop in for a one-tow event.

Response. See response to comment 1.

Comment 10. The proposed October 1 opening date for the Western Regulatory Area isolates one area and subjects it to uncontrollable fishing pressure. The Bering Sea fleet no longer has to choose among the entire W/C Regulatory Area during the last release of pollock. The Kodiak-based fleet of large trawl vessels will be able to fish in the Central Regulatory Area in September and then shift to the Western Regulatory Area in

October. The Western Regulatory Area will face not only the local small-boat trawl fleet in October but the combined Bering Sea and Kodiak-based trawl fleet as well. Whenever possible, fisheries in various areas should be scheduled to operate in the same time period to disperse effort. This makes for more manageable fisheries and a more equitable distribution of opportunity.

Response. NMFS concurs. See response to comment 7.

Comment 11. If the October 1 opening date is approved, operators of Western GOA plants estimate they will lose from 11 percent to 15 percent of the pollock that has traditionally been delivered to them. Under the status quo, most of the third quarter pollock fishery in Statistical Areas 610 and 620 was delivered to Western GOA plants. If this opening is shifted to October 1, much of this quota will be harvested instead by Bering Sea-based vessels and delivered to Bering Sea-based plants.

Response. See response to comment 1. Changes to 1996 Harvest Specifications Final 1996 harvest specifications for GOA pollock were published in the Federal Register on February 5, 1996 (61 FR 4304). The change from quarterly allowances to three seasonal allowances of pollock TAC amounts specified for the statistical areas of the W/C

Regulatory Area requires that the final 1996 specifications be amended. First, footnote 2 to Table 1 is revised to read as follows: "Pollock is apportioned to three statistical areas in the combined Western/Central Regulatory Area, each of which is further divided into three seasonal allowances (Table 3). In the Eastern Regulatory Area, pollock is not divided into seasonal allowances."

Second, page 4308 of the final 1996 specifications, section 4, "Apportionments of Pollock TAC Among Regulatory Areas, Season, and Between Inshore and Offshore Components," and Table 3 is amended as follows to reflect the new seasonal allowances of pollock:

4. Apportionments of Pollock TAC Among Regulatory Areas, Seasons, and Between Inshore and Offshore Components

In the GOA, pollock is apportioned by area, season, and inshore/offshore

components. Regulations at § 672.20(a)(2)(iv) require that the TAC for pollock in the combined W/C GOA be apportioned among statistical areas; Shumagin (610), Chirikof (620), and Kodiak (630) in proportion to known distributions of the pollock biomass. This measure was intended to provide spatial distribution of the pollock harvest as a sea lion protection measure. Each statistical area apportionment would be further divided into three seasonal allowances (Table 3). Within any fishing year, any unharvested amount of any seasonal allowance of pollock TAC would be added in equal proportions to the subsequent seasonal allowances, resulting in a sum for each seasonal allowance that does not exceed 150 percent of the original seasonal allowance. Similarly, harvests in excess of a seasonal allowance of TAC would be deducted in equal proportions from the remaining seasonal allowances of that fishing year. Directed fishing for pollock in the W/C Regulatory Area (Statistical Areas 610, 620, and 630) may be authorized in seasonal allowances beginning on January 1, June 1, and September 1. The Eastern Regulatory Area pollock TAC of 2,810 metric tons (mt) is not allocated among smaller areas or seasonal allowances.

Regulations at § 672.20(a)(2)(v)(A) require that the domestic annual processing (DAP) apportionment for pollock in all regulatory areas and all seasonal allowances thereof be divided into inshore and offshore components. One hundred percent of the pollock DAP in each regulatory area is apportioned to the inshore component after subtraction of amounts that are determined by the Director, Alaska Region, NMFS (Regional Director) to be necessary to support the bycatch needs of the offshore component in directed fisheries for other groundfish species. The amount of pollock available for harvest by vessels in the offshore component is that amount actually taken as bycatch during directed fishing for groundfish species other than pollock, up to the maximum retainable bycatch amounts allowed under regulations at § 672.20(g).

TABLE 3.—DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA (W/C GOA). ABC FOR THE W/C GOA IS 52,000 MT. BIOMASS DISTRIBUTION IS BASED ON 1993 SURVEY DATA. TACS ARE EQUAL TO ABC. INSHORE AND OFFSHORE ALLOCATIONS OF POLLOCK ARE NOT SHOWN. ABCS AND TACS ARE ROUNDED TO THE NEAREST 10 MT.

Statistical Area	Biomass percent	1996 TAC	Seasonal allowances ¹		
			First	Second	Third
Shumagin (610)	49.0	25,480	6,370	6,370	12,740
Chirikof (620)	24.7	12,840	3,210	3,210	6,420
Kodiak (630)	26.3	13,680	3,420	3,420	6,840
Total	100.0	52,000	13,000	13,000	26,000

¹ As established under paragraphs (e) and (f) of § 672.23, the first, second, and third seasonal allowances of W/C Regulatory Area pollock TAC amounts are available January 1 and June 1, and September 1, respectively.

Classification

The Regional Director has determined that Amendment 45 is necessary for the conservation and management of the groundfish fishery of the GOA and that it is consistent with the Magnuson Act and other applicable laws.

This rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that this rule would not have a significant economic impact on a substantial number of small entities. The reasons were published in the notice of proposed rulemaking. As a result, a regulatory flexibility analysis was not prepared.

Because NMFS would like to incorporate the text of this rule into a comprehensive consolidation of the Federal regulations implementing the Alaska fishery management plans expected to be published as a final rule in the near future, NMFS is making this rule immediately effective. This rule will not have any substantive impact until July 1, 1996. Consequently, under 5 U.S.C. 553(d)(3), it is unnecessary to delay the effectiveness of it for 30 days.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: May 23, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 672 is amended as follows:

PART 672—GROUND FISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801, *et seq.*

General Amendments

2. In § 672.20, paragraph (a)(2)(iv); the first sentence of paragraph (a)(2)(v)(A); and paragraph (c)(2) (i) and (ii) are revised to read as follows:

§ 672.20 General limitations.

(a) * * *

(2) * * *

(iv) The TAC for pollock in the combined Western and Central Regulatory Areas will be apportioned among Statistical Areas 610, 620, and 630 in proportion to the distribution of the pollock biomass as determined by the most recent NMFS surveys. Each apportionment will be divided into three seasonal allowances of 25 percent, 25 percent, and 50 percent of the apportionment, respectively, corresponding to the three fishing seasons defined at paragraph (e) of § 672.23. Within any fishing year, any unharvested amount of any seasonal allowance will be added proportionately to all subsequent seasonal allowances, resulting in a sum for each allowance not to exceed 150 percent of the initial seasonal allowance. Within any fishing year, harvests in excess of a seasonal allowance will be deducted proportionately from all subsequent seasonal allowances.

(v) * * * (A) The DAP apportionment of pollock in all regulatory areas will be allocated entirely to vessels catching pollock for processing by the inshore component after subtraction of an amount that is projected by the Regional Director to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. * * *

(c) * * *

(2) * * *

(i) *Applicable after December 31, 1998.* If the Regional Director determines that the amount of a target species or "other species" category apportioned to a fishery is

likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. The amount of a species or species group apportioned to a fishery is the amount identified in the notice of specifications as provided in paragraph (c)(1) of this section as these amounts are revised by inseason adjustments, for that species or species group, as identified by regulatory area, district or statistical area and as further identified according to any allocation of total allowable level of fishing level (TALFF), the apportionment for joint venture processing (JVP), the apportionment for DAP, the seasonal allowance of pollock and, if applicable, as further identified by gear type. In establishing a directed fishing allowance, the Regional Director shall consider the amount of that species or species group or seasonal allowance of pollock that will be taken as incidental catch in directed fishing for other species in the same regulatory area or district. If the Regional Director establishes a directed fishing allowance and that allowance is, or will be, reached before the end of the fishing year or, with respect to pollock, before the end of the season, NMFS will prohibit directed fishing for that species or species group in the specified regulatory area, district or statistical area. If directed fishing for a species or species group is prohibited, any amount of that species or species group greater than the maximum retainable bycatch amount, as calculated under paragraph (g) of this section, may not be retained and must be treated as a prohibited species under paragraph (e) of this section.

(ii) *Applicable through December 31, 1998.* If the Regional Director determines that the amount of a target species or "other species" category apportioned to a fishery is likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. The

amount of a species or species group apportioned to a fishery is the amount identified in the specifications as provided in paragraph (c)(1) of this section. These amounts are revised by inseason adjustments, for a given species or species group, as identified by regulatory area, district or statistical area, and as further identified according to any allocation of TALFF, the apportionment for JVP, the apportionment for DAP, the seasonal allowance of pollock or, with respect to Pacific cod, to an allocation to the inshore or offshore component and, if applicable, as further identified by gear type. In establishing a directed fishing allowance, the Regional Director should consider the amount of that species group, seasonal allowance of pollock, or allocation of Pacific cod to the inshore or offshore component that will be taken as incidental catch in directed fishing for other species in the same regulatory area, district or statistical area. If the Regional Director establishes a directed fishing allowance and that allowance is or will be reached before the end of the fishing year or, with respect to pollock, before the end of the season, NMFS will prohibit directed fishing for the species or species group in the specified regulatory area, district or statistical area. If directed fishing for a species or species group is prohibited, any amount of that species or species group greater than the maximum retainable bycatch amount, as calculated under paragraph (g) of this section, may not be retained and must be treated as a prohibited species under paragraph (e) of this section.

3. In § 672.23, paragraph (e) is revised to read as follows:

§ 672.23 Seasons.

(e) Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas of the Gulf of Alaska is authorized only during the three seasons:

- (1) From 0001, A.l.t., January 1 through 12 noon, A.l.t., April 1;
- (2) From 1200, A.l.t., June 1 through 1200, A.l.t., July 1; and

(3) From 1200, A.l.t., September 1 through 2359 A.l.t., December 31.

Nomenclature Amendments

§ 672.20 [Amended]

4. In addition to the amendments set out above, in § 672.20, in paragraph (c)(1), remove all occurrences of the word "quarterly" and add in their place the word "seasonal".

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50 CFR Parts 672 and 675

[Docket No. 900833-1095; I.D. 052396A]

Groundfish of the Gulf of Alaska and the Bering Sea and Aleutian Islands Area; Bycatch Rate Standards for the Second Half of 1996

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Pacific halibut and red king crab bycatch rate standards; request for comments.

SUMMARY: NMFS announces Pacific halibut and red king crab bycatch rate standards for the second half of 1996. This action is necessary to implement the bycatch rate standards for vessel operators who participate in the Alaska groundfish trawl fisheries under the vessel incentive program. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

DATES: Effective 12:01 a.m., Alaska local time (A.l.t.), July 1, 1996, through 12 midnight, A.l.t., December 31, 1996. Comments on this action must be received at the following address no later than 4:30 p.m., A.l.t., June 30, 1996.

ADDRESSES: Comments should be mailed to Ronald J. Berg, Chief, Fisheries Management Division, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel; or be delivered to 709 West 9th Street, Federal Building, Room 401, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Susan J. Salvesson, 907-586-7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) are managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act. The FMPs are implemented by regulations for the U.S. fisheries at 50 CFR parts 672, 675, and 676. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620. Regulations that establish observer coverage requirements are set out at 50 CFR part 677. Bycatch rate standards and the vessel incentive program are described at § 675.26. Halibut and red king crab bycatch rate standards for the first half of 1996 were published in the Federal Register on November 29, 1995 (60 FR 61213). As required by §§ 672.26(c) and 675.26(c), the Director of the Alaska Region, NMFS (Regional Director), has established the bycatch rate standards for the second half of 1996 (July 1 through December 31). These standards were approved by the Council at its April 1996 meeting and are set out in Table 1. The bycatch rate standards are based on the following information:

- 1. Previous years' average observed bycatch rates.
- 2. Immediately preceding season's average observed bycatch rates.
- 3. The bycatch allowances and associated fishery closures specified under §§ 672.20(f) and 675.21.
- 4. Anticipated groundfish harvests.
- 5. Anticipated seasonal distribution of fishing effort for groundfish.
- 6. Other information and criteria deemed relevant by the Regional Director.

TABLE 1.—BYCATCH RATE STANDARDS BY FISHERY FOR THE SECOND HALF OF 1996 FOR PURPOSES OF THE VESSEL INCENTIVE PROGRAM IN THE BSAI AND GOA

Fishery	Bycatch rate standard
Halibut bycatch rate standards (kilogram of halibut/metric ton of groundfish catch)	
BSAI Midwater pollock	1.0
BSAI Bottom pollock	5.0