

# Public Testimony Sign-Up Sheet

## Agenda Item C-3 Seabird Interactions

	NAME (PLEASE PRINT)	AFFILIATION
1	Linda Rinken	ALFA
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: Council, SSC and AP Members

FROM:   
Chris Oliver  
Executive Director

ESTIMATED TIME 2 HOURS
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DATE: January 26, 2007

SUBJECT: Seabird Interactions

**ACTION REQUIRED**

Receive Revised Draft EA/RIR/IRFA on Proposed Changes to Seabird Avoidance Regulations and Take Final Action to Approve Preferred Option

**BACKGROUND**

At its June 2006 meeting, the Council received a report from seabird research scientists with the Washington and Alaska Sea Grant programs on studies of the occurrence of albatrosses and other seabird species in inside waters of Alaska, and on the performance of various kinds of seabird avoidance gear on 26–55 ft vessels. NMFS suggested that, based on the results of this research, the Council may wish to consider refinements to the existing seabird avoidance measures and seek additional public comment and suggestions for improving seabird avoidance. The Council approved proceeding with an analysis and preparation of an Environmental Assessment of new regulations that would change seabird avoidance measures in inside waters and performance standards for seabird deterrence on small vessels fishing outside waters.

At the December 2006 meeting, the Council received a draft EA/RIR/IRFA containing analyses of several alternatives to the proposed action. Based on SSC, AP, and public comment, the Council requested that the document be revised to contain additional information and analyses of several sub options, and then send the document out for public review. The EA/RIR/IRFA was revised and sent out for public review on January 22, 2007.

As part of the revision process, NMFS obtained some updated information on the distribution of short-tailed albatross in the North Pacific. More specifically, satellite tracking data show short-tailed albatross occur in Cross Sound and portions of IPHC Area 4E. The alternatives and the analysis for the EA/RIR/IRFA were modified accordingly to accommodate this new information. The Executive Summary of the document is attached as Item C-3(i).

The Council is scheduled to take final action at this meeting. NMFS and Council staff will be available to answer questions.

## EXECUTIVE SUMMARY

This environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) assesses the potential environmental and socioeconomic impacts of a proposed federal action that would change seabird avoidance requirements for the hook-and-line groundfish fisheries in the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA) and the Pacific halibut fishery in U.S. Convention waters off Alaska.

In June 2006, the North Pacific Fishery Management Council (Council) received a report on recent research on seabird distribution in the inside waters of southeast Alaska and Prince William Sound (PWS). The research, conducted by the Washington Sea Grant Program (WSGP), indicates that pelagic seabirds such as the endangered short-tailed albatross are extremely rare in southeast inside waters and suggests that seabird avoidance gear requirements may be eliminated for fisheries in certain inside waters. The Council also heard a report on additional Alaska Sea Grant Program (ASGP) research on small vessel seabird avoidance devices indicating that more specific construction and deployment requirements would improve the efficacy of seabird avoidance gear for fisheries in areas where pelagic seabirds are commonly observed. The Council subsequently initiated the present analysis to assess the potential impacts of regulatory changes commensurate with the results of the WSGP and ASGP research.

The proposed changes would eliminate seabird avoidance requirements in designated inside waters of southeast Alaska, Prince William Sound, and State waters of the Cook Inlet and would require certain refinements of seabird avoidance techniques for small vessel fisheries in other areas. The intent of these changes is to relieve an unnecessary regulatory burden on fisheries in areas where seabird avoidance measures are not needed and to improve their effectiveness in areas where they are.

The Council conducted an initial review of this proposed action in December 2006 and suggested some additional options for analysis. Staff have acquired additional data on short-tailed albatross distribution in the North Pacific, and have suggested additional sub options, all of which are contained in this document. The EA/RIR/IRFA has been sent out for public review, and the Council is set to take action based on analysis of the alternatives analyzed herein. The alternatives are as follows:

Alternative 1. Status quo: no change to existing regulations. Current regulations require the use of seabird avoidance measures according to vessel size and configuration, gear type, and operational area as indicated in 50 CFR 679.24 (including Table 20 to 50 CFR part 679 presented in section 2.1).

Alternative 2. Revise seabird avoidance measure requirements as follows:

- A. Eliminate seabird avoidance gear requirements for all hook-and-line vessels fishing in PWS (NMFS Area 649), state waters of Cook Inlet, and Southeast Alaska (NMFS Area 659). See Figure 1-1.
- B. Require standards of all hook-and-line vessels fishing in the exclusive economic zone (EEZ) as follows:
  1. Vessels >26 and ≤55 ft length overall (LOA) with mast, poles, or rigging and using snap-on hook-and-line gear are required to deploy one streamer line while setting gear. Specifically, the streamer line must be a minimum of 45 m long and must be maintained with a minimum aerial extent of 20 m.
  2. Vessels >26 and ≤55 ft LOA with mast, poles or rigging and not using

snap-on hook-and-line gear are required to deploy one streamer line while setting hook-and-line gear. Specifically, the streamer line must be a minimum of 90 m long and must be maintained with a minimum aerial extent of 40 m.

3. Vessels >26 and ≤55 ft LOA without mast, poles or rigging, and not capable of adding poles or davits to accommodate a streamer line (including bowpickers), must tow a buoy bag in such a way as to deter birds from the sinking hookline, without fouling on the gear, as they deploy hook-and-line gear.
4. All vessels using hook-and-line gear in the EEZ are no longer required to use a second seabird avoidance measure (adding weight, deploying a second streamer line or buoy bag or strategic offal discharge).

Option 1: Eliminate Seabird Avoidance Plan (SAP) requirement.

Option 2: Weather Safety Standard: Use of seabird avoidance devices would be discretionary for vessels >26 and ≤55 ft LOA when winds exceed 30 knots.

Option 3: Require that a buoy bag be used on vessels >26 and ≤32 ft LOA fishing in the EEZ waters of Area 4E.

Sub option: All vessels >26 and ≤32 ft LOA fishing in the EEZ waters of Area 4E are exempt from seabird avoidance regulations.

Alternative 3. Revise seabird avoidance measure requirements as follows:

- A. As in Alternative 2, eliminate seabird avoidance gear requirements, except in the following areas of Southeast Alaska, where hook and line vessels fishing in these areas would be subject to the same seabird avoidance gear requirements and standards as when fishing in the EEZ (see charts in Figure 2):
  1. Area around Chatham Strait defined as ADF&G groundfish statistical areas 345603 and 345534, or  
Sub option: Area around Chatham Strait south of a straight line at 56°17'25" N latitude between Point Harris and Port Armstrong, or other suitable line.
  2. Area around Dixon Entrance defined as ADF&G groundfish statistical areas 325431 and 325401.
  3. Area around Cross Sound, defined as ADF&G groundfish statistical area 365804, or  
Sub option: Area around Cross Sound from a longitude line west of Inian Islands at 136°21'17" E longitude, or other suitable line.
- B. Require standards of all hook-and-line vessels fishing in the EEZ as in Alternative 2.

Option 1: Eliminate Seabird Avoidance Plan (SAP) requirement.

Option 2: Weather Safety Standard: Use of seabird avoidance devices would be discretionary for vessels >26 and ≤55 ft LOA when winds exceed 30 knots.

Option 3: Require that a buoy bag be used on vessels  $>26$  and  $\leq 32$  ft LOA fishing in the EEZ waters of Area 4E.

Sub option: All vessels  $>26$  and  $\leq 32$  ft LOA fishing with hook-and-line gear in the EEZ waters of IPHC Area 4E would be exempt from seabird avoidance regulations.

See Table 1-1 for a comparison of these three alternatives.

Table 1-1. Seabird Avoidance Measures Alternatives for Hook and Line Gear

Location	Inside Waters <sup>1</sup>				EEZ <sup>2</sup>		
	>26' to ≤ 32'	>26' to ≤ 55'	>32' to ≤ 55'	>55'	>26' to ≤ 55'	>26' to ≤ 55'	>55'
Vessel Size & Config	w/ masts, poles, or rigging	wo/ masts, poles, or rigging	w/ masts, poles, or rigging		wo/ masts, poles, or rigging	w/ masts, poles, or rigging	
Alt 1 (Status Quo)	1 buoy bag line	1 buoy bag line	1 streamer line	1 streamer line with standard	1 buoy bag line plus 1 other device	1 streamer line plus 1 other device	1 streamer line with standard plus 1 other device (snap gear)
							Paired streamer lines with standard (other than snap-on gear)
Alt 2	Eliminate current seabird avoidance gear requirements as described in Alternative 1				N/C	1 streamer line with standard (snap-on gear) <sup>6</sup>	N/C
						1 streamer line with standard (other than snap-on gear) <sup>6</sup>	
					Eliminate "other device" requirement <sup>4</sup>		
options	Eliminate Seabird Avoidance Plan Requirement <sup>7</sup> ; Weather Safety Standard <sup>8</sup> ; 4E small vessel buoy bag only <sup>9</sup>						
Alt 3	Eliminate current seabird avoidance gear requirements as described in Alternative 1 with noted area exceptions <sup>3</sup> and options <sup>10</sup>				N/C	1 streamer line with standard (snap-on gear) <sup>6</sup>	N/C
						1 streamer line with standard (other than snap-on gear) <sup>6</sup>	
					Eliminate "other device" requirement <sup>4</sup>		
options	Eliminate Seabird Avoidance Plan Requirement <sup>7</sup> ; Weather Safety Standard <sup>8</sup> ; 4E small vessel buoy bag only <sup>9</sup>						

<sup>1</sup> NMFS Area 649, Area 659, & State waters of Cook Inlet. See Figure 1 and note 2 for additional info.

<sup>2</sup> EEZ and 0-3 nm for IFQ Halibut & Sablefish and CDQ Halibut, except vessels <32 in IPHC area 4E shoreward of EEZ

<sup>3</sup> Vessels fishing in ADF&G areas 345603/345534 (Chatham strait), 325431/325401 (Dixon entrance), and 365804 (Cross Sound) would use gear.

<sup>4</sup> Current "other devices" include weights added to groundline, another buoy bag line or streamer line, or strategic offal discharge.

<sup>5</sup> Streamer line standard that is 45m in length and in the air for 20 m aft of stern.

<sup>6</sup> Streamer line standard that is 90 m in length and in the air for 40 m aft of stern.

<sup>7</sup> Seabird avoidance plan would no longer be required, but would remain as a voluntary measure to reduce bycatch.

<sup>8</sup> Use of seabird avoidance devices would be discretionary for vessels 26-55 ft LOA when winds exceed 30 knots.

<sup>9</sup> Require that a buoy bag line be used on vessels 26-32 ft fishing in the EEZ waters of Area 4E.

<sup>10</sup> Delineate transition areas based on groundfish statistical areas or lines based on current seabird observations and oceanographic boundaries.

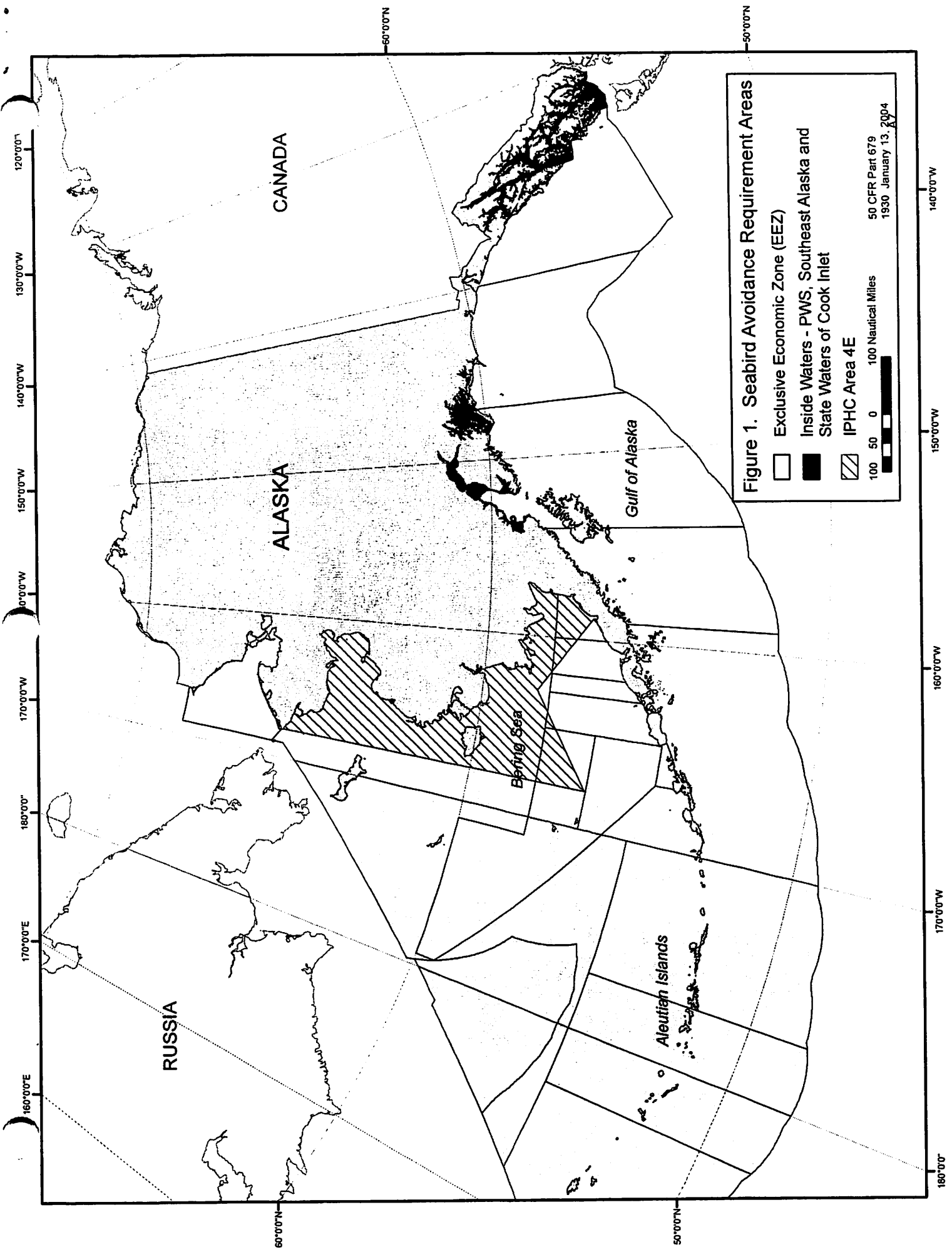
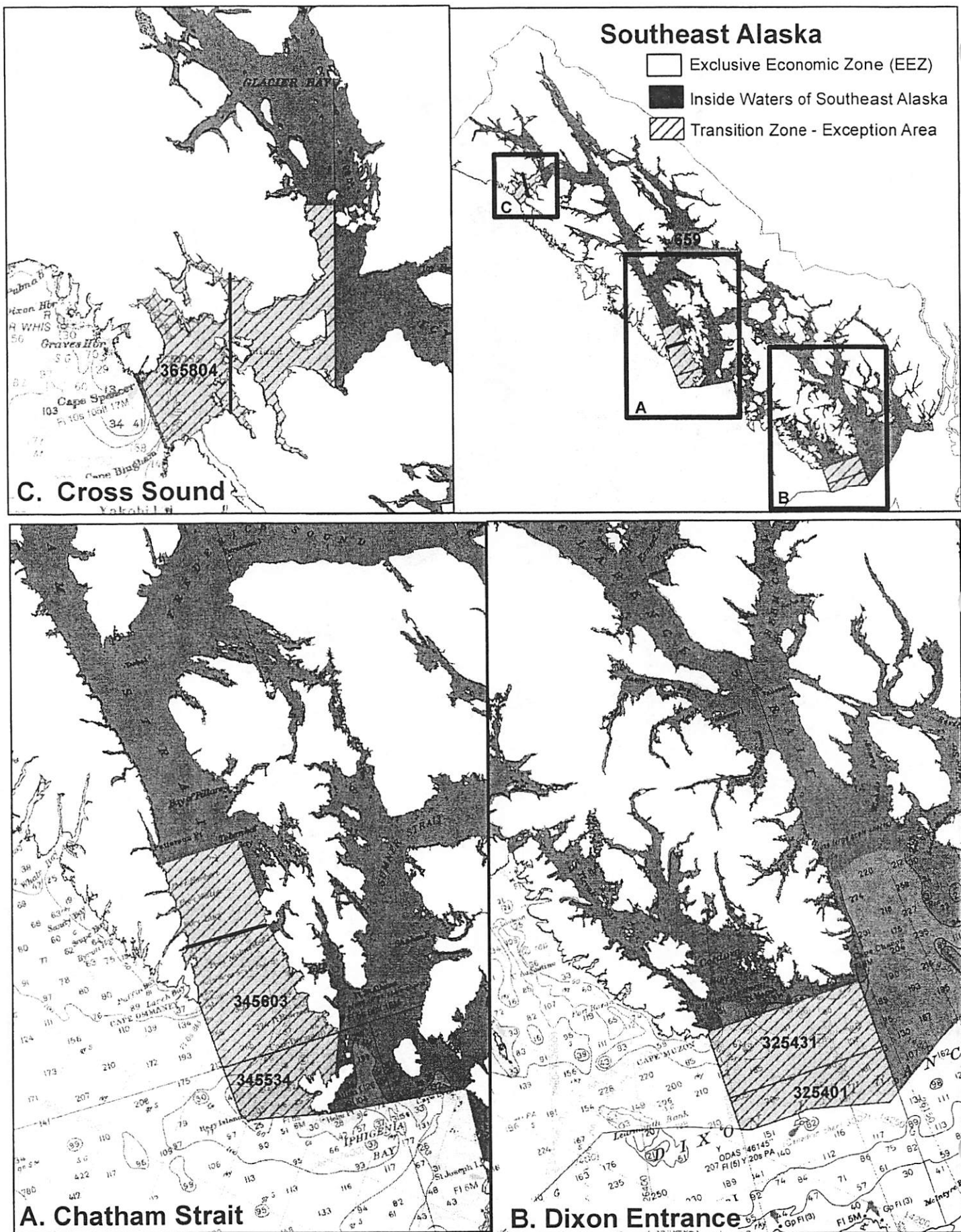


Figure 2. Alternative 3 Exception Areas







## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
1011 E. Tudor Rd.  
Anchorage, Alaska 99503-6199

IN REPLY REFER TO:

FWS/AFES/AFWFO

JAN 26 2007

RECEIVED  
FEB - 1 2007  
N.P.F.M.C.

Ms. Stephanie Madsen, Chair  
North Pacific Fishery Management Council  
605 West 4th, Suite 306  
Anchorage, Alaska 99501-2252

Dear Ms. Madsen:

The North Pacific Fishery Management Council has worked effectively with the U.S. Fish and Wildlife Service (Service) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries in implementing measures to protect the endangered short-tailed albatross (*Phoebastria albatrus*), and other seabirds from incidental take in Alaska's longline fishery. When it first became apparent that regulations were needed to help protect the short-tailed albatross, the Council, in 1997, adopted its version of the Commission for the Conservation of Antarctic Marine Living Resources regulations. Modifications to these regulations only occurred after the University of Washington's Sea Grant Program (WSG) completed precedent-setting seabird bycatch research in Alaska and made science-based recommendations for regulation changes in 2003, which the Council then adopted in 2004. To further address the needs of smaller vessels fishing in protected waters, the WSG and the Alaska Marine Advisory Program launched new studies to: 1) develop more applicable seabird deterrent devices for small vessels; and 2) determine whether seabirds were at risk of bycatch in inside waters. The Service supported all of these efforts, and even funded a large portion of the research.

The Council has a strong history of making decisions based upon scientific data. When sufficient data have not been available, the Council supported gathering the necessary information and deferred decision-making until that information was available. However, the Council is currently considering options for International Pacific Halibut Commission area 4E that go beyond the data presented in Edward Melvin et al. (2006), as well as more recent short-tailed albatross satellite telemetry data included in the January 2007 Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Draft EA). We believe that this new information should be considered before final action on revised seabird regulations is taken. We are concerned that the Council could remove protection measures for the short-tailed albatross in the absence of data supporting that decision. We have evaluated the options as contained in the Draft EA, and our recommendations follow.

## **4E Exemptions**

The Service and its research partners have tagged between 1 and 2 percent of the total short-tailed albatross population with satellite transmitters. We have meaningful tracking information for less than 1 percent of the total population in Alaskan waters (greater than 2 weeks of transmissions within the Alaska Exclusive Economic Zone). At least two of our tagged birds spent time in the southwest portion of area 4E. Simple extrapolation of this sparse data suggest that perhaps hundreds of short-tailed albatrosses have used area 4E during the course of our study. Consequently, our data do not support modifying alternatives 2 and 3 of the EA to allow 26-32 foot vessels to set longline gear in 4E while towing only a buoy bag. Similarly, the data do not support the suboptions exempting vessels of this size class from using all seabird avoidance measures. We note that the short-tailed albatross adult caught on September 21, 1998, was caught by a vessel that was towing a buoy bag. The vessel that was towing this buoy bag was doing so in an ineffective, albeit legal manner. However, regulations still do not stipulate performance measures for buoy bag deployment. Adoption of Alternative 2/Option 3 or Alternative 3/Option 3 will trigger reinitiation of formal Section 7 consultation between the Service and NOAA Fisheries.

Consideration could be given to subdividing area 4E, allowing for sub-areas to be exempted from seabird regulations. However, we believe that subdivision of this area should be undertaken with caution and backed by scientific justification. Spatial analysis methods, such as kreiging of short-tailed albatross satellite telemetry data, could provide the scientific basis to justify removal of seabird deterrent regulations in certain sub-areas.

## **Inside Waters**

The Service supports the proposed revisions for waters around Chatham Strait, Dixon Entrance, and Cross Sound as described in alternatives 3.A.1., 3.A.2., and 3.A.3. Alternative 3.A.3. Sub-option 1 further subdivides Alaska Department of Fish and Game (ADF&G) statistical area 365804 based upon a fairly obvious breaking point; a point at which four islands and two peninsulas shelter waters of Glacier Bay and Icy Strait from the sea conditions of the Gulf of Alaska. We support this proposed Cross Sound line, noting only that it should be slightly altered so that it connects Point Lavinia and Point Wimbleton. This modification would then include the sheltered waters of Dundas Bay as inside waters.

Alternative 3.A.1. Sub-option 1 draws a line across Chatham Strait just north of documented sightings of black-footed albatrosses (*Phoebastria nigripes*); the nearest short-tailed albatross telemetry records are adjacent to the southern edge of this ADF&G statistical area (345603). Although this area could be subdivided to allow portions of area 345603 to be considered inside waters, the seabird survey samples in this area are limited and the northernmost observations of albatross in 345603 are likely to change from year to year. Unlike Cross Sound, there is no obvious geographic barrier to discourage albatross from wandering further into Chatham Strait. Therefore, lacking a geographic basis for drawing a border between inside and outside waters, we recommend that the line subdividing ADF&G statistical area 345603 be placed at a point where bathymetric or oceanographic features (or some other feature) indicate a change from outside to inside water conditions. If no such features exist, we hope that the Council remains

open to revising the border in the future should short-tailed albatross be found further north into inside waters of Chatham Strait. Having noted these points, the Service is supportive of Alternative 3 without options.

Should you have any questions regarding our albatross satellite tracking data or other aspects of this letter, please contact Leonard Corin, the Service's representative on the Council, at (907) 786-3619, or Greg Balogh, Endangered Species Branch Chief, Anchorage Fish and Wildlife Field Office, at (907) 271-2778.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard P. Corin". The signature is fluid and cursive, with the first name being the most prominent.

U.S. Fish and Wildlife Service  
Representative to the NPFMC

Enclosure

### Literature Cited

- Melvin, E.F., M.D. Wainstein, K.S. Dietrich, K.L. Ames, T.O. Geernaert, and L.L. Conquest. 2006. The distribution of seabirds on the Alaskan longline fishing grounds: implications for seabird avoidance regulations. Washington Sea Grant Program. Project A/FP-7, 20 pp.
- National Marine Fisheries Service. 2007. Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for a regulatory amendment to revise regulations for seabird avoidance measures in the hook-and-line fisheries off Alaska to reduce the incidental take of short-tailed albatross and other seabird species. Draft for public review. Alaska Regional Office, 102 pp.

## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

Juneau, AK 99801

Phone 907-586-6652

Fax 907-523-1168

Website: <http://www.seafa.org>



E-mail: [seafa@gci.net](mailto:seafa@gci.net)

January 30, 2007

North Pacific Fishery Management Council

Stephanie Madsen, Chair

605 W 4<sup>th</sup> Ave., Suite 306

Anchorage, AK 99501-2252



Fax: 907-271-2817

RE: Agenda Item C-3 Seabird Interactions

Southeast Alaska Fishermen's Alliance would like to make the following comments about the revised regulations for Seabird Avoidance Measures from information provided in the January 2007 EA/RIR/IRFA.

- Support Alternative 3 as the preferred final action.
- Support the following areas in Section A.
  - The sub-option for the line south of a straight line at 56.17.25 between Point Harris and Port Armstrong
  - The sub-option - ADFG groundfish statistical areas 325431 and 325401 around Dixon Entrance
  - The sub-option for the line west of Inian Islands at 136.21.17 East longitude
- In section B.
  - We fully support the elimination of the Seabird Avoidance Plan requirement.
  - We support the weather safety standard being discretionary when winds exceed 30 knots on vessels 26 to 55 ft LOA

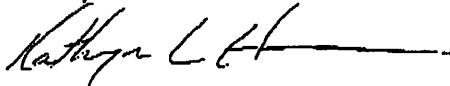
We would recommend in the preamble of the final rule that the "Statement of Council Intent on Seabird Avoidance Regulations and Performance Standards" that the NPFMC has stated be listed. *"The intent of the performance standards is to ensure correct use of the seabird avoidance devices. The Council recognizes that it is likely that variation from the objective performance standards will occur in the*

*normal course of fishing operations. The Council also recognizes that many of the objective performance standards may be measured subjectively by enforcement personnel and observers.*

*The Council recommends that enforcement personnel and observers work cooperatively with vessel operators to ensure compliance with the performance standards by using education and warnings (to the extent practicable) prior to issuing a citation or an affidavit attesting to non-compliance of performance standards.*

*The Council recommends that enforcement and observers take the following into consideration in evaluation of compliance with performance standards:"*

Sincerely,



Kathy Hansen  
Executive Director

# Cordova District Fishermen United

Celebrating 70 Years of Service to Commercial Fishermen in Cordova, Alaska  
P.O. Box 939 Cordova, Alaska 99574 Telephone 907.424.3447 Fax 907.424.3430

January 30, 2007

Stephanie Madsen, Chair  
North Pacific Fishery Management Council  
605 W 4<sup>th</sup> Avenue, Suite 306

Sent by facsimile to 271-2817

## **Agenda item C-3, Seabird Interactions**

Dear Madame Chair and members of the Council,

On behalf of the Groundfish Division of CDFU, I am submitting these comments on the regulatory amendment to revise regulations for seabird avoidance measures. A large part of our membership is made up of small vessels in the D and C vessel classes who fish within Prince William Sound and adjacent coastal waters for halibut, and who would be affected by this regulatory amendment.

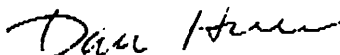
We support either Alternative 2, A and B, or Alternative 3, A and B, both of which eliminate seabird avoidance measures in Prince William Sound, and require standards of all hook-and-line vessels fishing in EEZ. We defer to the Council and longline groups in Southeast Alaska regarding the need for additional measures in that area listed in Alternative 3.

We also support Option 1 to eliminate the seabird avoidance plan requirement, and Option 2 the revised weather safety standard for smaller vessels, both of which are listed under Alternative 2 and Alternative 3.

Members of the CDFU Groundfish Division participated in the original research to develop seabird avoidance measures for small vessels, conducted by Washington Sea Grant, and Alaska Sea Grant's Marine Advisory Program. We believe the revised seabird measures that are proposed are sound, that they have had a thorough public review, and that research on seabird distributions in these areas justifies the regulatory amendment.

Thank you for considering our comments.

Sincerely,



Dan Hull, Chairman  
CDFU Groundfish Division



# UNITED FISHERMEN OF ALASKA

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[www.ufa-fish.org](http://www.ufa-fish.org)

January 30, 2007

Mr. Chris Oliver  
Executive Director  
North Pacific Fishery Management Council  
605 West 4th Ave, Ste 306  
Anchorage, AK 99501

RE: Agenda Item C-3 Seabird Interactions

Dear Mr. Oliver,

United Fishermen of Alaska (UFA) would like to make the following comments about the revised regulations for Seabird Avoidance Measures from information provided in the January 2007 EA/RIR/IRFA.

1. UFA supports Alternative 3 as the preferred final action.
2. UFA supports the following areas in Section A.
  - a. The sub-option for the line south of a straight line at 56.17.25 between Point Harris and Port Armstrong
  - b. The sub-option – ADFG groundfish statistical areas 325431 and 325401 around Dixon Entrance
  - c. The sub-option for the line west of Inian Islands at 136.21.17 East longitude

3. In section B: We recommend that along with the standards for all hook and line vessels, the preamble of the final rule should include the following “Statement of Council Intent on Seabird Avoidance Regulations and Performance Standards” as follows:

“The intent of the performance standards is to ensure correct use of the seabird avoidance devices. The Council recognizes that it is likely that variation from the objective performance standards will occur in the normal course of fishing operations. The Council also recognizes that many of the objective performance standards may be measured subjectively by enforcement personnel and observers.

“The Council recommends that enforcement personnel and observers work cooperatively with vessel operators to ensure compliance with the performance standards by using education and warnings (to the extent practicable) prior to issuing a citation or an affidavit attesting to non-compliance of performance standards.

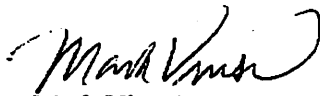


“The Council recommends that enforcement and observers take the following into consideration in evaluation of compliance with performance standards:”

- 4. UFA supports the elimination of the Seabird Avoidance Plan requirement.
- 5. UFA supports the weather safety standard being discretionary when winds exceed 30 knots on vessels 26 to 55 ft LOA

UFA represents thirty-four Alaska commercial fishing organizations from fisheries throughout Alaska and its offshore waters. Individual fishermen and groups have expressed concern of being able to reach the performance standards especially in regards to the height portion of the standard. We appreciate your consideration of our input on this matter.

Sincerely,





Mark Vinsel  
Executive Director

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Druggers Association • Alaska Independent Tendermen's Association • Alaska Longline Fishermen's Association  
 Armstrong Keta • At-sea Processors Association • Bristol Bay Reserve • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association  
 Cordova District Fishermen United • Crab Group of Independent Harvesters • Douglas Island Pink and Chum • Fishing Vessel Owners Association  
 Groundfish Forum • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • North Pacific Fisheries Association  
 Northern Southeast Regional Aquaculture Association • Old Harbor Fishermen's Association • Petersburg Vessel Owners Association  
 Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owner Association • Seafood Producers Cooperative • Sitka Herring Association  
 Southeast Alaska Fisherman's Alliance • Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association  
 Southern Southeast Regional Aquaculture Association • United Catcher Boats • United Cook Inlet Drift Association • United Salmon Association  
 United Southeast Alaska Gillnetters • Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen

## Revising Regulations for Seabird Avoidance Measures In the Hook-and-line Fisheries off Alaska

*Environmental Assessment  
Regulatory Impact Review  
Initial Regulatory  
Flexibility Analysis*

Seabird EA RIR/IRFA February 2007

## Presentation Outline

- Quick Review of Action
  - Purpose and Need of Action
  - Action Alternatives
  - December Council Motion
- New Information
  - Weather Safety Standard
  - IE small vessels
  - STAL sightings
- Updated Environmental Analysis
- Updated RIR/IRFA
- Options for Final Action




Photo by Chris Robbins

Seabird EA RIR/IRFA February 2007

## Purpose and Need

- New Research recommendations
  - Strengthen regulations where "birds of conservation concern" are observed
  - Relax regulations where fewer "birds of conservation concern" are observed
- Two-part purpose of this action
  - reduce seabird mortality incidental to fishing
  - remove unnecessary burdens on industry

Seabird EA RIR/IRFA February 2007 Environmental Assessment - Purpose and Need

## Affected fisheries and vessels

- IFQ and CDQ Pacific halibut from 0 to 200 nm
- IFQ sablefish
  - EEZ waters (3 to 200 nm)
  - 0 to 3 nm except waters of Prince William Sound and areas in which sablefish fishing is managed under a State of Alaska limited entry program (Clarence Strait, Chatham Strait)
- Groundfish with hook-and-line gear in the EEZ

Seabird EA RIR/IRFA February 2007 Environmental Assessment - Purpose and Need

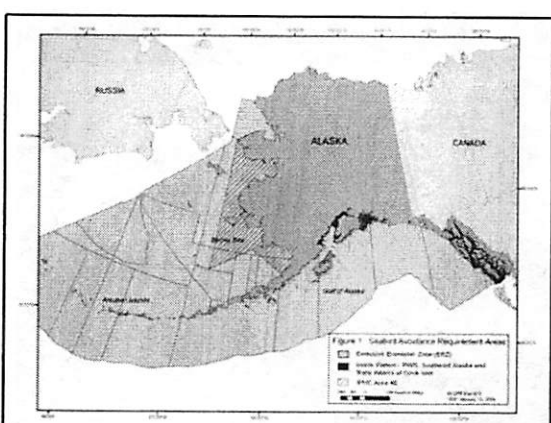
## Affected fisheries and vessels

ADF&G Emergency Order 5 AAC 28.055

*"requires seabird avoidance measures in all longline fisheries for groundfish in state waters. This affects previously exempt vessels in Prince William Sound and Cook Inlet state waters fisheries for sablefish, parallel Pacific cod, and miscellaneous groundfish. Vessels fishing for IFQ halibut in state waters were previously covered under the federal regulations."*

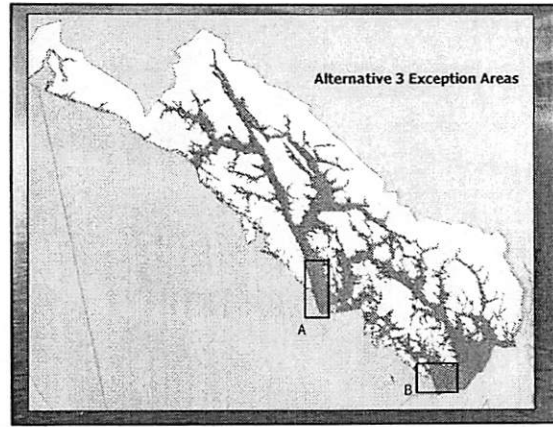
From ADF&G  
**DIVISION OF COMMERCIAL FISHERIES**  
NEWS RELEASE  
December 13, 2004

Seabird EA RIR/IRFA February 2007 Environmental Assessment - Purpose and Need



Location	Inside Waters <sup>1</sup>				EEZ <sup>2</sup>		
	126° to 132°	126° to 132°	127° to 132°	132°	126° to 132°	126° to 132°	132°
Vessel Size & Config	10' mesh, poles, and rigging	10' mesh, poles, and rigging	10' mesh, poles, and rigging	10' mesh, poles, and rigging	10' mesh, poles, and rigging	10' mesh, poles, and rigging	10' mesh, poles, and rigging
Alt 1 (Status Quo)	1 buoy bag line	1 buoy bag line	1 wheeled line	1 wheeled line with standard	1 buoy bag line plus 1 other device	1 wheeled line plus 1 other device	1 wheeled line with standard plus 1 other device (when gear is set)

Chatham Strait and Dixon Entrance



### Environmental Effects Analysis

- Incidental Take of Seabirds
  - ESA-listed species
    - Short-tailed albatross
    - Eider sp.
  - Other species of conservation concern
    - Black-footed albatross
    - Red-legged kittiwakes
    - Kittitz's murrelet
  - Other seabirds –
    - Cormorants, Terns, Guillemots, Rhinoceros Auklet, Puffins, Gulls
- No other environmental effects are evaluated

Seabird EA/RIR/IRFA February 2007 Environmental Assessment – Effects Analysis

### Potential seabird/fisheries interactions

Not likely to be at risk – Cormorants, Terns, Guillemots, Murrelets, Rhinoceros Auklet, Kittiwakes, Puffins, Eiders

Seabird EA/RIR/IRFA February 2007

### Environmental Effects Analysis

#### Significance Criteria

seabird population level effects of incidental take in hook-and-line fisheries

Seabird EA/RIR/IRFA February 2007 Environmental Assessment – Effects Analysis

### Alternative 1 – Status Quo

AFSC average annual estimates of Alaska seabird takes in Alaska demersal groundfish hook-and-line fisheries, 2000-2004

Species category	2000	2001	2002	2003	2004	Total
Black-footed albatross	0	0	0	0	0	0
Short-tailed albatross	42	121	111	111	111	586
Eider	83	6	6	6	6	107
Other seabirds	4	6	1	1	1	13
Black-footed murrelet	350	1,975	1,688	1,688	1,688	7,389
Red-legged kittiwake	2	10	23	23	23	81
Other groundfish	9	43	0	0	0	52
Total	58	2,111	33	33	33	2,768
Other	9	16	0	0	0	25
Other seabirds	0	27	4	4	4	45
Other groundfish	17	149	55	55	55	336
Total	428	2,796	415	415	415	4,479

Seabird EA/RIR/IRFA February 2007 Environmental Assessment – Effects Analysis

**Eliminate current seabird avoidance gear requirements in inside waters of SEAK, PWS, and CI**

Very few "species of conservation concern" observed in majority of inside waters


Most seabird species present in inside waters are not likely to interact with hook-and-line gear

Most vessels fishing inside are smaller with less potential impact to seabirds

No significant effects at the population level.

Seabird EA RIR/IRFA  
February 2007  
Environmental Assessment – Effects Analysis

**Require gear standards in EEZ**



Adding standards to gear used by small vessels in the EEZ will likely make gear more effective at seabird deterrence, but will probably have no significant effects at seabird population levels.

Photo by Peter S. Weber

Seabird EA RIR/IRFA  
February 2007  
Environmental Assessment – Effects Analysis

**Summary of RIR/IRFA Findings**

- No significant costs to industry
- Reduce the regulatory burden on vessels
- Eliminating the SAP - saves vessel time and reduces enforcement burden
- 1,071 vessels could be considered small entities.
- Action would not meet or exceed the threshold for a "significant" action (E.O. 12866)

Seabird EA RIR/IRFA  
February 2007  
RIR/IRFA Summary

Location	Inside Waters <sup>1</sup>				EEZ <sup>2</sup>		
	<26' to 4'32'	>26' to 4'56'	>32' to 4'56'	>56'	<26' to 4'56'	>26' to 4'56'	>56'
General Area 6, Chatham Strait	no mesh, poles, and rigging	no mesh, poles, and rigging	no mesh, poles, and rigging	no mesh, poles, and rigging	no mesh, poles, and rigging	no mesh, poles, and rigging	no mesh, poles, and rigging
Alt 1 (Buoys Only)	1 buoy bag line	1 buoy bag line	1 alternative line with standard	1 alternative line with standard	1 buoy bag line plus 1 other device	1 alternative line plus 1 other device	1 alternative line with standard plus 1 other device (snap-on gear)
<b>NO SIGNIFICANT EFFECTS</b>							
Alt 2	Eliminate current seabird avoidance gear requirements as described in alternative 1				NC	1 alternative line with standard (snap-on gear)	1 alternative line with standard (other than snap-on gear)
<b>NO SIGNIFICANT EFFECTS</b>							
Eliminate Seabird Avoidance Plan Requirement <sup>3</sup>							
Option	Eliminate current seabird avoidance gear requirements as described in alternative 1 with noted area exceptions <sup>4</sup>				NC	1 alternative line with standard (snap-on gear)	1 alternative line with standard (other than snap-on gear)
<b>NO SIGNIFICANT EFFECTS</b>							
Eliminate Seabird Avoidance Plan Requirement <sup>3</sup>							

**December Council Motion**

Release for public review with the following additions:

- Add an option to alternatives 2 and 3 to establish a weather safety standard for small vessels (26-55 feet) of 30 knots
- Add an option to alternatives 2 and 3 that all vessels 26-32 feet are only permitted to use a buoy bag in Area 4E.
  - Sub-option: All vessels 26-32 feet are exempt from seabird avoidance regulations in Area 4E.
- Require the use of seabird avoidance gear in Chatham Strait as described by:
  - a. ADP&G trawlfish statistical areas 345603 and 345524; OR
  - b. Inside waters south of a latitude line from the northernmost species of conservation concern observation, or other suitable line.
- Incorporate SSC comments to the extent possible.

Seabird EA RIR/IRFA  
February 2007

**New Information**

- Requested analysis
  - Weather Safety Standard for small vessels (<55 ft)
  - 4E small vessel exemption (26-32 feet)
  - Line option in Chatham Strait
- OSU Short-tailed Albatross satellite tagging study
- Line option in new transition area – Cross Sound
- SSC Comments incorporated into document

Seabird EA RIR/IRFA  
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Location	Inside Waters <sup>1</sup>			EEZ <sup>2</sup>		
Vessel Size & Config	<20 ft x 22 ft or more	20 ft x 22 ft	>22 ft x 25 ft	<20 ft x 22 ft	20 ft x 22 ft	>22 ft x 25 ft
AB 1 Chatham Coast	1 buoy bag line 1 3000 ft bag line	1 3000 ft bag line	1 3000 ft bag line 1 streamer line with standard gear	1 buoy bag line plus 1 other device	1 streamer line plus 1 other device	1 streamer line with standard gear plus 1 other device (such as gear) Paired streamer lines with standard gear (other than trap on gear)
AB 2	Eliminate current standard avoidance gear requirements as described in Alternative 1			VC	VC	VC
AB 3	Eliminate current standard avoidance gear requirements as described in Alternative 1 with noted area exceptions <sup>3</sup> and options <sup>4</sup> in Chatham Strait, Dixon Entrance, and Cross Sound			VC	VC	VC
Options	Eliminate Section 8 Avoidance Plan Requirement <sup>5</sup> ; Weather Safety Standard <sup>6</sup> ; or small vessel buoy bag only					

Seabird EA/RIR/IRFA  
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## New Information

- Requested analysis
  - Weather Safety Standard for small vessels (<55 ft)
  - 4E small vessel exemption (26-32 feet)
  - Line option in Chatham Strait
- OSU Short-tailed Albatross satellite tagging study
- Line option in new transition area – Cross Sound
- SSC Comments incorporated into document

Seabird EA/RIR/IRFA  
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## Weather Safety Standards

Council raised concerns that the use of seabird avoidance gear on small vessels in winds exceeding 30 knots may be unsafe because many of these smaller vessels have small crews that need to be engaged fully in vessel operations during indement weather. Instead of deploying and retrieving seabird avoidance gear. Also, streamer lines and buoy bags pose a **CHANGING FACE OF DEATH** on the fishing gear during high winds.

Seabird EA/RIR/IRFA  
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## Weather Safety Standards

### Current Standards

- Buoy bag use is discretionary at winds >45 knots
- Single streamer line use is discretionary at winds >45 knots
- For Paired streamer lines:
  - at winds 30 - 45 knots, a single streamer must be deployed from windward side of vessel;
  - at winds > 45 knots, the use of streamer lines is discretionary

### Additional Proposed Standard

- All Vessels 26 - 55 ft
  - Use of gear is discretionary at winds >30 knots

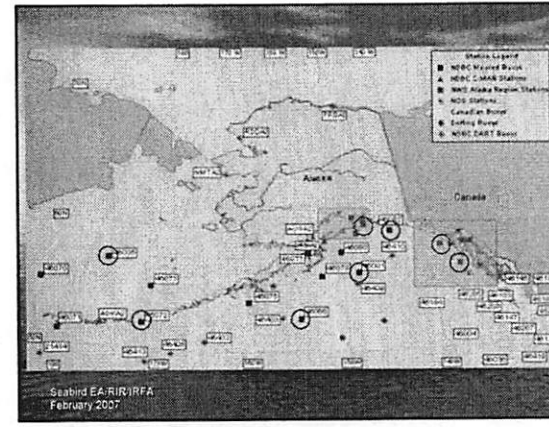
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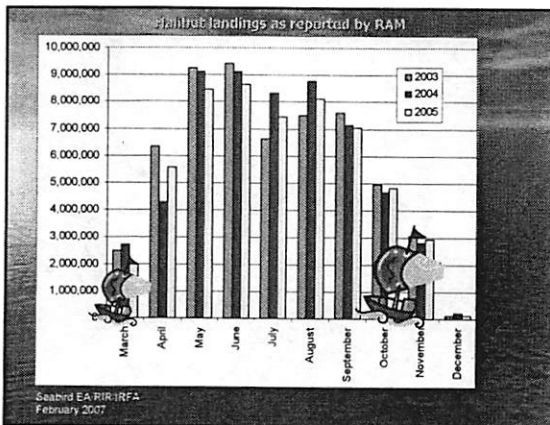
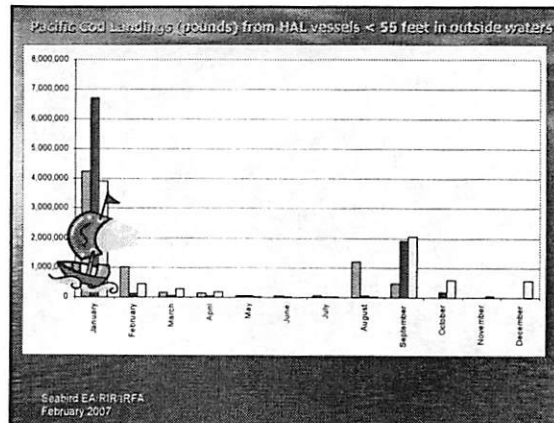
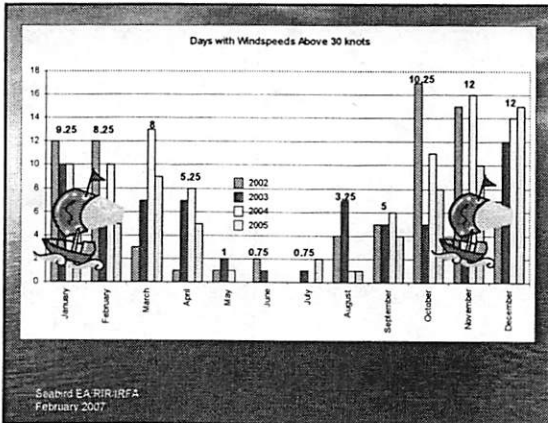
## Weather Safety Standards

### Analysis

- NDBC weather buoys report 10-minute average wind speed
- 8 of these buoys somewhat overlapped with 26-55' hook-and-line vessel effort and had windspeed data for 2002-2005
- Counted every day where at least one 10-minute interval was above 30 knots in at least one buoy
- Reported maximum number of "windy days" per month

Seabird EA/RIR/IRFA  
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### Weather Safety Standards

#### Conclusions

- Highest Pacific cod landings are in January which has about 9 "windy days"
- Some Pacific halibut landings in October and November which have 10 and 12 "windy days"
- Reid and Sullivan (2003) note that attempts by seabirds to forage from fishing gear decrease as wind speeds increase
- Insignificant effect on seabird populations, increased safety to the fleet

Seabird EA RIR IRFA  
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### New Information

- Requested analysis
  - Weather Safety Standard for small vessels (<55 ft)
  - 4E small vessel exemption (25-32 ft)
  - Line option in Chatham Strait
- OSU Short-tailed Albatross satellite tagging study
- Line option in new transition area - Cross Sound
- SSC Comments incorporated into document

Seabird EA RIR IRFA  
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### Small Vessel 4E Exemption Option

All vessels 26-32 feet are only required to use a buoy bag in Area 4E.

Sub-option: All vessels 26-32 feet are exempt from seabird avoidance regulations in Area 4E.

NOTE: Without this modification, alternatives 2 and 3 would require vessels 26-32 feet with masts, poles, or rigging to use a streamer line with a standard.

Currently, vessels 26-32 ft fishing 0 to 3 nm in IPHC Area 4E are exempt from the use of seabird avoidance measures. This action does not affect that exemption.

Seabird EA RIR IRFA  
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## Small Vessel 4E Exemption Option

### Analysis

- All Pacific halibut harvest is CDQ in 4E
- Small vessels have few crew, limited space, and limited \$\$ for crew training, materials, and maintenance
- Safety concern in harsh weather of Bering Sea
- Small vessels have low fishing effort, smaller access window, and fewer total interactions



Seabird EA RIR/IRFA  
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## Small Vessel 4E Exemption Option

Fleet	Vessel Size	Number of Vessels	Setting speed	Type of gear
Bristol Bay CDQ fleet	32' limit	33 vessels	Maximum of 4 knots	Mainly snap-on gear
Coastal Villages Region Fund	All are <35 feet	136 vessels (34 are 26-32')	2-4 knots	Mostly jig gear (26 use hook and line gear)
Norton Sound CDQ fleet	Most 32' or less	10 vessels	3-4 knots	Mainly snap-on gear

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## Seabird Avoidance Measures for Small Alaskan Longline Vessels (Melvin and Wainstein 2006)

Gear type & vessel speed more important than length

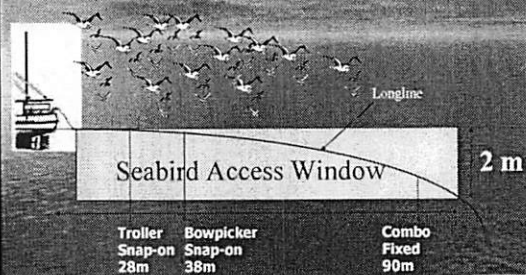
Gear Type	Average Setting Speed in knots	2 m access window length Average (range) in meters
Trollers Snap-on	2.2 – 3.6	28 (21 – 54)
Bowpicker Snap-on	2.2 – 3.6	38 (28 – 46)
Combination Fixed	4.9 – 7.4	90 (50 – 133)

Snap on gear had higher mean sink rate

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Environmental Assessment – Affected Ecosystem

## Incidental Take of Seabirds



Seabird EA RIR/IRFA  
February 2007

Environmental Assessment – Affected Ecosystem



## Small Vessel 4E Exemption Option

Seabird observations in 4E during 2006 IPHC summer survey

IPHC Area	Numbers of Observed Seabirds (Number of Counts)
2C	1,140 (122)
3A	13,468 (372)
3B	20,946 (229)
4A	8,596 (117)
4B	7,038 (89)
4C	1,799 (25)
4D	9,253 (22)
4E	227 (22)
<b>Closed Area</b>	<b>631 (17)</b>

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## Small Vessel 4E Exemption Option

### New Information:

OSU Short-tail albatross sightings in 4E

2 birds – 1 in 2003 and 1 in 2006 showed up in August

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## Findings of the Regulatory Impact Review (RIR)

- No Impact Foreseen on
  - Use or Non-Use Benefits, Revenue, Related Fisheries, and Communities
  - Equipment Costs (assumes streamer lines already provided and readily available without cost)
  - Consumers of Fishery Products
  - USCG Regulatory and Enforcement Programs
  - Fisheries Management

## RIR-Alternative 2 Impacts

- Vessels Operating in Inside Waters (Cook Inlet, Prince William Sound, S.E. Alaska)
  - Elimination of seabird avoidance requirements
  - Eliminates costs associated with the time to deploy, de-snag, retrieve, and maintain seabird avoidance devices
  - Vessel operational cost of production data is not presently being collected—reduced cost cannot be quantified

## RIR-Alternative 2 Impacts Cont.

- Vessels Operating in the EEZ- 26'-55' vessels without superstructure
  - Elimination of second seabird avoidance device
  - Decreased vessel operational costs associated with the time required to deploy and retrieve the second device

## RIR-Alternative 2 Impacts Cont.

- Vessels Operating in the EEZ- 26'-55' vessels with superstructure
  - Elimination of second seabird avoidance device implies decreased vessel operational costs
  - Vessels in these gear/area classes have been provided with streamer lines designed to meet the performance standard when properly deployed.
  - Greater diligence may be required in proper use and monitoring of the streamer line
  - Performance standard costs are likely to be small and will be offset, partially at least, by eliminating the second seabird avoidance device.

## RIR-Alternative 2 Impacts Cont.

- Option 1—Eliminate seabird avoidance plan
  - Reduces enforcement burden
  - Eliminates operational costs associated with the time needed to prepare the plan
- Option 2— Weather Safety Standard
  - Generally beneficial as it may improve vessel and crew safety.
- Option 3—Buoy Bag line only on small vessels (26'-32') in EEZ of IPHC area 4e.
  - Generally less burdensome. Sub-option would eliminate regulatory burden for these vessels.

## RIR-Alternative 3 Impacts

- Slightly more restrictive than Alternative 2.
  - Seabird avoidance measures and performance standards applicable in the EEZ would apply in the four statistical areas.
  - Effect of the options and sub-options would be the same as under Alternative 2

## Initial Regulatory Flexibility Analysis

- Estimated Number of Potentially Affected Small Entities
  - 1185 unique hook and line vessels
  - 141 eligible vessels had total gross revenue from all directed fishing sources that was greater than \$4 million in 2005.
  - ignoring affiliations, 1,071 vessels could be considered small entities.
  - A review of American Fisheries Act permit data revealed that none of the vessels with gross revenue less than \$4 million in 2004 are AFA permitted vessels.

## Summary of RIR/IRFA Findings.

- The alternatives to the status quo are not likely to impose significant costs on industry or affect other use or non-use values.
- Options are generally beneficial.
- Ignoring affiliations, 1,071 vessels could be considered small entities.
- The proposed actions would not be expected to meet or exceed the threshold for a "significant" action (as that term is defined in E.O. 12866)

## DRAFT Revised Groundfish Workplan - CORRECTION

### 1. Prevent Overfishing

- a. continue to develop management strategies that ensure sustainable yields of target species and minimize impacts on populations of incidentally-caught species
- b. evaluate effectiveness of setting ABC levels using Tier 5 and 6 approaches

### 2. Preserve Food Web

- a. encourage and participate in development of key ecosystem indicators
- b. reconcile procedures to account for uncertainty and ecosystem considerations in establishing harvest limits
- c. develop pilot Fishery Ecosystem Plan

### 3. Manage Incidental Catch and Reduce Bycatch and Waste

- a. explore incentive-based bycatch reduction programs in GOA fisheries
- b. explore mortality rate-based approaches to setting PSC limits in GOA fisheries
- c. consider new management strategies to reduce incidental rockfish bycatch and discards
- d. develop statistically rigorous approaches to estimating bycatch in line with national initiatives
- e. encourage research programs to evaluate population estimates for non-target species
- f. develop appropriate biomass-based trigger limits and area closures for BSAI salmon bycatch reduction, as information becomes available

### 4. Reduce and Avoid Impacts to Seabirds and Marine Mammals

- a. continue to participate in development of mitigation measures to protect SSLs including participation in the FMP-level consultation under the ESA
- b. monitor fur seal status and management issues, and convene committee as appropriate

### 5. Reduce and Avoid Impacts to Habitat

- a. evaluate effectiveness of existing closures
- b. consider Bering Sea EFH mitigation measures
- c. call for HAPC proposals on 3-year cycle
- d. request NMFS to develop and implement a research design on the effects of trawling in previously untrawled areas

### 6. Promote Equitable and Efficient Use of Fishery Resources

- a. eliminate latent licenses in BSAI and GOA
- b. consider sector allocations in GOA fisheries

### 7. Increase Alaska Native and Community Consultation

- a. Develop a protocol or strategy for improving the Alaska Native and community consultation process
- b. Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions

### 8. Improve Data Quality, Monitoring, and Enforcement

- a. expand or modify observer coverage and sampling methods based on scientific data and compliance needs
- b. develop programs for economic data collection that aggregate data
- c. modify VMS to incorporate new technology and system providers

February 3, 2007

Stephanie Madsen, Chair  
North Pacific Fisheries Management Council  
605 W 4<sup>th</sup> Avenue, Suite 306

Agenda Item C-3, Seabird Interactions

Dear Madame Chair and members of the Council,

I am a member of the Cordova District Fisherman's United Groundfish Division, a resident of Cordova, Alaska, and 3a Halibut fisherman. I fish a small vessel inside the Prince William Sound and it's coastal waters.

I support the Alternatives that eliminate seabird avoidance measures in the Prince William Sound. The use of Seabird avoidance devices is burdensome and occasionally unsafe for a bowbicker or small boat operation such as my own. Most importantly, research on seabird distribution in my area of operation has shown that the proposed regulatory amendment to eliminate the requirement is justified.

Thanks for the opportunity to comment,

Curt Herschleb