

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 070705262-7683-03]

RIN 0648-AV38

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish and Halibut Fisheries of the Bering Sea and Aleutian Islands Management Area and Gulf of Alaska, Seabird Avoidance Measures Revisions

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule that revises the seabird avoidance measures for the Alaska hook-and-line groundfish and halibut fisheries. The final rule strengthens gear standards for small vessels and eliminates certain seabird avoidance requirements that are not needed. This action is necessary to revise seabird avoidance measures based on the latest scientific information and to reduce unnecessary regulatory burdens and associated costs.

DATES: Effective on January 17, 2008.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) for this action may be obtained from NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, or from the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the NMFS Alaska Region and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907-586-7228 or e-mail at melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone (EEZ) off Alaska are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the

authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement between Canada and the United States. This agreement, entitled the "Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea Convention" (Convention), was signed at Ottawa, Canada, on March 2, 1953, and was amended by the "Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act). The directed commercial Pacific halibut fishery in Alaska is managed under an individual fishing quota (IFQ) program, as is the fixed gear sablefish fishery. The IFQ Program is a limited access management system. This program is codified at 50 CFR part 679.

Background

Background on the seabird avoidance measures revisions is in the proposed rule for this action (72 FR 53516, September 19, 2007). The purpose of the action is to revise the seabird avoidance measures based on the best available information regarding seabird occurrence and efficient application of the avoidance measures. Seabird avoidance measures reduce the incidental mortality of seabirds in the hook-and-line fisheries off Alaska. The action eliminates certain provisions that are unnecessary and strengthens standards to ensure effective seabird avoidance gear for the Alaska hook-and-line fisheries for groundfish and halibut. These revisions are detailed below.

Eliminating certain unnecessary seabird avoidance measures is intended to remove associated economic burdens on affected vessels. Increased measures for certain small vessels in the EEZ would require specific deployment procedures intended to improve the effectiveness of avoidance devices in reducing seabird bycatch. These revisions are an example of adaptive management using the best available information to focus regulatory requirements where they are needed and to ensure requirements are effective and efficient. Seabird avoidance measures research results and the environmental and economic considerations of the action are in the

EA/RIR/IRFA for this action (see **ADDRESSES**).

Regulatory Amendments

In February 2007, the Council unanimously recommended revisions to the seabird avoidance measures. These measures continue to apply to operators of vessels fishing for (1) Pacific halibut in the IFQ and Community Development Quota (CDQ) management programs in Convention waters in and off Alaska; (2) IFQ sablefish in and off Alaska out to 200 nm offshore, except waters of Prince William Sound and areas in which sablefish fishing is managed under a State of Alaska (State) limited entry program (Clarence Strait, Chatham Strait); and (3) groundfish with hook-and-line gear in the EEZ.

The Council recommended that NMFS request that the Alaska Board of Fisheries consider modifying the current State regulations on seabird avoidance for groundfish vessels operating in State waters to match the Federal requirements. The Board of Fisheries has scheduled this issue for their March 2008 meeting. Information regarding this meeting is available from the State website at <http://www.boards.adfg.state.ak.us/fishinfo/meetinfo/fcal.php>. The State's adoption of the seabird avoidance measures revisions in this final rule would ensure consistent requirements to avoid seabirds for groundfish vessels operating in State and Federal waters of Alaska.

The final rule revises § 679.24(e) to eliminate redundant paragraphs, match subparagraph citations to the new section structure, and make the text more concise. No substantive changes were made in the final rule from the proposed rule. Minor changes were made to regulations regarding applicability (§ 679.24(e)(1)) and "other methods" for seabird avoidance measures (§ 679.24(e)(5)) to clarify that only one of the several items listed would be required to meet the intent of the paragraph. The change to the applicability paragraph clarifies that the seabird avoidance measures applies to vessels using hook-and-line gear and fishing for Individual Fishing Quota (IFQ) halibut, Community Development Quota halibut, IFQ sablefish, or groundfish in the exclusive economic zone off Alaska. The change to the "other methods" paragraph clarifies that night-setting, line shooter, or lining tube may be used as an "other method" for seabird avoidance measures.

Gear Requirements

The final rule revises § 679.24(e)(4)(i) and Table 20 to 50 CFR part 679 to require seabird avoidance gear standards for hook-and-line vessels greater than 26 ft (7.9 m) length overall (LOA) and less than or equal to 55 ft (16.8 m) LOA fishing in the EEZ as follows:

1. Vessels with masts, poles, or rigging using snap-on hook-and-line gear are required to use standards when deploying one streamer line. The streamer line must be at least 147.6 ft (45 m) in length and must be deployed before the first hook is set in such a way that streamers are in the air for 65.6 ft (20 m) aft of the stern and within 6.6 ft (2 m) horizontally of the point where the main groundline enters the water.

2. Vessels with masts, poles, or rigging using conventional hook-and-line gear (vessels not using snap-on gear) are required to use standards when deploying one streamer line. The streamer line must be a minimum of 300 ft (91.4 m) in length and must be in the air for a minimum of 131.2 ft (40 m) aft of the stern.

3. Vessels 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 line.

The best available scientific information indicates that vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA are capable of meeting these standards, and that these standards are effective at reducing potential seabird incidental takes.

The final rule also revises § 679.24(e)(4)(i) and Table 20 to 50 CFR part 679 to eliminate seabird avoidance gear requirements for all hook-and-line vessels fishing in Prince William Sound (NMFS Area 649), the State waters of Cook Inlet, and Southeast Alaska (NMFS Area 659) with certain area exceptions in the inside waters of Southeast Alaska. Three exception areas exist:

1. Lower Chatham Strait south of a straight line between Point Harris (latitude 56° 17.25 N.) and Port Armstrong,

2. Dixon Entrance defined as the State groundfish statistical areas 325431 and 325401, and

3. Cross Sound west of a straight line from Point Wimbledon extending south through the Inian Islands to Point Lavinia (longitude 136° 21.17 E.).

Maps of these exception areas are in the EA/RIR/IRFA for this action (see **ADDRESSES**) and are available from the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

To prevent potential seabird mortality in the exception areas, hook-and-line vessels must meet the same seabird avoidance gear requirements and standards in these exception areas as when fishing in the EEZ. The best available scientific information regarding seabird observations in the State waters of Prince William Sound, Cook Inlet, and Southeast Alaska indicate that Endangered Species Act (ESA)-listed seabirds and other seabird species of concern are not likely to occur in these waters, except for the areas listed above in NMFS Area 659. Therefore, the final rule eliminates seabird avoidance measures where seabird mortality is not likely to occur and ensures that they are used in waters where ESA-listed seabirds and seabird species of concern are likely to occur.

Seabird Avoidance Plan

The final rule removes § 679.24(e)(3) and rescinds the Seabird Avoidance Plan (SAP) requirement for all vessels. The Council recommended eliminating the SAP requirement based on recommendations from the NOAA Office of Law Enforcement and the NMFS Alaska Region Protected Resources Division. A number of vessels had technical SAP violations but were in compliance with the substantive seabird avoidance gear requirements. Because the requirement for a SAP does not seem to impact the use of seabird avoidance gear, removing this requirement should have no effect on seabird mortality.

Other Seabird Avoidance Device

The final rule removes the requirement to use one “other device” (weighted groundline, buoy bag, streamer line, or strategic offal discharge) as described in § 679.24(e)(4)(ii), (e)(4)(iii), (e)(6), and Table 20 to 50 CFR part 679. NOAA Office of Law Enforcement reports that the “other device” requirement is difficult to enforce. Reduced seabird mortality from the gear standards for small vessels likely would offset any protection lost by removing the “other device” requirement.

Weather Exception

The final rule revises § 679.24(e)(5) to allow discretion for vessels more than 26 ft (7.9 m) LOA to less than or equal to 55 ft (16.8 m) LOA to use seabird avoidance devices when winds exceed 30 knots (near gale or Beaufort 7 conditions). The Council raised concerns that the use of seabird avoidance gear on these small vessels in winds exceeding 30 knots may be unsafe because most or all small vessel

crew members need to be engaged fully in vessel operations during inclement weather, rather than deploying and retrieving seabird avoidance gear. Information in the EA/RIR/IRFA indicates that seabird foraging activity on hook-and-line gear is likely to decrease with increased wind speeds. Also, streamer lines and buoy bags pose a greater risk of fouling on the fishing gear during high winds. The weather exception addresses potential small vessel safety issues related to deploying seabird avoidance gear during high winds and ensures devices are used when seabirds are more likely to be interacting with hook-and-line gear.

Comments and Responses

NMFS received four letters that contained two separate comments on the proposed rule. The comments are summarized and responded to below.

Comment 1: We are in support of the proposed action. The action will strengthen gear standards for small vessels. To remove unnecessary requirements, the proposed action would eliminate the seabird avoidance plan and the use of avoidance gear where seabirds of concern are not present. The weather exemption for certain vessels is reasonable and helpful.

Response: Support is noted.

Comment 2: The incidental catch of seabirds remains too high.

Response: The proposed action is likely to reduce the incidental catch of seabirds by strengthening the gear standards applied to small vessels. Large reductions in the incidental catch of seabirds have occurred after implementation of the seabird avoidance measures (62 FR 23176, April 29, 1997), and NMFS and the Council continue to support research in the continued reduction of seabirds incidental takes in Alaska fisheries. The number of seabirds taken in the fisheries is a very small proportion of the populations of seabird species. NMFS has determined that the incidental take of seabirds in the Alaska fisheries does not result in a significant impact on the human environment, including on seabird species, as described in the EA/RIR/IRFA for this action (see **ADDRESSES**).

Classification

The Administrator, Alaska Region, NMFS, determined that this final rule is necessary for the conservation and management of the Alaska groundfish and halibut fisheries, and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order (E. O.) 12866.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. A copy of the FRFA is available from NMFS (see **ADDRESSES**).

The need for and objectives of the rule are detailed in the preamble to this rule. No significant issues were raised by the public comments in response to the IRFA during the public comment period. No substantive changes were made from the proposed rule to the final rule.

The vessels that are directly regulated by the action fish for groundfish or halibut with hook-and-line gear in the waters off Alaska. The seabird avoidance measures presently in place, and the alternatives and options considered, apply directly to the operator of a vessel deploying hook-and-line gear in the waters off Alaska. These regulations apply to the operation of a vessel and not directly to the holder of an IFQ for halibut or sablefish unless the holder is also the owner/operator of a vessel. Multiple IFQs may be used on a single vessel. Thus, the FRFA analysis of large and small entities is conducted at the vessel level and not the IFQ level. This analysis is complicated by the fact that the halibut fishery is managed somewhat separately than the Federal groundfish fisheries. Thus, data from multiple sources and years have been used to estimate the numbers of large and small entities.

In 2004, approximately 1,523 vessels participated in the Pacific halibut fishery off Alaska, and 674 vessels participated in the Federal hook-and-line groundfish fisheries off Alaska. Logbook research indicates that 506 of the hook-and-line vessels that caught halibut also harvested groundfish in the waters off Alaska that year. Because of overlap between these two fishery groups, the total count of unique vessels is 1,691.

The FRFA uses actual revenue reported by fishing entities for the year 2005 as compiled and supplied in a comprehensive database by the Alaska Fish Information Network (AKFIN). Vessels were considered small entities, according to the Small Business Administration criteria, if they had estimated 2004 gross revenues less than or equal to \$4 million, and were not known to be affiliated with other firms whose combined receipts exceeded \$4

million. The analysis revealed that 141 eligible vessels had total gross revenue from all directed fishing sources that was greater than \$4 million in 2005. This implies that, ignoring affiliations, 1,550 vessels could be considered small entities. A review of American Fisheries Act (AFA) permit data revealed that none of the vessels with gross revenue less than \$4 million in 2004 are AFA-permitted vessels. Because AFA affiliations are relatively stable across years, it is unlikely any of the vessels with gross revenues less than \$4 million are AFA-permitted vessels. Therefore, these vessels are unlikely to be large because of AFA affiliations.

The FRFA indicated that this action is not likely to impose significant costs on directly regulated small entities. The action reduces the regulatory burden on some vessels by eliminating all seabird avoidance requirements for vessels operating in State waters of Prince William Sound, Cook Inlet and most of Southeast Alaska. In addition, vessels operating in the EEZ and State waters may benefit by elimination of the need for an "other" seabird avoidance device. Vessel operational cost of production data are not presently collected, making it impossible to quantify the net effect on operational costs that might occur under each alternative and option. However, the alternatives and options to the status quo are expected to impose only a slight additional burden, if any. The increased requirement to meet the gear standards for smaller vessels is likely to result in minimal additional costs because these vessels are already using gear manufactured to meet the standards and vessel crew are experienced with using the gear. Any additional costs in training and labor to ensure gear deployment meets the standards would be offset by the reduced costs from no longer being required to deploy the "other device."

Since the initial adoption of seabird avoidance regulations, research has been conducted to more precisely identify the geographical distribution and range of seabirds of concern, and on the efficacy of required seabird avoidance devices. Recent research has addressed whether small vessels can properly deploy seabird avoidance devices, given a small vessel's inherent physical limitations, and whether those devices are effective and necessary. The action, which is partly intended to reduce the economic, operational, and reporting burden placed on small entities operating in these fisheries, is a direct result of this research.

Including status quo, this action has three alternatives and three options. Alternative 2 reduces the regulatory

burden on small entities by eliminating seabird avoidance measures in the inside waters of Prince William Sound, Cook Inlet, and Southeast Alaska. Alternative 3 reduces the seabird avoidance measures in the same locations except for three areas of the Southeast Alaska inside waters where seabirds of concern have been observed. Both Alternatives 2 and 3 increase the regulatory burden on small entities by requiring vessels more than 26 ft (7.9 m) LOA to less than or equal to 55 ft (16.8 m) LOA to meet gear standards while operating in the EEZ and certain State waters. Options 1 and 2 to Alternatives 2 and 3 reduce the regulatory burden and improve safety by removing the Seabird Avoidance Plan requirement and providing discretion for using seabird avoidance gear in high winds, respectively. Option 3 would reduce burden by reducing seabird avoidance gear requirements to only a buoy bag line for hook-and-line vessels more than 26 ft (7.9 m) LOA to less than or equal to 32 ft (16.8 m) LOA operating in the EEZ waters of International Pacific Halibut Commission (IPHC) Area 4E. The suboption to Option 3 would further reduce the regulatory burden in IPHC Area 4E by eliminating the seabird avoidance measures for vessels between 26 ft (7.9 m) LOA and 32 ft (16.8 m) LOA.

One of the objectives of the action was to use new information to better protect seabirds of concern while reducing the burden on fishermen. The status quo does not meet the objectives of the action because it does not reflect new information on the range and geographic distribution of seabirds of concern nor does it reflect new research on the efficacy of seabird avoidance devices. The status quo alternative was rejected in part because it imposed a heavier burden on fishing operations. Alternative 2 was rejected because it did not provide for seabird avoidance measures in those State waters of Southeast Alaska with observed ESA-listed seabirds and other seabird species of concern and, thus, did not meet the objectives of the action. Option 3 and its suboption also were rejected because available information was insufficient to support reducing or eliminating seabird avoidance measures for IPHC Area 4E, and therefore did not meet the objectives of the action. The Council recommended Alternative 3 with options 1 and 2 because it would meet the objective to use the latest scientific information available regarding seabird occurrence and effective gear standards for small vessels and to reduce regulatory burden, where possible.

The action alleviates the small entity compliance burden by eliminating seabird avoidance measures in certain State waters where seabirds of concern are absent or very rarely present and where many small entities operate. The action also adopts performance standards, rather than design standards in the EEZ and in State waters. The use of performance standards allows flexibility in the type of avoidance gear used while ensuring an acceptable level of avoidance is achieved. The action also bases requirements on vessel capability (e.g., superstructure configuration, vessel length). Basing the requirements on vessel capability ensures that vessel owners are able to meet the seabird avoidance gear requirements without making costly changes to the vessel structure. Further, the action would eliminate preparation of a seabird avoidance plan, which eases the compliance and reporting requirements for all affected entities, including the large number of small entities that are potentially directly regulated by the action. No other alternatives or options were identified that would meet the objectives of the action and provide additional regulatory relief.

There are no Federal rules that duplicate, overlap, or conflict with this action.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS Alaska Region has developed a website that provides easy access to details of this final rule, including links to the final rule, maps of areas, and frequently asked questions regarding seabird avoidance gear and use of such gear. The relevant information available on the website is the Small Entity Compliance Guide. The website address is <http://www.fakr.noaa.gov/protectedresources/seabirds/guide.htm>. Copies of this final rule are available upon request from the NMFS Alaska Regional Office (see ADDRESSES).

This final rule removes a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), which has been approved by Office of

Management and Budget (OMB) under Control Number 0648-474. Public reporting burden for the Seabird Avoidance Plan is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

An informal consultation under the ESA was concluded for this action on August 8, 2007. As a result of the informal consultation, NMFS determined that fishing activities under this rule are not likely to adversely affect endangered or threatened species or their designated critical habitat. By requiring gear performance standards for vessels more than 26 ft (7.9 m) and less than or equal to 55 ft (16.8 m) LOA, this action should result in reduced potential for incidental takes of ESA-listed seabirds. Other provisions of this final rule would have no effect on ESA-listed species.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: December 12, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108 447.

■ 2. Section 679.24 is amended by:

- a. Removing paragraphs (e)(3) and (e)(6).
- b. Redesignating paragraphs (e)(4) and (e)(5) as paragraphs (e)(3) and (e)(4), respectively.

c. Redesignating paragraphs (e)(7) and (e)(8) as paragraphs (e)(5) and (e)(6), respectively.

d. Revising paragraphs (e)(1), (e)(2)(i), (e)(2)(iii), and newly redesignated paragraphs (e)(3), and (e)(5).

e. Adding paragraph (e)(4)(v).

The revisions and additions read as follows:

§ 679.24 Gear limitations.

* * * * *

(e) * * *

(1) *Applicability.* The operator of a vessel that is longer than 26 ft (7.9 m) LOA fishing with hook-and-line gear must comply with the seabird avoidance requirements as specified in paragraphs (e)(2) and (e)(3) of this section while fishing for any of the following species:

- (i) IFQ halibut or CDQ halibut.
- (ii) IFQ sablefish.
- (iii) Groundfish in the EEZ off Alaska.

(2) * * *

(i) *Gear onboard.* Have onboard the vessel the seabird avoidance gear as specified in paragraph (e)(3) of this section;

* * * * *

(iii) *Gear use.* Use seabird avoidance gear as specified in paragraph (e)(3) of this section that meets standards as specified in paragraph (e)(4) of this section, while hook-and-line gear is being deployed.

* * * * *

(3) *Seabird avoidance gear requirements.* (See also Table 20 to this part.) The operator of a vessel identified in paragraph (e)(1) of this section must comply with the following requirements while fishing with hook-and-line gear for groundfish, IFQ halibut, CDQ halibut, or IFQ sablefish in Federal waters (EEZ) and for IFQ halibut, CDQ halibut, or IFQ sablefish in the State of Alaska waters, excluding NMFS Reporting Area 649 (Prince William Sound), State waters of Cook Inlet, and NMFS Reporting Area 659 (Eastern GOA Regulatory Area, Southeast Inside District), but including waters in the areas south of a straight line at 56°17.25 N. lat. between Point Harris and Port Armstrong in Chatham Strait, State statistical areas 325431 and 325401, and west of a straight line at 136°21.17 E. long. from Point Wimbledon extending south through the Inian Islands to Point Lavinia:

(i) Using other than snap gear,

(A) A minimum of 1 buoy bag line as specified in paragraph (e)(4)(i) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA without masts, poles, or rigging.

(B) A minimum of a single streamer line as specified in paragraph (e)(4)(ii)

of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA with masts, poles, or rigging.

(C) A minimum of a paired streamer line of a standard as specified in paragraph (e)(4)(iii) of this section must be used by vessels greater than 55 ft (16.8 m) LOA.

(ii) Using snap gear,

(A) A minimum of 1 buoy bag line as specified in paragraph (e)(4)(i) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA without masts, poles, or rigging.

(B) A minimum of a single streamer line as specified in paragraph (e)(4)(iv) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA with masts, poles, or rigging.

(C) A minimum of a single streamer line as specified in paragraph (e)(4)(iv) of this section must be used by vessels greater than 55 ft (16.8 m) LOA.

(4) * * *

(v) *Weather safety standard.* The use of seabird avoidance devices required by paragraph (e)(3) of this section is discretionary for vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA in conditions of wind speeds exceeding 30 knots (near gale or Beaufort 7 conditions).

(5) *Other methods.* Any of the following measures or methods must be accompanied by the applicable seabird avoidance gear requirements as specified in paragraph (e)(3) of this section:

(i) Night-setting.

(ii) Line shooter.

(iii) Lining tube.

* * * * *

■ 3. Table 20 to part 679 is revised to read as follows:

TABLE 20 TO PART 679-- SEABIRD AVOIDANCE GEAR REQUIREMENTS FOR VESSELS, BASED ON AREA, GEAR, AND VESSEL TYPE. (SEE § 679.24(E) FOR COMPLETE SEABIRD AVOIDANCE PROGRAM REQUIREMENTS; SEE 679.24(E)(1) FOR APPLICABLE FISHERIES)

If you operate a vessel deploying hook-and-line gear, other than snap gear, in waters specified at § 679.24(e)(3), and your vessel is.....	Then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...
>26 ft (7.9 m) to 55 ft (16.8 m) LOA and without masts, poles, or rigging	minimum of one buoy bag line
>26 ft (7.9 m) to 55 ft (16.8 m) LOA and with masts, poles, or rigging	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(ii)
>55 ft (16.8 m) LOA	minimum of paired streamer lines of a standard specified at § 679.24(e)(4)(iii)
If you operate a vessel deploying hook-and-line gear and use snap gear in waters specified at § 679.24(e)(3), and your vessel is...	Then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...
>26 ft (7.9 m) to 55 ft (16.8 m) LOA and without masts, poles, or rigging	minimum of one buoy bag line
>26 ft (7.9 m) to 55 ft (16.8 m) LOA and with masts, poles, or rigging	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(iv)
>55 ft (16.8 m) LOA	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(iv)

TABLE 20 TO PART 679-- SEABIRD AVOIDANCE GEAR REQUIREMENTS FOR VESSELS, BASED ON AREA, GEAR, AND VESSEL TYPE. (SEE § 679.24(E) FOR COMPLETE SEABIRD AVOIDANCE PROGRAM REQUIREMENTS; SEE 679.24(E)(1) FOR APPLICABLE FISHERIES)—Continued

If you operate a vessel < 32 ft (9.8 m) LOA in the State waters of IPHC Area 4E, or operate a vessel in NMFS Reporting Area 649 (Prince William Sound), State waters of Cook Inlet, and NMFS Reporting Area 659 (Eastern GOA Regulatory Area, Southeast Inside District), but not including waters in the areas south of a straight line at latitude 56 deg. 17.25 N between Point Harris and Port Armstrong in Chatham Strait, State statistical areas 325431 and 325401, and west of a straight line at longitude 136 deg. 21.17 E from Point Wimbledon extending south through the Inian Islands to Point Lavinia	Then you are exempt from seabird avoidance regulations.
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