

Some evidence suggests that large vessels may attract more seabirds than do smaller vessels and experience a higher seabird incidental take rate (see Vessel Size Considerations in section 4.1.2 of the EA/RIR/IRFA for this action). This proposed rule would exempt operators of vessels 32 ft (9.8 m) LOA or less fishing for halibut, including those fishing for halibut and groundfish, in IPHC Area 4E within 0 to 3 nm from the required use of seabird avoidance measures. Of the 1,733 vessels that landed halibut and/or sablefish in the IFQ and CDQ programs, only 219 vessels landed halibut in IPHC Area 4E. Ninety-eight percent of those were vessels less than 32 ft (9.8 m) LOA. Those small vessels fishing in Area 4E landed 150,000 lb (68,039 kg) of halibut, all of the halibut harvested in Area 4E and less than one-third of 1 percent of the total annual harvest in 2001. These landings represent such a very small portion of the total harvest, that any associated incidental take of seabirds is insignificant to non-existent. Testimony from local fishermen from these Western Alaska communities in the CDQ Program indicate they are fishing in areas very close to shore and never take seabirds. Sighting of short-tailed albatrosses have not been reported in nearshore areas of Area 4E. A few sightings have occurred in the perimeter of the area, beyond the nearshore areas fished by these very small vessels. Survey or sightings information on other seabird species in the area is not currently available.

#### **Proposed Seabird Avoidance Requirements**

NMFS proposes seabird avoidance measures that would apply to the operators of vessels using hook-and-line gear for (1) Pacific halibut in the IFQ and Community Development Quota (CDQ) management programs (0 to 200 nm), (2) IFQ sablefish in EEZ waters (3 to 200 nm) and waters of the State of Alaska (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), and (3) Groundfish (except IFQ sablefish) with hook-and-line gear in the U.S. EEZ waters off Alaska (3–200 nm).

Operators of all applicable vessels using hook-and-line gear would be required to comply with the following bird line requirements:

For Applicable Vessels Operating in Inside Waters (NMFS Area 649, NMFS Area 659, and State Waters of Cook Inlet): (1) A minimum of 1 buoy bag line of a specified performance standard would be required of vessels greater

than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA that are without masts, poles, or rigging, (2) A minimum of 1 buoy bag line of a specified performance standard is required of vessels greater than 26 ft (7.9 m) LOA and less than or equal to 32 ft (9.8 m) LOA and with masts, poles, or rigging, (3) A minimum of 1 streamer line of a specified performance standard is required of vessels greater than 32 ft (9.8 m) LOA and less than or equal to 55 ft (16.8 m) LOA and with masts, poles, or rigging, and (4) A minimum of 1 streamer line of a specified performance standard is required of vessels greater than 55 ft (16.8 m) LOA.

For Applicable Vessels Operating in the EEZ (not including NMFS Area 659): (1) A minimum of 1 buoy bag line of a specified performance standard and one other specified device is required of vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA that are without masts, poles, or rigging, (2) A minimum of 1 streamer line of a specified performance standard and one other specified device is required of vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA and with masts, poles, or rigging, and (3) Except for vessels using snap gear, a minimum of paired streamer lines of a specified performance standard is required of vessels greater than 55 ft (16.8 m) LOA.

For Applicable Vessels Using Snap Gear: (1) A minimum of 1 buoy bag line of a specified performance standard and one other specified device is required of vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA and that are without masts, poles, or rigging, (2) A minimum of 1 streamer line of a specified performance standard and one other specified device is required of vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA and with masts, poles, or rigging, and (3) A minimum of 1 streamer line of a specified performance standard is required of vessels greater than or equal to 55 ft (16.8 m) LOA and with masts, poles, or rigging.

Other seabird avoidance devices and methods include weights added to groundline, a buoy bag line or streamer line of specified performance standards, and strategic offal discharge to distract birds away from the setting of baited hooks, that is, discharge fish, fish parts (i.e. offal) or spent bait to distract seabirds away from the main groundline while setting gear.

#### **Gear Performance and Material Standards**

Current information indicates that bird deterrent devices must be carefully

constructed with the deterrent purpose in mind if they are to be effective. Given the variability of vessel sizes and configurations in the hook-and-line fisheries off Alaska, a single set of specific construction standards for bird lines would not be universally effective or practical. To enhance the effectiveness and improve the enforcement of seabird avoidance measures, the proposed rule would specify the gear performance and material standards for larger vessels (vessels greater than or equal to 55 ft (16.8 m) LOA). Voluntary guidelines for gear performance and material standards for smaller vessels (vessels greater than or equal to 26 ft (7.9 m) and less than 55 ft (16.8 m) LOA) are provided and vessel operators are encouraged to comply with them.

#### **Proposed Standards for Larger (Vessels Greater than 55 ft (16.8 m) LOA) Vessels Paired Streamer Standard**

NMFS proposes that larger vessels deploy a minimum of two streamer lines while setting hook-and-line gear. Preferably, both streamer lines will be deployed prior to the first hook being set. At least one streamer line must be deployed before the first hook is set and both streamers must be fully deployed within 90 seconds. An exception to this standard would exist in conditions of wind speeds exceeding 30 knots (near gale or Beaufort 7 conditions), where it would be acceptable to fly a single streamer from the windward side of the vessel. In winds exceeding 45 knots (storm or Beaufort 9 conditions), the deployment of streamer lines would be discretionary. Further, streamer lines would have to be deployed in such a way that streamers are in the air for a minimum of 131.2 ft (40 m) aft of the stern for vessels under 100 ft (30.5 m) and 196.9 ft (60 m) aft of the stern for vessels 100 ft (30.5 m) or over. For vessels deploying gear from the stern, the streamer lines would have to be deployed from the stern, one on each side of the main groundline. For vessels deploying gear from the side, the streamer lines would have to be deployed from the stern, one over the main groundline and the other on one side of the main groundline.

#### **Materials Standard:**

NMFS proposes the following minimum streamer line specifications: (1) Length of 300 feet (91.4 m), (2) Spacing of streamers every 16.4 ft (5 m), and (3) Streamer material that is brightly colored, UV-protected plastic tubing or 3/8 inch polyester line or material of an equivalent density. An individual streamer must hang attached to the