

May 12, 2005



Hawaii Superferry, Inc.

Whale Avoidance Policy & Procedures

May 2005

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1. Background

Congress, in consultation with the State of Hawaii, designated the Hawaiian Islands Humpback Whale National Marine Sanctuary on November 4, 1992. The Hawaiian Islands National Marine Sanctuary Act identified the following purposes for the sanctuary: to protect humpback whales and their habitat within the sanctuary; to educate and interpret for the public the relationship of humpback whales and the Hawaiian Islands marine environment; to manage human uses of the sanctuary consistent with the Hawaiian Islands National Marine Sanctuary Act and the National Marine Sanctuary Act; and to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary.

Sanctuary waters (pink areas below) are largely defined by shallow areas favored by the Northern Pacific Humpback whales during their breeding and calving season in Hawaii.

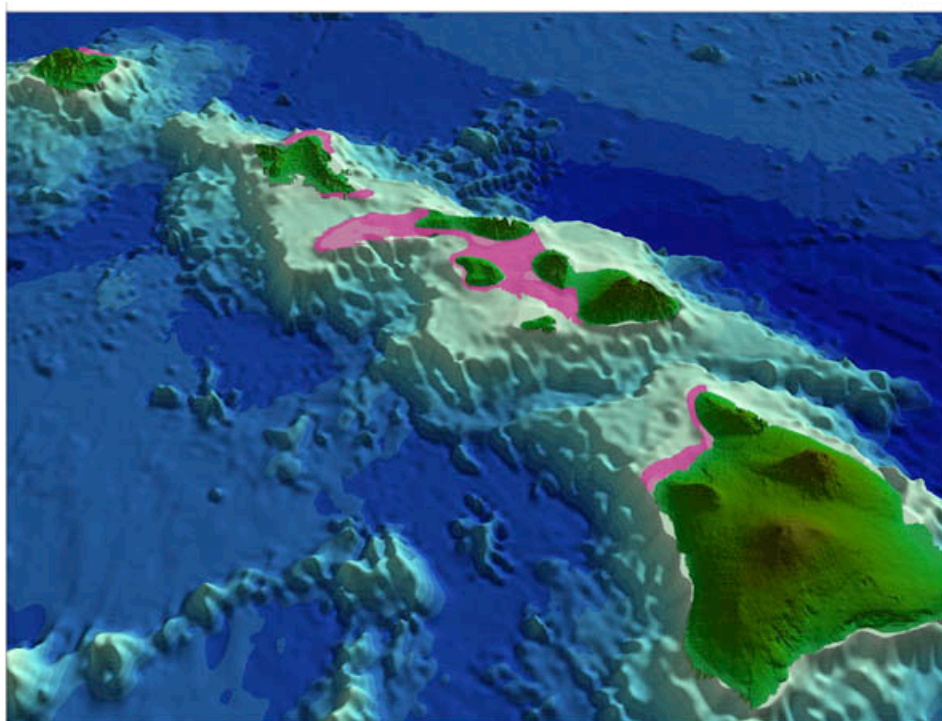


Fig. 1: Hawaiian Islands Humpback Whale National Marine Sanctuary

Seasonally migrating northern pacific humpback whales swell Hawaii's cetacean population by over 5,000 animals and compose the vast majority of Hawaii's cetacean population during the winter season when the whales are breeding & calving in Hawaii's warm waters. (Dr. Joe Mobley, Distribution & Abundance of Humpback Whales).

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Approximately 90% of humpbacks in Hawaii inhabit shallow waters less than 100 fathoms (600 feet, 183 meters) conducive to breeding and calving behaviors. See Fig 2. (Mobley, *ibid*)

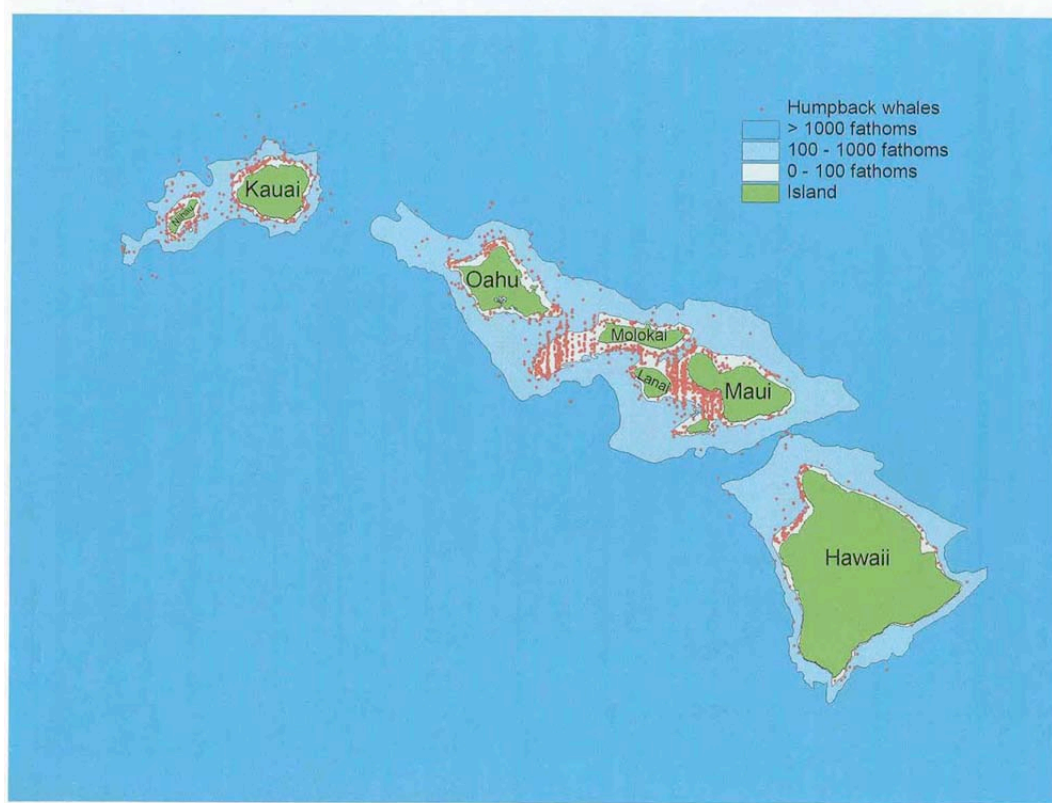


Fig 2. Hawaii's humpback whale distribution from aerial surveys 1993-98
Source: Dr. Joe Mobley, University of Hawaii.

The following procedures are to be followed during the months of peak whale population in the Hawaiian Islands, generally, from January through April inclusive.

2. Vessel design & features

Certain features of Hawaii Superferry vessels help reduce impact to whale habitats and can specifically reduce the chance of striking a whale.

A. Vessels do not discharge any wastewater in Hawaiian waters.

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B. Vessels project a small below-the-waterline cross-section (e.g. shallow draft, slender hulls) to reduce the “swept area” which may strike a whale and therefore reduce the chance of strikes.

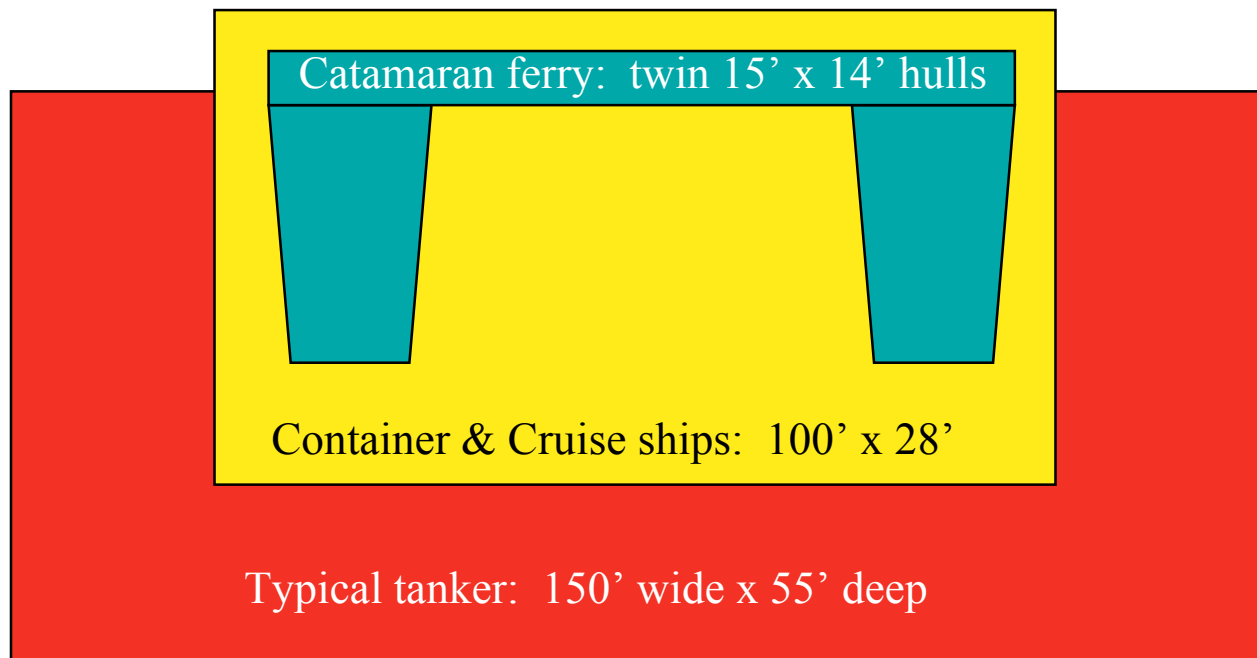


Fig. 3 Example of small cross-section vessel technology (green outline)

C. Vessels have no propellers thereby reducing a source of potential harm to whales by preventing lacerations.

D. Vessels are highly maneuverable with the ability to turn, slow, and stop quickly to avoid marine mammals and therefore reduce the chance of a strike.

3. Routing & operations during whale season

A. Avoid whales - never approach under any circumstances.

B. Avoid waters less than 100 fathoms deep when possible. This includes routing North of Molokai on voyages between Honolulu and Kahului whenever possible and routing around Penguin Banks.

C. Operate at a maximum of 25 knots in waters of less than 100 fathoms.

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4. Watch staffing and observation equipment during whale season

A. Recommended bridge team staffing

- a. Two active officers of the watch (not including engineering officers) should be on the bridge at all times.
- b. Two additional dedicated whale lookouts should be stationed on the bridge to alert watch officers with bearing and range of whale sightings and to assist in tracking efforts.
- c. All lookouts will be trained in whale distribution, behavior and detection.

B. Recommended observation equipment

- a. Visual observation equipment
- b. Image stabilized binoculars.
- c. Class 1 (eye-safe) laser range / bearing finders.
- d. Night vision systems and binoculars for operation at night.
- e. Digital video camera with at least 8:1 optical zoom lens.

C. Electronic observation equipment

- a. Forward-looking collision avoidance sonar. (When such systems become commercially available.)
- b. X-band radar has been shown to detect humpback whales (Mobley, DeProspero, Project Humpback, 2002) and should be employed and actively observed. Radar with automatic declutter, ATA and ARPA tracking aids are provided on all vessels.

5. Night Operations during whale season

- A. Navigation officers will utilize the night vision infrared system installed on the vessel.
- B. At least one of the designated whale lookouts shall utilize portable night vision equipment.

6. Whale avoidance maneuver procedures

- 1. Actively seek and identify whales along track line ahead of vessel.
- 2. Identify course and speed of whales and calculate CPA (Closest Point of Approach).
- 3. Identify tracks that may come within 500 meter CPA. Change course and/ or speed to maintain a minimum 500 meter CPA

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4. If a whale is sighted within 500 meters, maneuver (change course and or speed) until vessel is at least 500 meters away from whale.
5. If a whale appears suddenly in the path of the vessel, execute the appropriate emergency maneuvers to avoid the whales while considering all factors related to vessel and passenger safety.

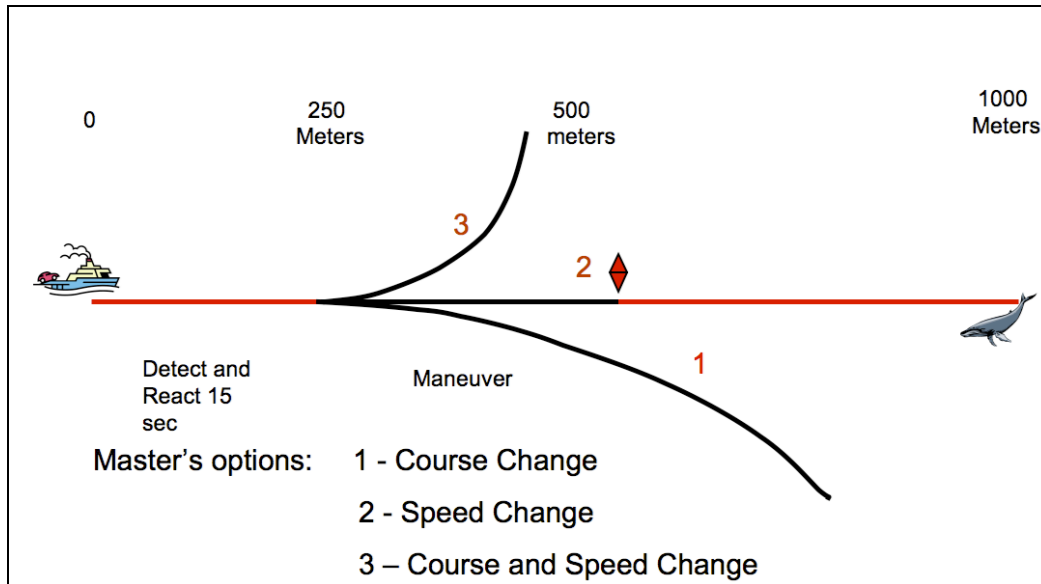


Fig. 4 Avoidance procedure options

7. Log keeping & whale encounter procedures

1. Any encounter in which the vessel is required to execute an emergency maneuver to avoid a whale or any instance in which the vessel approaches a whale closer than 100 yards shall be noted in the vessel's logbook and immediately reported to the Director of Marine Operations by the most expeditious method of communication.
2. If a whale is struck by the vessel additional reports should be made immediately. The master shall call National Marine Fisheries Service, US Coast Guard and the Hawaiian Islands Humpback Whale National Marine Sanctuary. The vessel is to remain in the area as long as practical and, if a still or video camera is available, try to photograph/video the injured animal.
3. A detailed written report is to be submitted to Director of Marine Operations within 24 hours of any such incident. The form of this report will be included in the company forms manual.