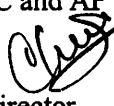


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver   
Executive Director

ESTIMATED TIME 1 HOUR
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DATE: May 28, 2008

SUBJECT: Seabird Interactions

**ACTION REQUIRED**

Final review of analysis of seabird deterrence exemption in IPHC Area 4E

**BACKGROUND**

At the February 2007 meeting, the Council approved changes in regulations for seabird deterrence in groundfish fisheries. As part of the motion, the Council requested an analysis of a trailing amendment to consider an exemption for small vessels from seabird deterrence regulations in all or part of IPHC Area 4E. Available data suggested that such an exemption in Area 4E might be appropriate, but an analysis of new short-tailed albatross satellite tagging data would be required to better inform such a decision.

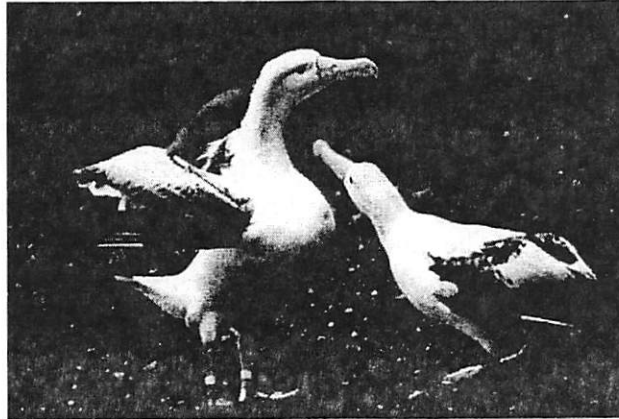
At the April 2008 meeting, the Council reviewed an initial analysis of available data on short-tailed albatross (STAL) distribution, abundance, and movement patterns in the eastern Bering Sea and Aleutian Islands area and a draft EA/RIR/IRFA. The Council recommended that the document be sent out for public review after considering SSC comments.

The initial draft EA/RIR/IRFA was sent out in a Council mailing in early May and was posted on the NMFS and Council web sites. At this meeting, the Council is scheduled for final action.

The Executive Summary of the draft EA/RIR/IRFA is attached as **Item C-7(a)**; it provides the alternatives and a map of the STAL subarea within IPHC Area 4E.

**DRAFT FOR PUBLIC REVIEW**

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 the Short-tailed Albatross And Other Seabird Species



**Date:** May 2008

**Lead Agency:** National Marine Fisheries Service  
Alaska Regional Office  
Juneau, Alaska

**Responsible Official:** Robert D. Mecum  
Acting Administrator  
Alaska Regional Office

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## **ABSTRACT**

This Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis analyzes the impacts of potential revisions to seabird avoidance measures used in the hook-and-line fisheries conducted in the Bering Sea. This proposed action is based on a review of satellite tagging studies depicting endangered short-tailed albatrosses' usage of Bering Sea habitat and hook-and-line fisheries' spatial and temporal harvest of Pacific halibut and Pacific cod in the eastern Bering Sea. This seabird/fisheries interaction analysis concludes that the requirement of using seabird avoidance measures in a portion of IPHC area 4E may be unnecessary due to limited usage of this area by seabirds of conservation concern, and in particular, a low probability of fishing vessels encountering short-tailed albatrosses. Alternatives in this analysis eliminate or modify the required use of seabird avoidance measures for different vessel size classes in IPHC Area 4E. The objective of this proposed regulatory amendment is to improve the efficiency of current seabird avoidance requirements by relieving unnecessary regulatory burden and its associated costs in areas where the incidental take of short-tailed albatrosses and other species of conservation concern is extremely low.

## EXECUTIVE SUMMARY

### *Purpose and Need*

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 and the Pacific halibut fishery in U.S. Convention waters off Alaska.

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 maintain their use in areas where they are. The Council plans to conduct an initial review of this proposed action in April 2008 based on analysis of the alternatives analyzed herein.

### *Status Quo and Action Alternatives*

The alternatives are listed below and in Table 1-1, and the action area is shown in Figure 1.

#### **Alternative 1 – No Action. Status Quo for vessels greater than 26 ft LOA in IPHC Area 4E:**

- a. Vessels less than 55 ft LOA with masts, poles, or rigging using snap-on hook-and-line gear are required to deploy one streamer line while setting gear. Specifically, the streamer line must be at least 45 m long and must be maintained with a minimum aerial extent of 20 m.
- b. Vessels less than 55 ft LOA with masts, poles, or rigging not using snap-on hook-and-line gear (conventional gear) are required to deploy one streamer line while setting 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.
- c. Vessels less than 55 ft LOA without masts, 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 groundline, without fouling on the gear, while setting gear.
- d. Vessels greater than 55 ft LOA with snap-on gear are required to use one streamer line while setting gear. Specifically, the streamer line must be at least 45 m long and must be maintained with a minimum aerial extent of 20 m.
- e. Vessels greater than 55 ft LOA with other than snap-on gear are required to use paired streamer lines while setting 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.

## **Alternative 2. EXEMPTION FOR 26ft to 32ft LOA VESSELS**

Maintain status quo seabird protection measures except that vessels greater than 26 and less than or equal to 32 ft LOA are not required to use seabird avoidance measures in area IPHC Area 4E.

One of the following options would continue to require seabird avoidance measures in the short-tailed albatross (STAL) subarea of IPHC Area 4E:

**Option 1.** Vessels fishing in the STAL subarea of IPHC Area 4E are required to comply with seabird avoidance regulations as detailed in Alternative 1, above.

**Option 2.** Vessels fishing in the STAL subarea of IPHC Area 4E are required to tow a buoy bag in such a way as to deter birds from the sinking groundline, without fouling on the gear, while setting gear.

## **Alternative 3. EXEMPTION FOR 26ft to 55ft LOA VESSELS**

Maintain status quo seabird protection measures except that vessels greater than 26 and less than or equal to 55 ft LOA are not required to use seabird avoidance measures in area IPHC Area 4E.

One of the following options would continue to require seabird avoidance measures in the STAL subarea of IPHC Area 4E:

**Option 1.** Vessels fishing in the STAL subarea of IPHC Area 4E are required to comply with seabird avoidance regulations as detailed in Alternative 1, above.

**Option 2.** Vessels fishing in the STAL subarea of IPHC Area 4E are required to tow a buoy bag in such a way as to deter birds from the sinking groundline, without fouling on the gear, while setting gear.

## **Alternative 4. EXEMPTION FOR ALL VESSELS OVER 26ft LOA**

Seabird avoidance measures are not required in area IPHC Area 4E, except as required by one of the following options:

**Option 1.** Vessels fishing in the STAL subarea of IPHC Area 4E are required to comply with seabird avoidance regulations as detailed in Alternative 1, above.

**Option 2.** Vessels fishing in the STAL subarea of IPHC Area 4E are required to tow a buoy bag in such a way as to deter birds from the sinking groundline, without fouling on the gear, while setting gear.

## NOTES:

1. Vessels less than or equal to 32 ft LOA in IPHC area 4E shoreward of the EEZ (inside 3 nm) are not required to use seabird avoidance measures under any alternatives in this analysis.
2. The weather safety standard would continue to apply to any vessel using seabird avoidance gear; that is:
  - a. Use of seabird avoidance devices would be discretionary for vessels 26-55 ft LOA when winds exceed 30 knots.
  - b. Use of seabird avoidance gear is discretionary in winds greater than 45 knots for all vessels, and in winds between 30 and 45 knots vessels normally required to use paired streamer lines (vessels longer than 55 ft LOA) may use only a single streamer line deployed from the windward side of the vessel.
3. This action applies only to vessels using hook-and-line gear. Fishermen using jig gear are not required to use seabird avoidance measures.
4. All requirements described here are minimum standards. Vessels may choose to use additional measures to limit interactions with seabirds if they so choose.

### *Summary of the Effects to Seabird Species in the Bering Sea*

The proposed alternatives address revisions to seabird avoidance measures that would relax requirements in areas where seabird interactions are less common, and with the options, maintain some level of protection in areas where interactions are more likely to occur. The action alternatives have no effects on target and non-target fisheries and fish populations, protected species other than seabirds, or habitat and ecosystems.

The effects of incidental take of seabirds under Alternative 1 (status quo) have not substantially changed since the dramatic decrease in seabird bycatch in 2001. The effects are described in the PSEIS (NMFS 2004a) and the Alaska Groundfish Harvest Specifications EIS (NMFS, 2007). Incidental take of seabirds in the status quo BSAI groundfish fisheries is not significant at the population level for all seabird species analyzed. At the current STAL population level and the continuing 7-8% annual growth rate, the status quo level of mortality resulting from hook-and-line fisheries is not thought to represent a threat to the species' continued survival, although it could be slowing the recovery (NMFS, 2004).

Relieving the requirement for certain vessels to use seabird avoidance measures in IPHC area 4E in Alternatives 2, 3, and 4 could cause unknown impacts to short-tailed albatrosses; therefore, the Council created options for each alternative that would mitigate any potentially significant or unknown impacts that might be caused by implementation of Alternatives 2, 3, or 4. With the use of these options, no significant or unknown impacts to seabird populations are expected to occur.

Options 1 and 2 both offer some protection to STAL in the STAL area of IPHC Area 4E. Option 1 which requires the status quo measures inside the STAL area is more precautionary than Option 2 which only requires the use of a buoy bag. If one of the options is chosen to afford protection for STAL inside the STAL area of IPHC Area 4E, then only vessels fishing in the non-STAL area of IPHC Area 4E would no longer be required to use seabird avoidance measures. Nearly all of the effort in the non-STAL area is by vessels 26-32' LOA which would get relief under Alternatives 2, 3 or 4. Alternatives 3 and 4 would provide very limited additional relief to larger vessels at current levels of participation.

### *Summary of the Cumulative Effects*

Past effects on seabird species include hunting and harvesting for feathers, eradication of nests and relocation of adults in military programs to reduce the interaction of seabirds with military aircraft, the introduction of new species (such as rabbits) into nesting habitat, and predation by introduced species. Fisheries outside of Alaska have also likely contributed to population decline. These stressors have affected some species more than others, including black-footed and short-tailed albatrosses. Red-legged kittiwakes and Kittlitz's murrelet have been affected by oil spills and climate change (Table 7-1).

Previous regulations on hook and line fisheries in Alaska are likely to have decreased fishery bycatch rates since 2001 (Figure 5). Future actions identified in the AGHSEIS that could impact seabirds were ecosystem-sensitive management, fisheries rationalization, traditional management tools, actions by other Federal, State, and International agencies and private action. In nearly all cases, future actions were likely to reduce the impacts on seabirds, except for subsistence harvest.

Current and future threats to seabirds other than those analyzed in this document include collisions with aircrafts, vessels, and cables on fishing vessels, plastics ingestion, and oil spills and ship bilge dumping, high seas driftnets and gillnet fisheries, and increased flightseeing near glaciers and tour vessels (specifically for kittlitz's murrelets, although not in the Bering Sea).

Because these changes in the use of seabird avoidance gear are operationally conducted at the surface of the water, effects on other ecosystem components of this action, as well as the cumulative effects of similar actions, are minimal. No effects on the seafloor or other sub-surface habitat structures are expected. One potential effect on the ecosystem is the discard of streamer lines and buoy bags as marine debris when lines become entangled and unrecoverable. Discarded gear also has the potential to affect marine mammals due to the risk of entanglement. Such losses of streamer lines and buoy bags occur at a greater frequency in high winds, and the weather safety factor option in this analysis could minimize the amount of gear discarded in the ocean and thus mitigate these effects.

**Table 1-1. Seabird Avoidance Measures Alternatives for  $\times$  and Line Gear in IPHC Area 4E for vessels > 26' LOA**

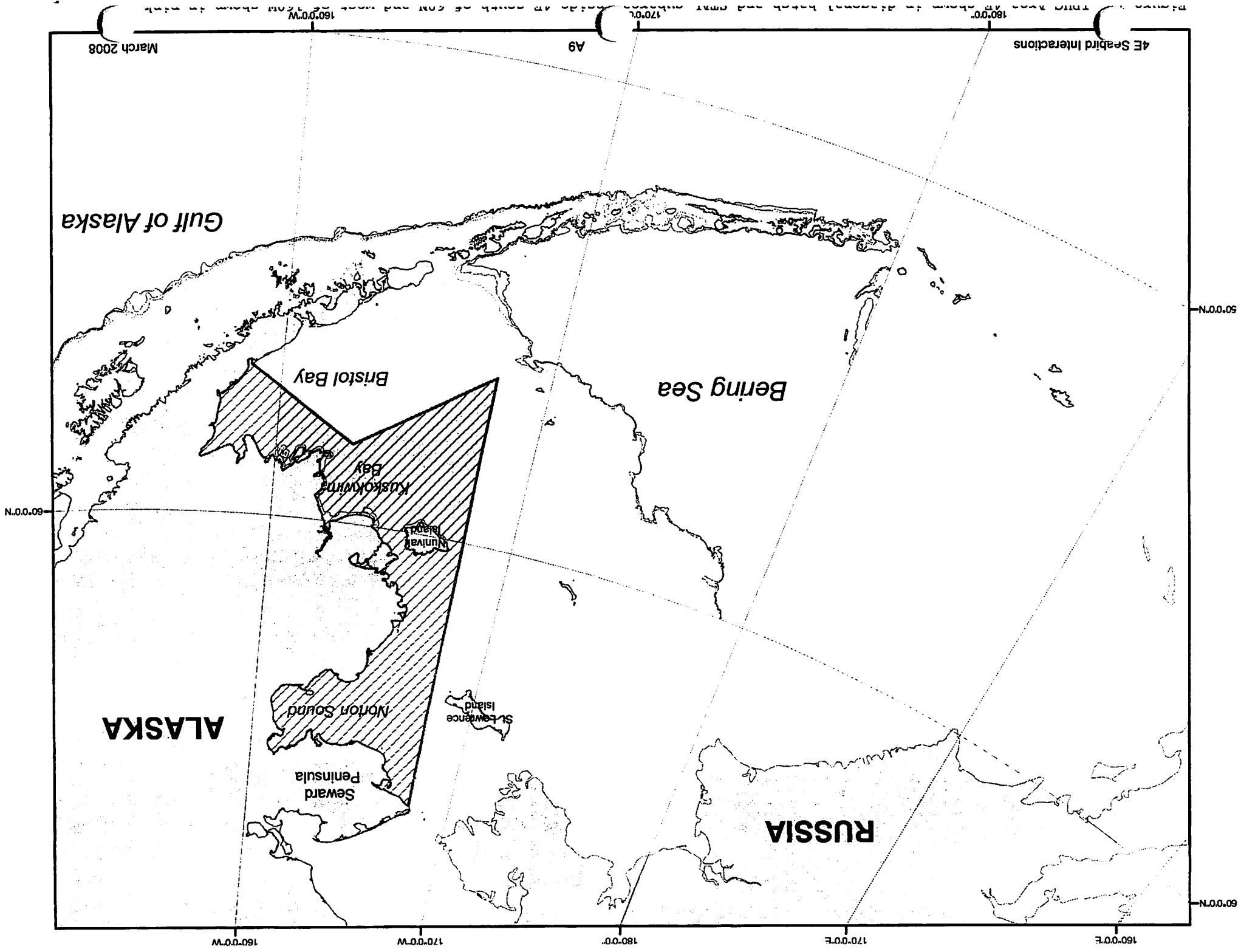
Location, Vessel Size & Config	26-55' in the EEZ >32' to $\leq$ 55' in 0-3 nm w/o masts, poles, or rigging	26- 55' in the EEZ >32' to $\leq$ 55' in 0-3 nm with masts, poles, or rigging	>55' in the EEZ >55' in 0-3 nm
Alt 1 (Status Quo)	1 buoy bag line	1 streamer line with standard (snap-on gear) <sup>1</sup>	1 streamer line with standard (snap-on gear) <sup>1</sup>
		1 streamer line with standard (other than snap-on gear) <sup>2</sup>	Paired streamer lines with standard (other than snap-on gear) <sup>2</sup>
Alt 2	26-32' - no seabird avoidance measures required in 4E, >32' - status quo		
<i>option 1</i>	Vessels 26-32' LOA fishing in the STAL subarea <sup>3</sup> of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.		
<i>option 2</i>	Vessels 26-32' LOA fishing in the STAL subarea <sup>3</sup> of 4E are required to use only a buoy bag to deter seabirds.		
Alt 3	26- 55' - no seabird avoidance measures required in 4E, > 55' - status quo		
<i>option 1</i>	Vessels 26-55' LOA fishing in the STAL subarea <sup>3</sup> of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.		
<i>option 2</i>	Vessels 26-55' LOA fishing in the STAL subarea <sup>3</sup> of 4E are required to use only a buoy bag to deter seabirds.		
Alt 4	all vessels - no seabird avoidance measures required in 4E		
<i>option 1</i>	All vessels fishing in the STAL subarea <sup>3</sup> of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.		
<i>option 2</i>	All vessels fishing in the STAL subarea <sup>3</sup> of 4E are required to use only a buoy bag to deter seabirds.		

1 Streamer line standard that is 45 m in length and in the air for 20 m aft of stern.

2 Streamer line standard that is 90 m in length and in the air for 40 m aft of stern.

3 STAL subarea - southwestern portion of 4E where albatross are more likely to occur. See Figure 1.





March 2008

A9

4E Seabird Interactions

Gulf of Alaska

Bristol Bay

Bering Sea

Kuskokwim Bay

Norton Sound

Norton Sound

Seward Peninsula

St. Lawrence Island

RUSSIA

ALASKA

60°00'N

50°00'N

60°00'N

160°00'W

170°00'W

180°00'W

170°00'E

160°00'E

160°00'W

170°00'W

180°00'W

Figure 1. This map shows the general track and great circle routes of the 4E Seabird Interactions study area. The map shows the general track and great circle routes of the 4E Seabird Interactions study area.