

Hawai'i's

MARINE PROTECTED SPECIES

A HANDBOOK FOR OCEAN USERS

THE LAWS & REGULATIONS FOR FEDERALLY PROTECTED MARINE RESOURCES

2001



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THE HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY

A SANCTUARY DEDICATED TO THE ENDANGERED HUMPBACK WHALE AND ITS HABITAT

The Hawaiian Islands are the world's most isolated island archipelago, born of ancient volcanoes and inhabited by animals and plants derived from ancestors that found their way here over thousands of miles of ocean. According to scientists, the shallow, warm waters surrounding the main Hawaiian Islands constitute one of the world's most important habitats for the endangered humpback whale. Nearly two-thirds of the entire North Pacific population of humpback whales migrates to Hawai'i each winter. Here, they engage in breeding, calving and nursing activities critical to the survival of their species.

The sanctuary is also home to a fascinating array of marine animals, corals and plants, some of which are found nowhere else on Earth. Its cultural heritage includes Native Hawaiian traditions of living in harmony with the sea. Its waters invite activities such as diving, boating and snorkeling, and support commercial uses such as fishing and shipping.

THE WORK OF THE SANCTUARY

The Hawaiian Islands Humpback Whale National Marine Sanctuary is one of 13 national marine sanctuaries created under the U.S. Marine Protection, Research and Sanctuaries Act. The sanctuary's goal is to promote comprehensive and coordinated management, research, education and long-term monitoring for the endangered humpback whale and its habitat.

The sanctuary focuses its efforts on a variety of issues, including supporting the work of marine researchers, coordinating and participating in community outreach projects, developing educational displays, and working cooperatively with local organizations, agencies and volunteers to address resource protection and public awareness.

Stretching from Maui to several nearby Hawaiian Islands, the boundary of the sanctuary encompasses approximately 1,218 square nautical miles of coastal and ocean waters (see maps on page 34-40). Throughout the main Hawaiian Islands, the sanctuary extends seaward from the shoreline to the 100-fathom isobath. It includes areas around the islands of Maui, Lāna'i, and Moloka'i, and parts of O'ahu, Kaua'i and the Big Island.

SANCTUARY ADMINISTRATION

The sanctuary is jointly managed by the sanctuary manager, the state of Hawai'i co-manager, and other field staff via a cooperative federal-state partnership. The sanctuary manager receives national program guidance from the National Marine Sanctuary System, located in Silver Spring, Maryland. Additionally, the state co-manager receives guidance from the Hawai'i Department of Land and Natural Resources. A sanctuary advisory council has been established to provide advice and recommendations on various issues of concern throughout the sanctuary.

THE SANCTUARY'S ROLE IN RESOURCE PROTECTION AND CONSERVATION

Congress authorized the sanctuary in 1992, and the Governor of Hawai'i formally approved it in 1997. Established for the purpose of conservation, research, and education, the sanctuary develops programs and takes initiatives that strengthen resource protection measures and ensure the long-term recovery of humpback whales. The primary focus of such efforts lies in educating the public about existing regulations that protect humpback whales, enhancing the enforcement of these laws, and working cooperatively with other agencies, including NOAA Fisheries, to increase awareness of humpbacks and their habitat.

SANCTUARY EDUCATION AND OUTREACH

One of the sanctuary's goals is to promote public awareness, understanding, and appreciation for the humpback whale, which is an essential step toward their continued protection. The sanctuary's public visibility provides numerous opportunities to supply information about its resources and programs.

The sanctuary headquarters office on Maui, along with satellite offices on O'ahu and Kaua'i, offer many opportunities for the public to learn about the sanctuary. The offices offer free printed materials that describe the humpback whale and its habitat. Additionally, the staff regularly conduct outreach activities for individuals, user groups, schools and other organizations. Visitors are welcome from 10 a.m. to 3 p.m., Monday through Friday, at the Education Center which is located at the sanctuary headquarters in Maui.

SANCTUARY RESOURCE PROTECTION PROGRAM AND ENFORCEMENT

The sanctuary's resource protection program complements existing federal and state regulatory mechanisms that protect humpback whales and their habitat. The purpose of this program is to develop and implement strategies that reduce human impacts within the sanctuary. Approximately 65% of sanctuary waters fall under state jurisdiction; thus, the sanctuary works closely with state agencies to ensure the coordinated management of sanctuary resources and habitats. In addition, the sanctuary conducts regular consultations with the State of Hawai'i and other federal agencies to review all permit requests for activities that may affect humpback whale habitats.

SANCTUARY RESEARCH AND LONG-TERM MONITORING

The purpose of the sanctuary's research program is to increase knowledge about the North Pacific humpback whale population and its winter habitat, to study resource management issues, and to interpret research results to the public. Since 1994, the sanctuary has been involved in a number of research projects that focus on humpback whales in Hawaiian waters.

IN PARTNERSHIP WITH THE PEOPLE OF HAWAI'I

The Hawaiian sanctuary and NOAA's National Marine Sanctuary System work cooperatively with the people of Hawai'i to protect this important marine ecosystem. Grassroots support is vital to the success of marine sanctuaries. NOAA's partnership with the state, and with the people of Hawai'i, will help to ensure that humpback whales are protected for the continued enjoyment of present and future generations.

NOAA FISHERIES OFFICE FOR LAW ENFORCEMENT

The Office for Law Enforcement (OLE) is a component of the Department of Commerce, under the National Oceanic and Atmospheric Administration (NOAA). The primary mission of the Office is the protection of the Nation's living marine resources. The Office for Law Enforcement enforces a variety of Federal laws and regulations.

OFFICE FOR LAW ENFORCEMENT RESPONSIBILITIES:

Protection, conservation and management of the fishery resources within the 200 mile United States Exclusive Economic Zone (EEZ) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MFCMA).

Protection of marine mammals, threatened and endangered species under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA).

Extended jurisdiction beyond the EEZ, to include both highly migratory and anadromous species. International responsibilities in the enforcement of the Convention on International Trade in Endangered Species (CITES) and other international resource related crimes investigated under the authority of the Lacey Act.

Our nation's living marine resources are legitimately utilized and sometimes exploited by individuals from a broad range of resource user groups. The Office for Law Enforcement is tasked with responding to the environmental problems involving the conservation and protection of marine resources.

OUR APPROACH TO ECOSYSTEM PROTECTION AND CONSERVATION:

Community Oriented Policing and Problem Solving (COPPS) to promote voluntary compliance through constituent communication, public awareness and education by committing to community interaction and partnerships.

Investigate and prosecute criminal and civil violators. Seize contraband and illegally possessed property. Gather information on criminal activities involving resource-related crimes. Develop world-wide fisheries enforcement operations using advanced technologies like Vessel Management Systems (VMS). Foster cross-cutting activities with other NOAA offices and promote partnerships with Federal, State, Tribal and Foreign enforcement agencies.

In the past two decades, OLE responsibilities have been substantially increased with the passage of more than 100 legislative acts, and international treaties and conventions. This translates to being responsible for enforcing over 24 statutes under Title 16 of the United States Code and additional criminal statutes under Title 18.

NOAA FISHERIES' PACIFIC ISLANDS AREA OFFICE PROTECTED RESOURCES PROGRAM

NOAA Fisheries is the principal federal agency responsible for conserving, protecting and enhancing marine wildlife and their habitats. The Pacific Islands Area Office (PIAO) represents NOAA Fisheries' Southwest Regional Office in Hawaii and the U.S. affiliated Pacific Islands. The PIAO is located at 1601 Kapiolani Boulevard, Suite 1110, Honolulu, Hawaii 96814.

The Pacific Islands Protected Species Program operates under the authority of the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), and other statutes to protect, enhance, and/or recover endangered and threatened species of sea turtles, monk seals, cetaceans (humpback whales and other listed whales), and other marine mammals (e.g., dolphins and small whales).

Commercial fisheries are monitored under the MMPA to ensure that incidental marine mammal take (injury and mortality) remains at levels sustainable by the affected populations. When necessary, regulations are developed to mitigate the adverse effects of human activities and may include such measures as area closures, closed seasons, gear restrictions, observers, harvest quotas, and limits on allowable levels of mortality of marine mammals.

The Program also works with ESA Section 7 consultations to ensure that federally funded, initiated, or permitted projects and activities do not jeopardize a threatened or endangered species or adversely affect designated critical habitat.

Under the Compacts of Free Association with RMI and FSM, the U.S. is obligated to apply environmental standards and procedures to U.S. Government activities, and to develop alternate standards and procedures to fulfill this obligation in consultation with and concurrence of the appropriate governments.

The Program works closely with state and other federal agencies in the development of protective regulations and plans (e.g., Hawaiian Monk Seal Recovery Plans, Humpback Whale Sanctuary Management Plan, Coast Guard Area Response Plan for Oil Spills).

NORTH PACIFIC

HUMPBACK WHALE

Ke Koholā



Photo courtesy of Lori Mazzuca ©

[LEGAL STATUS]

Humpback whales are listed as depleted under the Marine Mammal Protection Act (MMPA) and endangered under the Endangered Species Act (ESA). They receive protection under MMPA, ESA, state wildlife laws and also as a protected resource of national significance within the Hawaiian Islands Humpback Whale National Marine Sanctuary. In addition, approaches to humpback whales in Hawai'i are limited to 100 yards by sea, and 1,000 feet by air unless authorized by valid state and federal research permits. Under the MMPA and ESA it is also illegal to "take" humpback whales, which includes harassing, injuring, or killing.

POPULATION TRENDS

The North Pacific humpback whales pre-whaling population is estimated by scientists to have been approximately 15,000 whales. Researchers estimate there are currently about 7,000 humpback whales in the North Pacific. Out of this stock, approximately 5,000 humpbacks migrate to Hawai'i each year.

DISTRIBUTION & MOVEMENT PATTERNS

The North Pacific stock of humpback whales winter in three nearshore lower latitude mating and calving areas: Hawai'i, western Mexico, and the islands of southern Japan. During the

spring and summer, the North Pacific stock of humpback whales migrate to feeding areas over the continental shelf of the Pacific rim, from the coast of California north to the Bering Sea. The main Hawaiian Islands may contain the largest seasonal population of North Pacific humpbacks in the world. Hawai'i is the only state in the United States where humpback whales mate, calve, and nurse their young.

FEEDING PATTERNS

The North Pacific stock of humpback whales feed during the summer, in northern waters (between approximate latitudes 40° to 75°). They feed on krill and small schooling fish, such as capelin and herring. Humpbacks rarely feed in their wintering areas; it is not known if they feed along their migratory routes.

NATURAL HISTORY

- Mature females typically calve every 2-3 years.
- The humpback whale's gestation period is 10-12 months.
- Calves nurse for 10-12 months, often doubling in size during their first year.
- Humpback whales of both sexes typically reach sexual maturity between 5-9 years of age.
- The humpback whale's average

lifespan is unknown, but it is believed to be 40-60 years.

THREATS

- Acoustic disturbance
- Collision with ships
- Entanglement in marine debris
- Habitat degradation, including pollution
- Illegal whaling

RECOVERY EFFORTS

The Hawaiian Islands Humpback Whale National Marine Sanctuary seeks to educate the public about humpback whales and the importance of Hawai'i's waters to the humpbacks' survival. The Sanctuary also supports humpback whale research efforts in Hawai'i.

RESEARCH

Current research includes population assessments, documenting and analyzing social and reproductive behavior, and describing the natural history of humpback whales. Research methods include aerial and vessel surveys, underwater photography and acoustic recording, photo-identification of flukes, and satellite tagging.

WHALES ARE PROTECTED IN HAWAII, PLEASE REPORT VIOLATIONS TO:

- NOAA Fisheries Enforcement at (808)541-2727 (Statewide) or the NOAA Fisheries Enforcement Hotline 1(800)853-1964, 24 hours a day, 7 days a week.





[LEGAL STATUS]

The Hawaiian monk seal is protected under the Endangered Species Act, the Marine Mammal Protection Act and wildlife laws of the State of Hawai'i. These laws prohibit harassing, harming, or killing a monk seal. It is important to remember that all monk seals, both alive and dead, are protected. In 1988, critical habitat was designated on all beach areas and ocean waters to a depth of 20 fathoms around the Northwestern Hawaiian Islands. If you are lucky enough to see a monk seal in the wild, please keep a minimum distance of 50 yards to ensure you do not disturb it. Federal permits are required to conduct research on monk seals both in the wild and in captivity.

POPULATION TRENDS

Hawaiian monk seals are the most endangered seal species in the United States, with only an estimated 1,300 to 1,400 seals remaining. Despite decades of protection and management which have enhanced population growth at some locations, overall numbers have declined and the species is now considered to be highly endangered – to the point that a natural catastrophe, such as a disease epidemic or a mass biotoxin poisoning event, could lead to extinction.

DISTRIBUTION & MOVEMENT PATTERNS

- Breeding populations are at six major locations in the Northwestern Hawaiian Islands; a relatively small number of seals live in the waters off the main Hawaiian Islands.
- Sandy beaches and lava benches are preferred "haul out" sites for monk seals.
- Monk seals commonly remain at their birth island for life.



HAWAIIAN MONK SEAL

Ka 'Īlio-holo-i-kaua

FEEDING PATTERNS

- Prey includes bottom and reef fish, eels, octopus, squid and crustaceans.
- Most feeding occurs at depths less than 75 to 90m (although the deepest recorded dive was greater than 500m).
- Recent data indicates wide variations in feeding strategies.

NATURAL HISTORY

- The maximum age of the Hawaiian monk seal is believed to be 25-30 years.
- Females reach sexual maturity at 5-10 years of age.
- Roughly 65% of all female adults give birth each year.
- Most females give birth on beaches with adjoining shallow water areas.
- Pups are weaned at 5-6 weeks of age; mothers do not eat while lactating.
- Pups measure about 3 feet at birth and weigh about 30 pounds. Their weight may increase to as much as 150 to 200 pounds before weaning.
- Mating occurs in the water and is rarely observed by humans.

THREATS

- Entanglement in marine debris
- Disturbance by humans can cause seals to abandon important habitat
- Aggression by adult male seals can injure or kill adult females or juveniles, usually at areas with larger numbers of adult males
- Predation by sharks
- Interactions with dogs (attacks and disease transmission)
- Limited prey resources

RECOVERY EFFORTS

- Marine debris has been removed from island beaches, reefs, and entangled seals.
- Adult males have been translocated to balance sex ratios and decrease the incidence of male aggression.
- Rehabilitation and release of underweight pups.
- Development of recovery plan and a Monk Seal Recovery Team.

RESEARCH

Current Research Includes:

- Assessing and monitoring population size
- Determining reproduction and survival rates
- Identifying causes of injuries and mortalities
- Monitoring social behaviors, including pup rearing and mobbing behavior
- Characterizing foraging behaviors, including diving patterns and prey selection
- Conducting census efforts at important habitat sites
- Studying the decline of seals at French Frigate Shoals
- Assessing the role of health and disease in population trends

MONK SEALS ARE PROTECTED IN HAWAII, PLEASE REPORT VIOLATIONS TO:

- NOAA Fisheries Enforcement at (808)541-2727 (Statewide) or the NOAA Fisheries Enforcement Hotline 1(800)853-1964, 24 hours a day, 7 days a week.
- Department of Conservation and Resource Enforcement (DOCARE), State of Hawai'i at (808)587-0077.

HAWAIIAN

SPINNER DOLPHIN

Ka Nai'a



Photo courtesy of Lori Mazzuca ©

[LEGAL STATUS]

Spinner dolphins are protected under the Marine Mammal Protection Act. Under the act it is unlawful to "take" marine mammals, including spinner dolphins. "Take" means to harass, hunt, capture or kill any marine mammal or attempt to do so. "Level B harassment" means any act of pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. When observing spinner dolphins in the wild recommended distance for observation is 50 yards.

DISTRIBUTION & MOVEMENT PATTERNS

Unlike oceanic spinner dolphins, Hawaiian spinners are found close to shore in shallow coves and bays during the day. In these important nearshore habitats, Hawaiian spinner dolphins rest, care for their young, avoid predators and engage in reproductive activities vital to their survival.

FEEDING PATTERNS

Hawai'i's spinner dolphins feed at night in the open ocean, usually along and across the slope in the 100 to 1,000 fathom escarpment. They feed on organisms that rise toward the surface at night, such as small squid, lantern fish, and small hake.

NATURAL HISTORY

- Females reach sexual maturity at 5-12 years of age.
- Gestation period is 10-12 months.
- Normally, adult females can give birth to a single calf every second or third year.
- Calves are weaned at 7 months of age or more.
- Although the maximum age is unknown, the spinner dolphin's lifespan is believed to be over 20 years.
- Exact population numbers are not known.

THREATS

- Acoustic disturbance from vessels
- Collisions with ships
- Entanglement on marine debris
- Habitat degradation
- Human disturbance - Though not apparent to the casual observer, spinner dolphins may be disturbed by close approaches by vessels and swimmers.

RESEARCH

- Documenting social behavior, vocalizations and population structure
- Documenting the impacts of human interaction on spinners

OTHER DOLPHINS AND SMALL WHALES COMMONLY SEEN IN HAWAII INCLUDE:

- Bottlenose dolphins
- Spotted dolphins
- False killer whales
- Pilot whales
- Risso's dolphins

SPINNER DOLPHINS ARE PROTECTED IN HAWAII, PLEASE REPORT VIOLATIONS TO:

- NOAA Fisheries Enforcement at (808)541-2727 (Statewide) or the NOAA Fisheries Enforcement Hotline 1(800)853-1964, 24 hours a day, 7 days a week.
- Department of Conservation and Resource Enforcement (DOCARE), State of Hawai'i at (808)587-0077.



HAWAIIAN

SEA TURTLE

Nā Honu

[LEGAL STATUS]

All sea turtles in Hawai'i are protected under the Endangered Species Act and wildlife laws of the State of Hawai'i. These laws make it illegal to harass, disturb, harm, kill, or keep sea turtles in captivity without a permit, or sell any sea turtle parts or products. Research on sea turtles both in captivity and in the wild require federal permits. It is important to remember that all sea turtles, both alive and dead, are protected. If you are lucky enough to see a sea turtle in the wild, do not attempt to touch or grab it. The recommended distance for observation of sea turtles in the wild is 50 yards. Please remember that feeding, touching, or attempting to ride them could cause distress.

HAWAII'S SEA TURTLES

Five species of sea turtles are found in the nearshore and pelagic environments around the Hawaiian Islands. The most commonly observed species is the threatened green sea turtle. The very rare and endangered hawksbill turtle may also be found in nearshore waters. Leatherback, loggerhead and olive ridley turtles are found in the offshore waters around Hawai'i, but are rarely seen by the casual observer. Sea turtles have played important roles in the environment and culture of Hawai'i. They are featured in mythology, petroglyphs, and as 'aumakua (personal family gods and guardians).

GREEN SEA TURTLE

The green sea turtle, called *honu* in Hawaiian, is the most common sea turtle in Hawaiian waters and can frequently be seen feeding on marine plants in shallow coastal waters

throughout the islands. This turtle is primarily vegetarian and eats algae or *limu* growing underwater on coral reefs and rocks. Green sea turtles grow slow, taking more than two decades to reach an adult breeding size of 200 pounds or more. Hawai'i's green sea turtles migrate once every 2-5 years across hundreds of miles of open ocean to mate and nest in the Northwestern Hawaiian Islands at the isolated French Frigate Shoals. While Hawai'i's green sea turtle population has increased in recent years, it is still threatened from poaching, death by fishing gear and from *fibropapilloma* disease. This disease causes fibrous growths on the eyes, neck, flippers, and in the mouth. It is believed to be caused by a virus, and can be fatal to turtles.

HAWKSBILL

The hawksbill or *honu'ea* is also native to Hawai'i. This species is critically endangered and it is believed that very few of these turtles remain in our island waters. Hawksbills nest on a few small sand beaches on the Big Island, Maui, Moloka'i, and O'ahu. These areas are extremely important habitat for hawksbill turtles. Mature hawksbills measure about three feet long and weigh up to 200 pounds. Hawksbills use their long, narrow beaks to probe for food. They are known to feed heavily on sponges, an invertebrate that is toxic to most other animals.

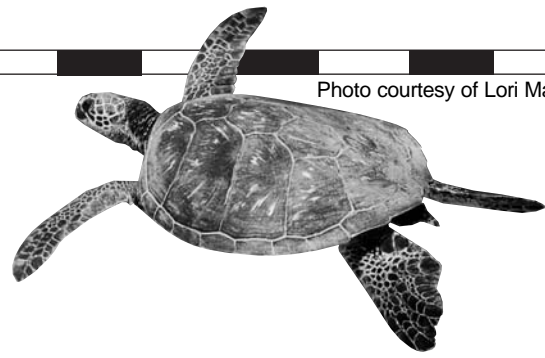
LEATHERBACK

The leatherback is the world's largest

turtle and can grow up to eight feet long and weigh up to 2,000 pounds. Leatherback turtles are seen regularly in Hawai'i's deep offshore waters, where they feed on jellyfish and other invertebrates. Leatherbacks do not normally nest on Hawai'i's beaches, although a rare nesting of a leatherback was documented on Lāna'i in 1997. Unfortunately, no signs of fertility were found in any of the eggs. Leatherbacks seen in Hawaiian waters are thought to originate from breeding sites in Mexico, Costa Rica, Irian Jaya and possibly even Malaysia. The leatherback is the only sea turtle species that lacks a hard shell.

SEA TURTLES ARE PROTECTED IN HAWAII, PLEASE REPORT VIOLATIONS TO:

- NOAA Fisheries Enforcement at (808)541-2727 (Statewide) or the NOAA Fisheries Enforcement Hotline 1(800)853-1964, 24 hours a day, 7 days a week.
- Department of Conservation and Resource Enforcement (DOCARE), State of Hawai'i, at (808)587-0077 (O'ahu); 274-3521(Kaua'i); 984-8110(Maui); 553-5190 (Moloka'i); 565-7916(Lāna'i); 974-6208(Hilo); 323-3141(Kona); 887-6196(Kamuela); after hours and weekends dial "o" and ask for enterprise 5469.
- Report nesting or basking activities, and dead, sick, injured, or stranded turtles to NOAA Fisheries Honolulu Laboratory at (808)983-5730, Monday – Friday, 7 am to 4 pm.



These excerpts from the United States "Endangered Species Act" and "the United States Code of Federal Regulations" are provided for information only. Before relying on any portion of the Act as it appears here, reference should be made to the official report of the Act in the United States Code of Federal Regulations. NOAA Fisheries is responsible for conservation, recovery and enforcement activities for most marine species under this statute.

ENDANGERED SPECIES ACT OF 1973

[AS AMENDED THROUGH 1994]

CONGRESSIONAL FINDINGS AND DECLARATIONS OF PURPOSES AND POLICY (16 U.S.C. 1531)

(a) Findings-The Congress finds and declares that

- (1)** various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation;
- (2)** other species of fish, wildlife, and plants have been so depleted in numbers that they are in danger of or threatened with extinction;
- (3)** these species of fish, wildlife, and plants are of esthetic, ecological, educational, historical recreational, and scientific value to the Nation and its people;

(b) Purposes

The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

(c) Policy

- (1)** It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of the Act.
- (2)** It is further declared to be the policy of Congress that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species.

DEFINITIONS (16 U.S.C. 1532)

For purposes of this Act

(6) The term "endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range--

(8) The term "fish or wildlife" means any member of the animal kingdom, including without limitations any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(19) The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(20) The term "threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

PROHIBITED ACTS (16 U.S.C. 1538)

(a) Generally

(1) Except as provided in sections 1535(g)(2) and 1539 of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 1533 of this Act it is unlawful for any person subject to the jurisdiction of the United States to--

- (A)** import any such species into, or export any such species from the United States;
- (B)** take any such species within the United States or territorial sea of the United States;
- (C)** take any such species upon the high seas;
- (D)** possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);
- (E)** deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity, any such species;
- (F)** sell or offer for sale in interstate or foreign commerce any such species; or
- (G)** violate any regulation pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 1533 of this title and promulgated by the Secretary pursuant to authority provided by this chapter.

UNITED STATES CODE OF FEDERAL REGULATIONS (50 CFR)

SUBPART A (Introduction and General Provisions)

222.101 Purpose and scope of regulations

(a) The regulations of parts 222, 223, and 224 of this chapter implement the Endangered Species Act (Act), and govern the taking, possession, transportation, sale, purchase, barter, exportation, importation of, and other requirements pertaining to wildlife and plants under the jurisdiction of the Secretary of Commerce and determined to be threatened or endangered pursuant to section 4(a) of the Act. These regulations are implemented by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. This part pertains to general provisions and definitions. Specifically, parts 223 and 224 pertain to provisions to threatened species and endangered [[Page 78]] species, respectively. Part 226 enumerates designated critical habitat for endangered and threatened species. Certain of the endangered and threatened marine species enumerated in Secs. 224.102 and 223.102 are included in Appendix I or II to the Convention on International Trade of Endangered Species of Wild Fauna and Flora. The importation, exportation, and re-exportation of such species are subject to additional regulations set forth at 50 CFR part 23, chapter I.

(b) For rules and procedures relating to species determined to be threatened or endangered under the jurisdiction of the Secretary of the Interior, see 50 CFR parts 10 through 17. For rules and procedures relating to the general implementation of the Act jointly by the Departments of the Interior and Commerce and for certain species under the joint jurisdiction of both the Secretaries of the Interior and Commerce, see 50 CFR Chapter IV. Marine mammals listed as endangered or threatened and subject to these regulations may also be subject to additional requirements pursuant to the Marine Mammal Protection Act (for regulations implementing that act, see 50 CFR part 216).

(c) No statute or regulation of any state shall be construed to relieve a person from the restrictions, conditions, and requirements contained in parts 222, 223, and 224 of this chapter. In addition, nothing in parts 222, 223, and 224 of this chapter, including any permit issued pursuant thereto, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of any state or of the United States, including any applicable health, quarantine, agricultural, or customs laws or regulations, or any other National Marine Fisheries Service enforced statutes or regulations.

222.102 Definitions

Authorized officer means:

- (1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (2) Any special agent or enforcement officer of the National Marine Fisheries Service;
- (3) Any officer designated by the head of a Federal or state agency that has entered into an agreement with the Secretary of Commerce or Commandant of the Coast Guard to enforce the provisions of the Act; or
- (4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

SUBPART C (General Permit Procedures)

222.301 General requirements

No person shall take, import, export, or engage in any other prohibited activity involving any species of fish or wildlife under the jurisdiction of the Secretary of Commerce that has been determined to be endangered under the Act, or that has been determined to be threatened and for which the prohibitions of section 9(a)(1) of the Act have been applied by regulation, without a valid permit issued pursuant to these regulations. The permit shall entitle the person to whom it is issued to engage in the activity specified in the permit, subject to the limitations of the Act and the regulations in parts 222, 223, and 224 of this chapter, for the period stated on the permit, unless sooner modified, suspended or revoked.

PART 224 - ENDANGERED MARINE AND ANADROMOUS SPECIES

224.103 Special prohibitions for endangered marine mammals

(a) Approaching humpback whales in Hawai'i. Except as provided in part 222, subpart C, of this chapter (General Permit Procedures) it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4km) of the Islands of Hawai'i, any of the following acts with respect to humpback whales (*Megaptera novaeangliae*):

- (1) Operate any aircraft within 1,000 feet (300 m) of any humpback whale;
- (2) Approach by any means, within 100 yards (90 m) of any humpback whale;
- (3) Cause a vessel or other object to approach within 100 yards (90 m) of a humpback whale; or
- (4) Disrupt the normal behavior or prior activity of a whale by any other act or omission. A disruption of normal behavior may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation or evasive swimming patterns; interruptions of breeding, nursing, or resting activities; attempts by a whale to shield a calf from a vessel or human observer by tail swishing or by other protective movement; or the abandonment of a previously frequented area.

These excerpts from the United States Marine Mammal Protection Act and "the United States Code of Federal Regulations" are provided for information only. Before relying on any portion of the Act as it appears here, reference should be made to the official report of the Act in the United States Code of Federal Regulations. NOAA Fisheries is responsible for management, conservation and enforcement activities for whales, dolphins, porpoises, seals and sea lions under this statute.

MARINE MAMMAL PROTECTION ACT OF 1972

[AS AMENDED THROUGH 1994]

FINDINGS AND DECLARATIONS OF POLICY (16 U.S.C. 1361)

The United States Congress finds that---

- (1) certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities;
- (2) such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock which has already diminished below that population. In particular, efforts should be made to protect essential habitats, including the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions;
- (6) marine mammals have proven themselves to be resources of great international significance, esthetic, recreational, as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with the sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the carrying capacity of the habitat.

DEFINITIONS (16 U.S.C. 1362)

Sec. 3. For the purposes of this Act

- (6) The term "marine mammal" means any mammal which (A) is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia and Cetacea), or (B) primarily inhabits the marine environment (such as the polar bear); and, for the purposes of this Act, includes any part of any such marine mammal, including its raw, dressed, or dyed fur or skin.

- (10) The term "person" includes (A) any private person or entity, and (B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.
- (12) (A) Except as provided in subparagraph (B), the term "Secretary" means---
- (i) the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, as to all responsibility, authority, funding, and duties under this Act with respect to members of the order Cetacea and members, other than walruses, of the order Pinnipedia---
 - (B) in Section 118 and title IV the term "Secretary" means the Secretary of Commerce.
- (13) The term "take" means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.
- (14) The term "waters under the jurisdiction of the United States" means---
- (A) the territorial seas of the United States;
 - (B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;
- (18) (A) The term "harassment" means any act of pursuit, torment, or annoyance which---
- (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or
 - (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.
- (B) The term "Level A harassment" means harassment described in subparagraph (A) (i).
- (C) The term "Level B harassment" means harassment described in subparagraph (A) (ii).

PROHIBITIONS (16 U.S.C. 1372)

Sec. 102. (a) [Taking] -- Except as provided by certain sections of this title I and title IV, it is unlawful---

- (1) for any person subject to the jurisdiction of the United States or any vessel or other conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas;
- (2) except as expressly provided for by an international treaty, convention, or agreement to which the United States is a party and which was entered into before the effective date of this title or by any statute implementing any such treaty, convention, or agreement--
 - (A) for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States; or
 - (B) for any person to use any port, harbor, or other place under the jurisdiction of the United States to take or import marine mammals or marine mammal products; and
- (3) for any person, with respect to any marine mammal taken in violation of this title, to possess that mammal or any product from that mammal;
- (4) for any person to transport, purchase, sell, export, offer to purchase, sell, or export any marine mammal or marine mammal product--
- (5) for any person to use, in a commercial fishery, any means or methods of fishing in contravention of any regulations or limitations, issued by the Secretary for that fishery to achieve the purposes of this Act.

UNITED STATES CODE OF FEDERAL REGULATIONS (50 CFR)

Part 216---Regulations Governing the Taking and Importing of Marine Mammals

Subpart A--Introduction

216.1 PURPOSE OF REGULATIONS

The regulations in this part implement the Marine Mammal Protection Act of 1972, which among other things, restricts the taking, possession, transportation, selling, offering for sale, and importing of marine mammals.

216.3 DEFINITIONS

In addition to definitions contained in the Act, and unless the context otherwise requires, in this part 216:

Feeding is offering, giving, or attempting to give food or non-food items to marine mammals in the wild. It includes operating a vessel or providing other platforms from which feeding is conducted or supported. It does not include the routine discard of by catch during fishing operations or routine discharge of waste or fish by products from fish processing plants or other platforms if the discharge is otherwise legal and is incidental to operation of the activity.

Endangered Species means a species or subspecies of marine mammal listed as "endangered" pursuant to the Endangered Species Act of 1973.

Take means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes, without limitation, any of the following: The collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild.

Threatened Species means a species of marine mammal listed as "threatened" pursuant to the Endangered Species Act of 1973.

216.8 Enforcement officers

Enforcement Agents of the National Marine Fisheries Service shall enforce the provisions of the MMPA and may take any actions authorized by the MMPA with respect to enforcement. In addition, the Secretary of Commerce may utilize, by agreement, the personnel, services, and facilities of any other Federal Agency for the purposes of enforcing this MMPA. Pursuant to the terms of section 107(b) of the MMPA, the Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of this MMPA.

SUBPART B--PROHIBITIONS

216.11 Prohibited Taking

Except as otherwise provided in subparts C, D, and I of this part 216 or in part 228 or 229, it is unlawful for:

- (a) Any person, vessel, or conveyance subject to the jurisdiction of the United States to "take" any marine mammal on the high seas, or
- (b) Any person, vessel, or conveyance to "take" any marine mammal in waters or on lands under the jurisdiction of the United States, or
- (c) Any person subject to the jurisdiction of the United States to "take" any marine mammal during the moratorium.

The Marine Mammal Protection Act establishes a moratorium on the “taking” of marine mammals in U.S. waters by any person and by U.S. citizens in international waters, as well as a moratorium on the importing of marine mammals and marine mammal products into the United States. However, certain activities are exempted from this moratorium. They are:

- *scientific research
- *enhancing the survival or recovery of a marine mammal species or stock
- *commercial and educational photography
- *first-time import for public display
- *capture of wild marine mammals for public display
- *incidental take during commercial fisheries, and
- *incidental take during non-fishery activities.

To participate in the above activities, permits and/or authorizations are required for: (1) marine mammal takes within U.S. waters by all U.S. or foreign citizens; and (2) marine mammal takes in international waters by U.S. citizens only. NOAA Fisheries (NMFS) maintains jurisdiction over whales, dolphins, porpoises, seals and sea lions. The U.S. Fish and Wildlife Service maintains jurisdiction for walruses, polar bears, sea otters, manatees and dugongs.

Some species of marine mammals are also protected by the Endangered Species Act (ESA) and the Fur Seal Act (FSA) which can mandate additional restrictions.

These excerpts from the United States “National Marine Sanctuaries Act” (NMSA) and Subtitle C “the Hawaiian Islands Humpback Whale National Marine Sanctuary Act” are provided for information only. Before relying on any portion of the Act as it appears here, reference should be made to the official report of the Act in the United States Code of Federal Regulations.

THE NATIONAL MARINE SANCTUARIES ACT OF 1972

[AS AMENDED BY PUB. L. 104-283]

SEC. 301 CONGRESSIONAL FINDINGS, PURPOSES, AND POLICIES (16 U.S.C. 1431)

(a) Findings - The Congress finds that —

- (2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national, and in some instances, international significance;
- (4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resources conservation, research and management;
- (5) such a Federal program will serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and
- (6) protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations.

(b) Purposes and Policies — The purposes and policies of this title are—

- (1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance;
- (2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;
- (3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;
- (4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment;

(5) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(7) to create models of, and incentives for, ways to conserve and manage those areas;

(9) to maintain, restore and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.

SEC. 302 DEFINITIONS

(3) “marine environment” means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law;

(8) “sanctuary resource” means any living or non living resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the sanctuary;

SEC. 306 PROHIBITED ACTIVITIES

It is unlawful to

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

(2) possess, sell, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this title; or

(4) violate any provision of this title or any regulation or permit issued pursuant to this title.

SEC. 307 ENFORCEMENT

(b) Powers of Authorized Officers — Any person who is authorized to enforce this title may —

(1) board, search, inspect, and seize any vessel suspected of being in used to violate this title;

(2) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title;

(3) seize any evidence of a violation of this title or of any regulation or permit issued under this title;

(4) execute any warrant or other process issued by any court of competent jurisdiction; and

(5) exercise any other lawful authority.

THE HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY ACT

[Subtitle C of Public Law 102-587, as amended by Pub. L. 104-283]

SEC. 2302 CONGRESSIONAL FINDINGS —

(a) Findings - The Congress finds the following

- (7) The Hawaiian stock of the endangered humpback whale, the largest of the three North Pacific stocks, breed and calve within the waters of the main Hawaiian Islands;
- (8) The marine areas surrounding the main Hawaiian Islands, which are essential breeding, calving, and nursing areas for the endangered humpback whale, are subject to damage, loss of their ecological integrity from a variety of disturbances;
- (11) The existing State and Federal regulatory and management programs applicable to the waters of the main Hawaiian Islands are inadequate to provide the kind of comprehensive and coordinated conservation and management of humpback whales and their habitat that is available under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431;
- (13) There is a need to support, promote, and coordinate scientific research on, and monitoring of, that portion of the marine environment essential to the survival of humpback whale;
- (14) Public education, awareness, understanding, appreciation, and wise use of the marine environment are fundamental to the protection and conservation of the humpback whale;
- (15) The designation, as a national marine sanctuary, of the areas of the marine environment adjacent to the main Hawaiian Islands which are essential to the continued recovery of the humpback whale is necessary for the preservation and protection of this important national marine resource;

SEC. 2304 POLICY AND PURPOSES —

(a) Policy — It is the policy of the United States to protect and preserve humpback whales and their habitat within the Hawaiian Islands marine environment.

(b) Purposes — The purposes of this subtitle are —

- (1) to protect the humpback whales and their habitat in the area described in Section 2305(b);
- (2) to educate and interpret for the public the relationship of humpback whales to the Hawaiian Islands marine environment;
- (3) to manage such human uses of the Sanctuary consistent with this subtitle and title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this Act, and
- (4) to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary designated in section 2305(a).

SEC. 2306 COMPREHENSIVE MANAGEMENT PLAN AND IMPLEMENTING REGULATIONS
(Subpart Q, Part 922)

6 922.184 Prohibited Activities

(a) The following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted.

- (1)** approaching, or causing a vessel or other object to approach, within the Sanctuary, by any means, within 100 yards of any humpback whale except as authorized under the Marine Mammal Protection Act (MMPA), as amended, and the Endangered Species Act (ESA), as amended;
- (2)** operating any aircraft about the Sanctuary within 1,000 feet of any humpback whale except when in any designated flight corridor for takeoff or landing from an airport or runway or as authorized under the MMPA and the ESA;
- (3)** taking any humpback whale in the Sanctuary except as authorized under the MMPA and the ESA;
- (4)** possessing within the Sanctuary (regardless of where taken) any living or dead humpback whale or part thereof taken in violation of the MMPA or the ESA;
- (5)** discharging or depositing any material or other matter in the Sanctuary; altering the seabed of the Sanctuary, or discharging or depositing any material or other matter outside the Sanctuary if the discharge or deposit subsequently enters and injures a humpback whale or humpback whale habitat; provided that: such activity requires a Federal or State permit, license, lease, or other authorization, and is conducted:
 - without such permit, license, lease, or other authorization; or
 - not in compliance with the terms or conditions of such permit, license, lease, or other authorization.
- (6)** interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of either of the Acts or any regulations issued under either of the Acts.

(b) The prohibitions in paragraphs (a) (1) - (5) of the 6922.184 do not apply to activities necessary to respond to emergencies threatening life, property or the environment; or to activities necessary for valid law enforcement purposes. However, while such activities are not subject to paragraphs (a) (1) - (5) of the 6922.184, this paragraph (b) does not exempt the activity from the underlying prohibition or restriction under other applicable laws and regulations (e.g. MMPA, ESA, and CWA).

EXCERPTS FROM HAWAI'I'S WILDLIFE LAW

These excerpts from the State of Hawai'i's Wildlife Law are provided for information only. Before relying on any portion of these rules as they appear here, reference should be made to the official rules as issued by the State of Hawai'i, Department of Land and Natural Resources.

TITLE 13, CHAPTER 124, HAWAI'I ADMINISTRATIVE RULES

[Effective March 2, 1998]

613-124-1 Purpose. The purpose of this chapter is to conserve, manage, protect, and enhance indigenous wildlife....

613-124-2 Definitions. As used in this chapter unless context requires otherwise:

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Endangered wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as endangered and any species, subspecies, or population of indigenous wildlife listed in, but not limited to the exhibit entitled "Exhibit 2, Chapter 13-124, Endangered Wildlife in Hawai'i" and as updated, which is located at the end of this chapter and incorporated by reference.

"Export" means shipment to any point outside the State;

"Indigenous wildlife" means any species or subspecies of animal, including migratory forms, occurring or living naturally in Hawai'i without having been brought to Hawai'i by humans and listed in, but not limited to, the exhibit entitled "Exhibit 1, Chapter 13-124, Indigenous Wildlife of Hawai'i and as updated, which is located at the end of this chapter and incorporated by reference.

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect endangered or threatened species of wildlife, or to attempt to engage in any such conduct.

"Threatened wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as threatened and any species, subspecies, or population of indigenous wildlife listed in, but not limited to, the exhibit entitled "Exhibit 3, Chapter 13-124, Threatened Wildlife in Hawai'i and as updated, which is located at the end of this chapter and incorporated by reference.

"Wildlife" means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

613-124-3 Prohibited Activities.

- (A) With respect to indigenous wildlife..., and except as provided in subsections (D) and (E), no person shall or attempt to:
- (1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof;
 - (2) Export any such species, or any young or egg, or the dead body or skin thereof from the State.
- (B) With respect to endangered and threatened species of wildlife except as provided in subsection (E), no person shall or attempt to:
- (1) Take, possess, process, sell, offer for sale, or transport any such species, any young or egg, or the dead body or skin thereof within the State;
 - (2) Export any such species, or any young or egg, or the dead body or parts thereof, from the State.
- (C) No person shall remove, damage, or disturb the nest of any indigenous, endangered, or threatened species except as provided in subsection (E);
- (D) (Regards introduced wild birds.)
- (E) The prohibited activities in this section shall not apply to authorized employees of the department, or enforcement agents and inspectors of the department of agriculture and U.S. Fish and Wildlife Service when acting in the course of their official duties, or persons authorized by the board or its authorized representative and as provided elsewhere in this chapter.

EXHIBIT 1, CHAPTER 13-124 - INDIGENOUS WILDLIFE OF HAWAII

Indigenous Reptiles

Pelamis platurus - Yellow-bellied Sea Snake

Caretta caretta — Loggerhead Sea Turtle

Chelonia mydas agassizi — Pacific Green Sea Turtle

Dermochelys coriacea schlegelii — Pacific Leatherback Sea Turtle

Eretmochelys imbricata bissa — Pacific Hawksbill Sea Turtle

Lepidochelys olivacea — Olive Ridley Sea Turtle

Indigenous Mammals

Monachus schauinslandi — Hawaiian Monk Seal

Balaenoptera physalus — Fin Whale
Balaenoptera acutorostrata — Minke Whale
Megaptera novaeangilae — Humpback Whale
Physeter catodon — Sperm Whale
Mesoplodon densirostris — Densebeaked Whale
Orcinus orca — Killer Whale
Pseudorca crassidens — False Killer Whale
Peponocephala electra — Melon-headed Whale
Globicephala macrorhynchus — Pilot Whale
Kogia breviceps — Pygmy Sperm Whale
Tursiops gilli — Pacific Bottlenose Dolphin
Steno bredanensis — Rough-toothed Dolphin
Stenella attenuata — Spotted Dolphin
Stenella longirostris — Spinner Dolphin
Stenella coeruleoalba — Striped Dolphin

EXHIBIT 2, CHAPTER 13-124 — ENDANGERED WILDLIFE IN HAWAI‘I

Endangered Reptiles

Eretmochelys imbricata bissa — Pacific Hawksbill Sea Turtle
Dermochelys coriacea schlegelii — Pacific Leatherback Sea Turtle

Endangered Mammals

Monachus schauinslandi — Hawaiian Monk Seal
Balaenoptera physalus — Fin Whale
Megaptera novaeangilae — Humpback Whale
Physeter catodon — Sperm Whale

EXHIBIT 3, CHAPTER 13-124 —THREATENED WILDLIFE IN HAWAI‘I

Threatened Reptiles

Caretta caretta — Loggerhead Sea Turtle
Chelonia mydas agassizi — Pacific Green Sea Turtle
Lepidochelys olivacea — Olive Ridley Sea Turtle

WILDLIFE VIEWING RECOMMENDATIONS FOR HAWAI'I OCEAN USERS

NOAA's National Ocean Service and NOAA Fisheries are members of the national Watchable Wildlife Program, a collaborative effort by numerous federal and state agencies, environmental groups and private industry working to promote responsible wildlife viewing and nature appreciation. Together, we recommend the following "Code of Conduct" for viewing wild mammals and sea turtles in Hawai'i.

- (1) Please view wild marine mammals from an appropriate distance — at least 50 yards for dolphins and monk seals. For humpback whales, approaches closer than 100 yards are prohibited by regulation. Using binoculars and telephoto lenses offer a minimally intrusive viewing experience. Please also observe sea turtles from a distance and do not attempt to touch, ride or feed them.
- (2) Please give spinner dolphins their space in resting areas where mothers and calves are especially vulnerable to human activities.
- (3) Be aware that feeding wild marine mammals is illegal and feeding any wild marine wildlife causes them to become dependent on humans, changes their natural behaviors, and makes them vulnerable to injury from vessel strikes and illness from contaminated or inappropriate food.
- (4) Always remember that wild marine mammals, like all wild animals, are unpredictable in their behavior, and can seriously injure people.

By following the "Code of Conduct", you can make a difference by ensuring that marine wildlife viewing will be rewarding today and for many generations to come. The National Ocean Service and NOAA Fisheries hope your time spent viewing Hawai'i's marine wildlife is memorable, enjoyable, educational, and safe.

NOAA Fisheries is the Federal Agency responsible for protecting whales under the Marine Mammal Protection Act (MMPA) of 1972 and Endangered Species Act of 1973. To protect whales from harassment and to promote a better public understanding of how to avoid harassment of whales, NOAA Fisheries is providing these guidelines for whale watching.

GUIDELINES FOR WHALE WATCHING

A. GENERAL:

By regulation, no one is allowed to approach closer than 100 yards to a humpback whale.

B. AIRCRAFT:

By regulation, no one is allowed to operate any aircraft within 1,000 feet of a humpback whale.

C. BOATS/VESSELS:

No one may maneuver closer than 100 yards of a humpback whale and vessel operators must adhere to the following restrictions:

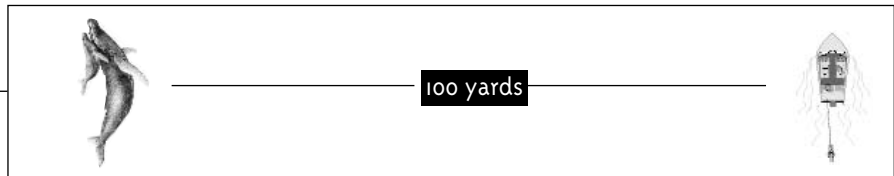
- Never operate faster than the speed of the slowest whale when paralleling or following.
- Always maneuver so as not to separate whales, especially a whale from a calf.
- Never use a vessel to herd or drive whales.

ACCEPTABLE MANEUVERS:

1

Side Approach

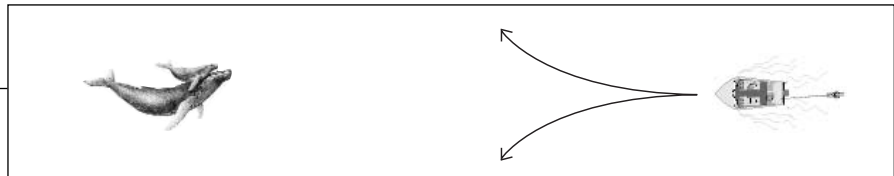
When a boat is approaching a whale from either side it should close to 100 yards and either parallel or follow at that distance.



2

Head-On Approach

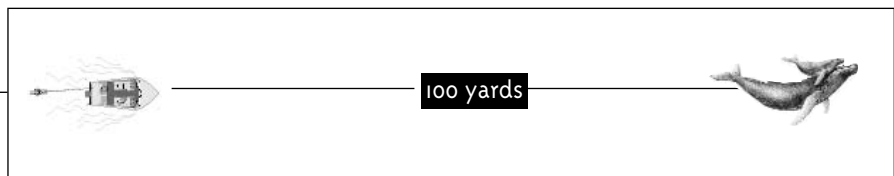
When a boat is in the path of a whale, it should maneuver out of the path and then parallel or follow the whales at a distance of 100 yards.



3

Rear Approach:

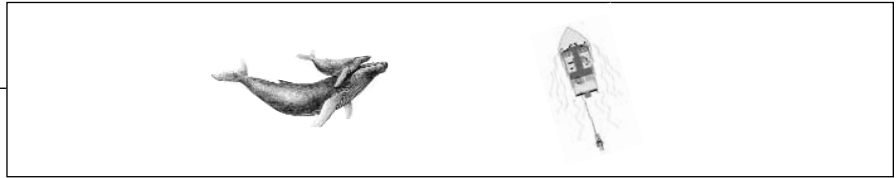
When a boat is overtaking a whale it should close to 100 yards and then adjust speed to that of the slowest whale.



UNACCEPTABLE MANEUVERS:

1

Running in front
or cutting across a
whale's path.



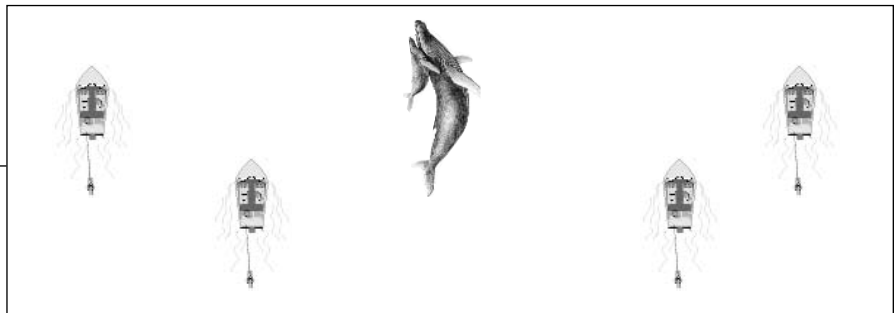
2

Cutting the whale off
from deep water.



3

Surrounding
the whale.



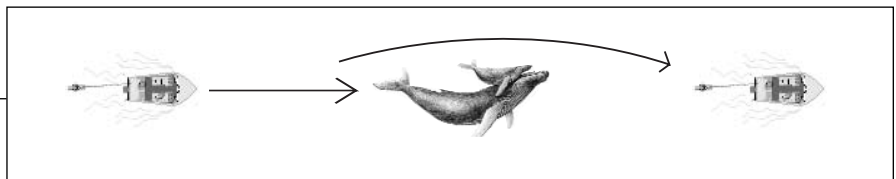
4

Placing your vessel between
the mother and calf.



5

Leapfrogging.



Adherence to the above guidelines should prevent violations of the approach prohibitions and will help avoid harassment, which is the disruption of the normal behavioral patterns of humpback whales. Such disruptions are usually manifested by, but not limited to: rapid change in direction and/or speed; escape tactics such as prolonged diving and underwater course changes, underwater exhalation or evasive swimming patterns, including swimming away rapidly on the surface; interruption of breeding, nursing, or resting activities; actions by a female to shield a calf from a boat or human behavior, evidenced by tail swishing, slapping or by other protective movements; or the abandonment of a previously frequented area.

Your cooperation in adhering to these guidelines is essential for the protection of these endangered creatures. Failure to observe these guidelines may result in harassment of whales, which is illegal. These guidelines are subject to change.

As in the past, NOAA Fisheries, the State of Hawai'i, Department of Conservation and Resource Enforcement (DOCARE), and the United States Coast Guard (USCG), will make every effort to protect the whales on their annual visit to Hawai'i.

FOR FURTHER INFORMATION, CONTACT:
NOAA Fisheries Enforcement (808) 541-2727

NOAA Fisheries (808) 973-2937

Hawaiian Islands Humpback Whale National Marine
Sanctuary 1(800) 831-4888

GUIDELINES

FOR DOCUMENTING VIOLATIONS

In order for law enforcement authorities to respond to a reported violation in a timely manner and to successfully apprehend and prosecute violators, certain information is critical. This information must be accurately documented and reported to authorities immediately.

REMEMBER: WITNESSES ARE NOT TO APPROACH OR CONTACT VIOLATORS.

The following list is provided as a suggested guideline for obtaining and documenting necessary information.

1. Type of violation:(e.g. approach, harassment, other)

2. Date:

3. Time:

4. Location of violation:

5. Type of vessel/equipment used in violation

- Color(s):

- Length:

- Name/Home port:

- Identification numbers:

- Other descriptions:

- Last known direction headed:

- Speed

6. Weather on scene:

7. Visibility:

8. Sea conditions:
9. Behavior of animals prior to, during, and after incident:
10. Photographs/Video taken or available:
11. Description of violation or comments: (Use additional sheets if necessary)

12. Reporting party's name: (Please Print)
13. Temporary address & telephone number if non-resident:
14. Permanent address & telephone number:
15. Other witnesses:

Signature _____ Date _____

**NOAA Fisheries
Office of Enforcement**
300 Ala Moana Blvd. Room 7110
Honolulu, HI 96850
Phone:
(808) 541-2727 (O'ahu)
(808) 879-3699 (Maui) HI 96753
Fax (808) 541-3166

**Hawaiian Islands Humpback
Whale National Marine Sanctuary
Maui Office**
726 S. Kīhei Road, Kīhei, HI 96753
Phone: (808) 879-2818/
1-800-831-4888
Fax (808) 874-3815 or
O'ahu Office
Phone: (808) 397-2651
Fax: (808) 397-2650

Kaua'i Office
Phone: (808) 246-2860
Fax: (808) 246-2862
State Office
Phone: (808) 587-0106
Fax: (808) 587-0115

TELEPHONE CONTACT SHEET

[Important phone numbers for information and assistance]

PHONE NUMBERS FOR O'AHU

SITUATION	CONTACT
Violations of the Marine Mammal Protection Act and/or Endangered Species Act, including Hawai'i's Humpback Whale Approach Regulations	NOAA Fisheries Enforcement (808) 541-2727 or 1-800-853-1964, 24 hours a day, 7 days a week U.S. Coast Guard 1-800-552-6458 Department of Conservation and Resource Enforcement (DOCARE), State of Hawai'i (808) 587-0077
Marine Mammal Strandings - Whales, Dolphins, and Hawaiian monk seals	NOAA Fisheries, 1-888-256-9840, 24 hours a day, 7 days a week Honolulu Police Department 911
Injured or Stranded Sea Turtles	Marine Turtle Research Program, NOAA Fisheries (808) 983-5730 Monday - Friday, 7:00 am to 4:00 pm DOCARE Conservation Hotline, State of Hawai'i, (808) 587-0077 weekends, holidays, and after hours
General Information	Hawaiian Islands Humpback Whale National Marine Sanctuary O'ahu Office (808) 397-2651

TELEPHONE CONTACT SHEET

[Important phone numbers for information and assistance]

PHONE NUMBERS FOR MAUI COUNTY (Maui, Moloka'i, Lāna'i)

SITUATION	CONTACT
Violations of the Marine Mammal Protection Act and/or Endangered Species Act, including Hawai'i's Humpback Whale Approach Regulations	NOAA Fisheries Enforcement (808) 541-2727 or (808) 879-3699 (January-April); or 1-800-853-1964, 24 hours a day, 7 days a week U.S. Coast Guard 1-800-552-6458 DOCARE, State of Hawai'i, Maui (808) 984-8110, Moloka'i (808) 553-5190, Lāna'i (808) 565-7916, after hours dial "o" ask for enterprise 5469
Marine Mammal Strandings - Whales, Dolphins, and Hawaiian monk seals	NOAA Fisheries, 1-888-256-9840, 24 hours a day, 7 days a week Maui County Police Department (808) 244-6400
Injured or Stranded Sea Turtles	Ma'alaea to Makena (808) 278-3775 (pgr.) NOAA Sanctuary Volunteers All other Maui Areas (808) 893-3172 (pgr.) or (808) 893-3050 (pgr.) Marine Option Program, Maui Community College Marine Turtle Research Program, NOAA Fisheries (808) 983-5730 Monday - Friday, 7:00 am to 4:00 pm DOCARE, State of Hawai'i, Maui (808) 984-8110, Moloka'i (808) 553-5190, Lāna'i (808) 565-7916, after hours dial "o" ask for enterprise 5469
General Information	Hawaiian Islands Humpback Whale National Marine Sanctuary Maui Office (808) 879-2818

TELEPHONE CONTACT SHEET

[Important phone numbers for information and assistance]

PHONE NUMBERS FOR HAWAI`I (Big Island)

SITUATION	CONTACT
Violations of the Marine Mammal Protection Act and/or Endangered Species Act, including Hawai'i's Humpback Whale Approach Regulation	NOAA Fisheries Enforcement (808) 541-2727 or 1-800-853-1964, 24 hours a day, 7 days a week U.S. Coast Guard 1-800-552-6458 DOCARE, State of Hawai'i, Hilo (808) 974-6208, Kona (808) 323-3141, Kamuela (808) 887-6196, after hours dial "o" and ask for enterprise 5469
Marine Mammal Strandings - Whales, Dolphins, and Hawaiian monk seals	NOAA Fisheries, 1-888-256-9840, 24 hours a day, 7 days a week Hawai'i County Police Department (808) 935-3311
Injured or Stranded Sea Turtles	Marine Turtle Research Program, NOAA Fisheries (808) 983-5730 Monday - Friday, 7:00 am to 4:00 pm DOCARE, State of Hawai'i, Hilo (808) 974-6208, Kona (808) 323-3141, Kamuela (808) 887-6196, after hours dial "o" and ask for enterprise 5469
General Information	Hawaiian Islands Humpback Whale National Marine Sanctuary Maui Headquarters Office 1-800-831-4888

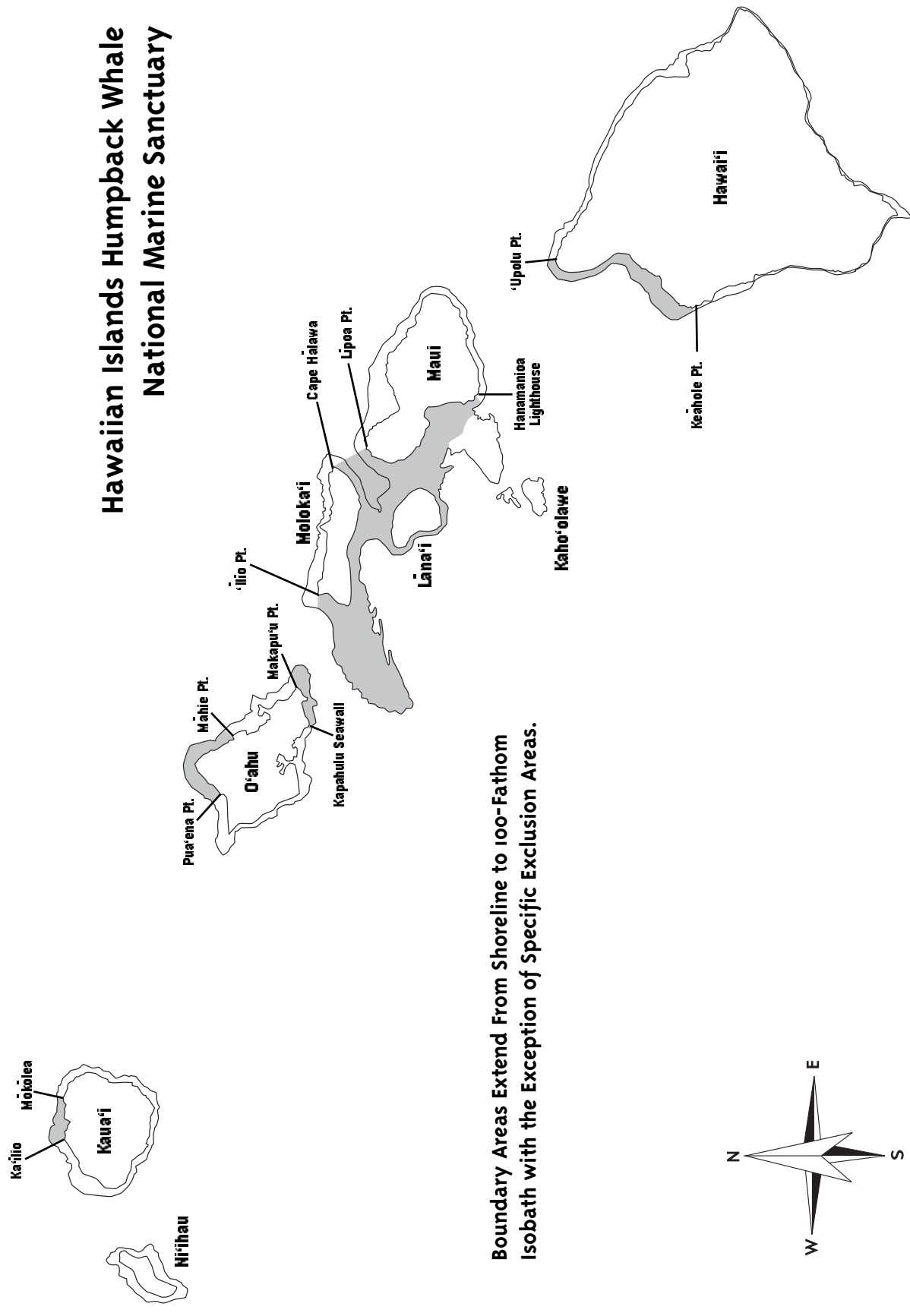
TELEPHONE CONTACT SHEET

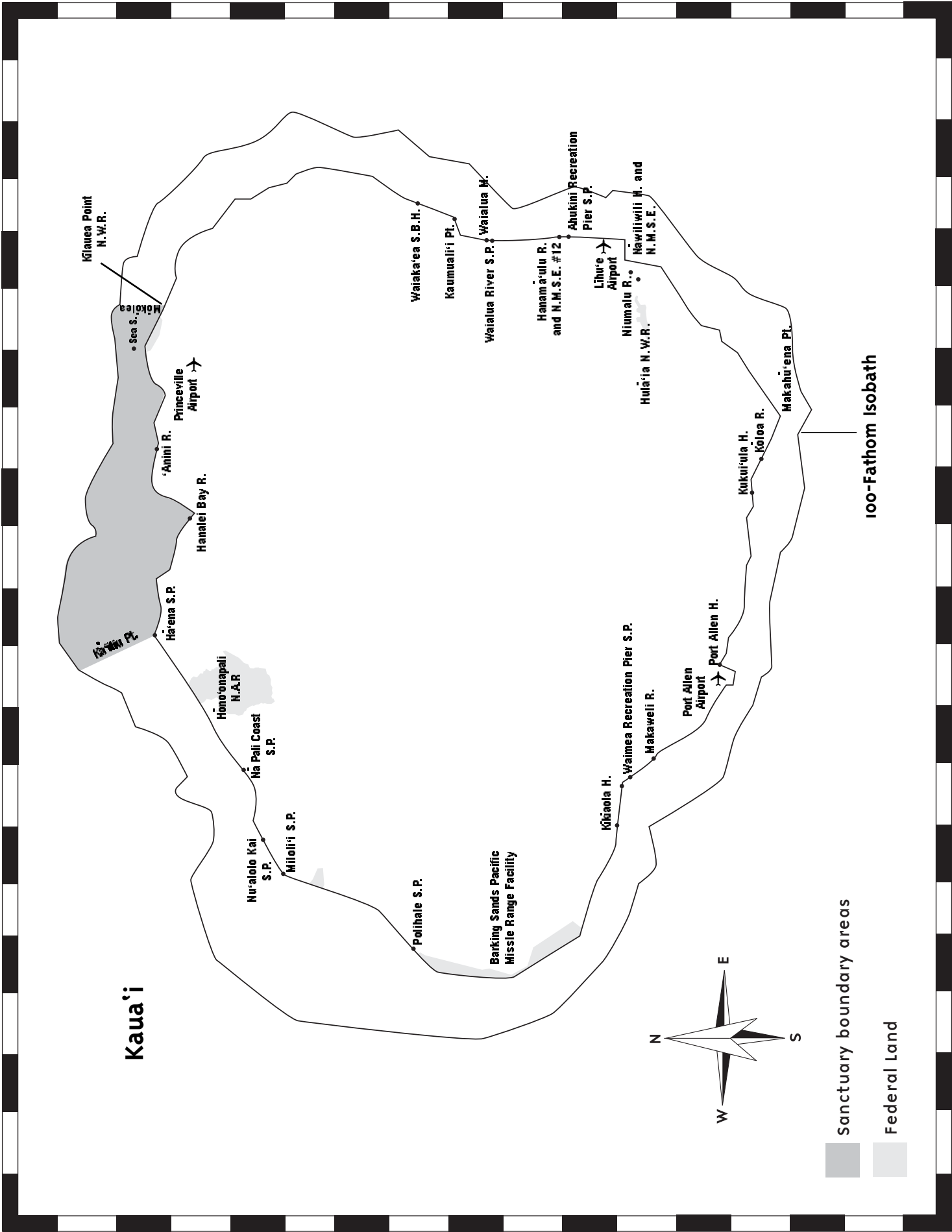
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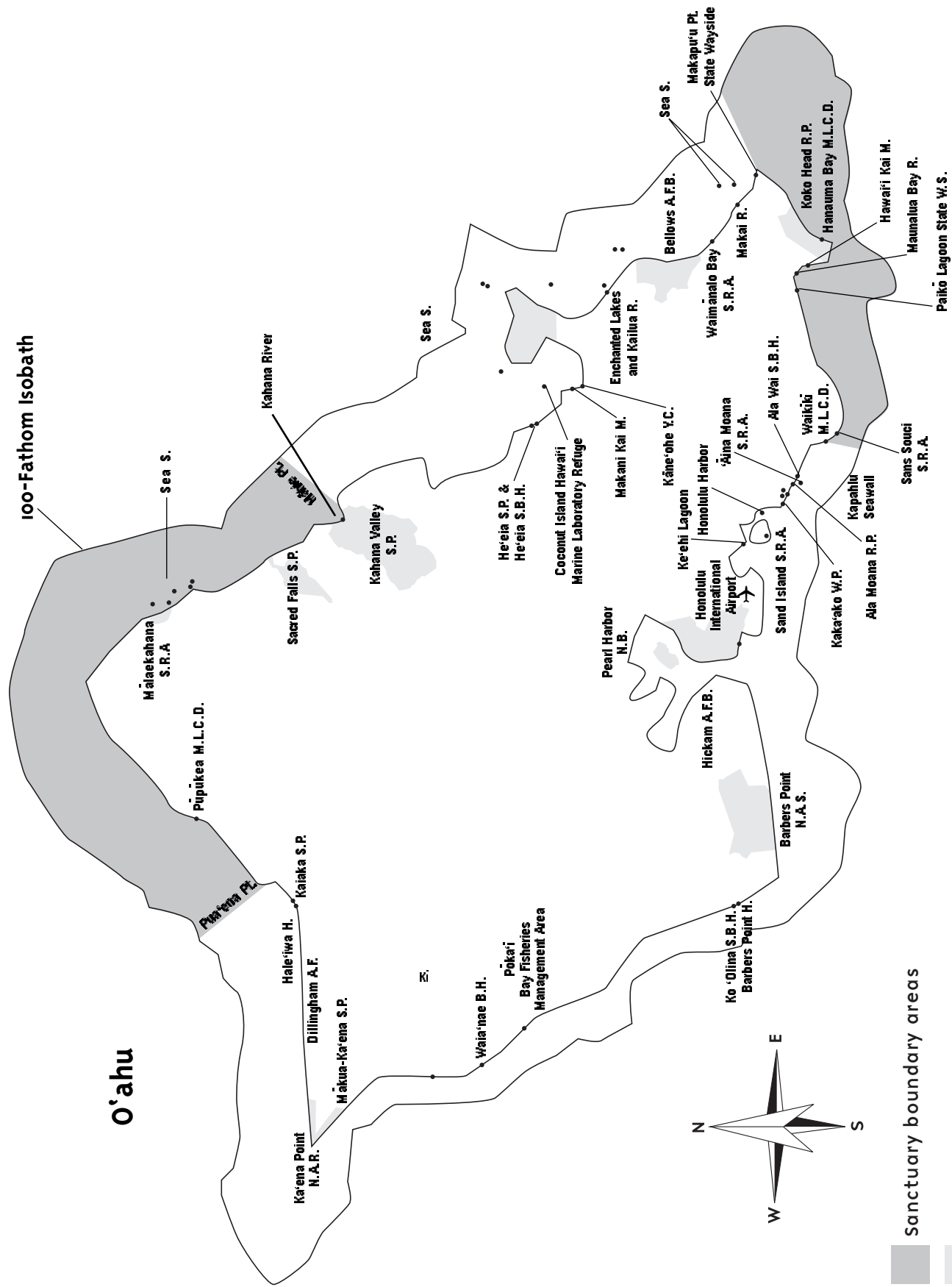
PHONE NUMBERS FOR KAUA'I

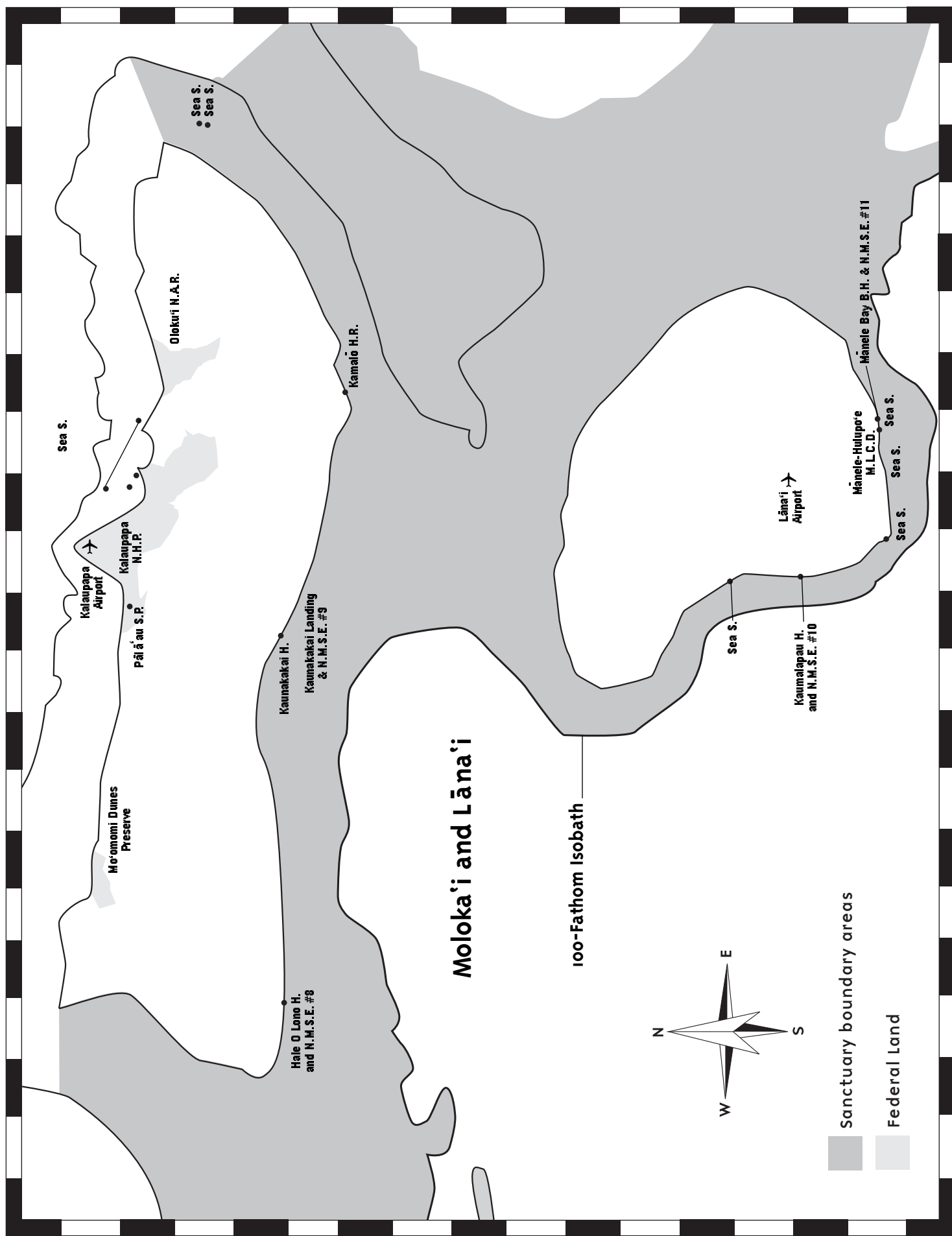
SITUATION	CONTACT
Violations of the Marine Mammal Protection Act and/or Endangered Species Act, including Hawai'i's Humpback Whale Approach Regulations	NOAA Fisheries Enforcement (808) 541-2727 or 1-800-853-1964, 24 hours a day, 7 days a week U.S. Coast Guard 1-800-552-6458 DOCARE, State of Hawai'i, Kaua'i (808) 274-3521, after hours dial "o" and ask for enterprise 5469
Marine Mammal Strandings - Whales, Dolphins, and Hawaiian monk seals	NOAA Fisheries, 1-888-256-9840, 24 hours a day, 7 days a week Kaua'i County Police Department (808) 241-6711
Injured or Stranded Sea Turtles	Marine Turtle Research Program, NOAA Fisheries (808) 983-5730 Monday - Friday, 7:00 am to 4:00 pm DOCARE, State of Hawai'i, Kaua'i (808) 274-3521, after hours dial "o" and ask for enterprise 5469
General Information	Hawaiian Islands Humpback Whale National Marine Sanctuary Kaua'i Office (808) 246-2860

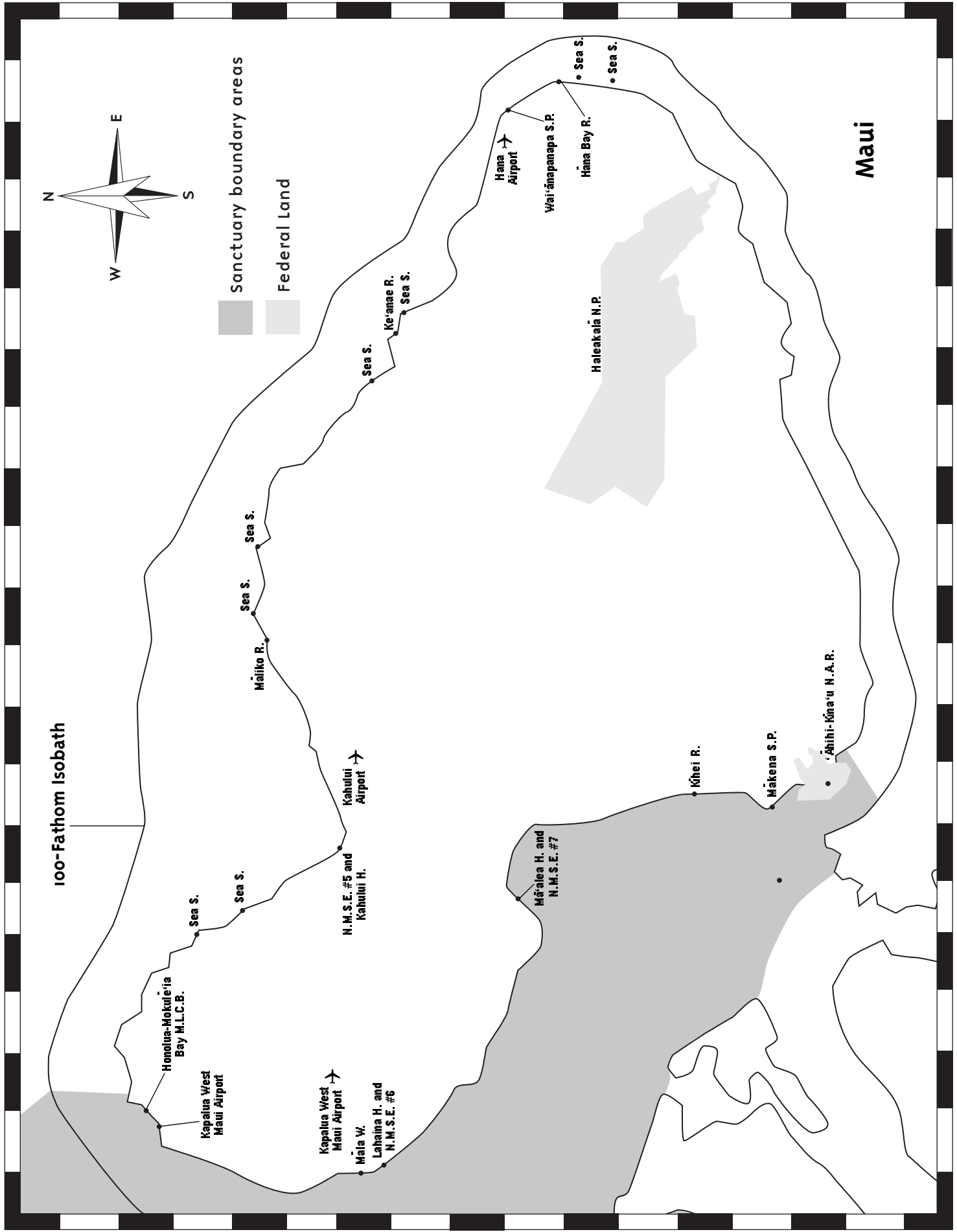
Hawaiian Islands Humpback Whale National Marine Sanctuary



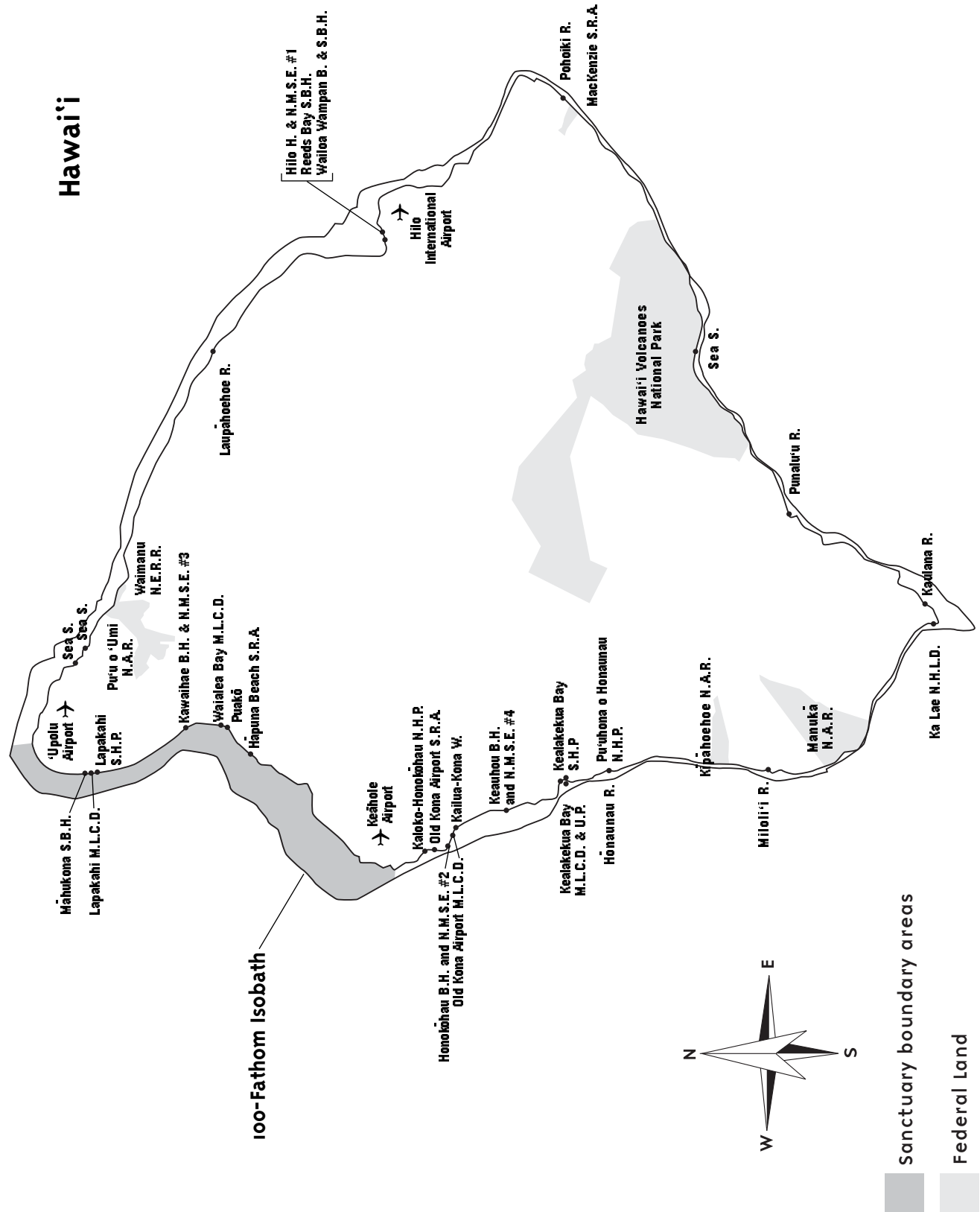








Hawai'i



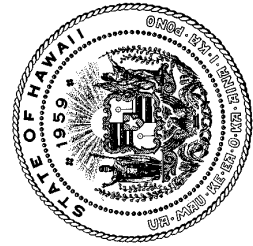
Exclusions:

The following harbors are excluded from the Hawaiian Islands Humpback Whale National Marine Sanctuary Boundaries.

1. Lāhaina Harbor, Maui. 1:11,365
2. Māʻālaea Harbor, Maui. 1:15,174
3. Hale o Lono Harbor, Molokaʻi. 1:12,243
4. Kaunakakai Harbor, Molokaʻi. 1:33,821
5. Kaumalapau Harbor, Lanaʻi. 1:14,621
6. Mānele Harbor, Lanaʻi. 1:7,291
7. Ala Wai Harbor, Oʻahu. 1:19,717
8. Kawaiahe Harbor and Small Boat Basin, Hawaiʻi. 1:40,707



The Hawaiian Islands

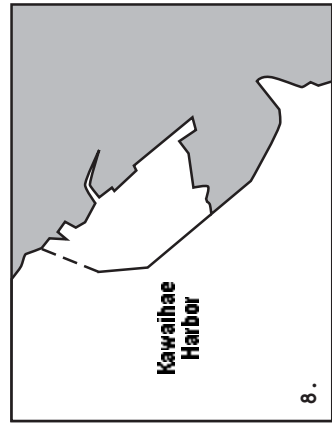
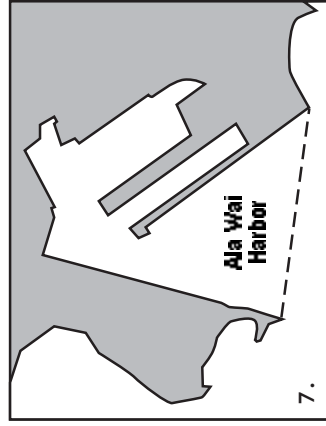
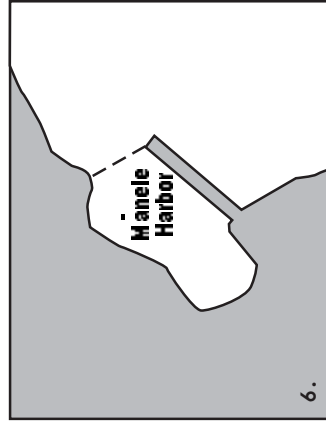
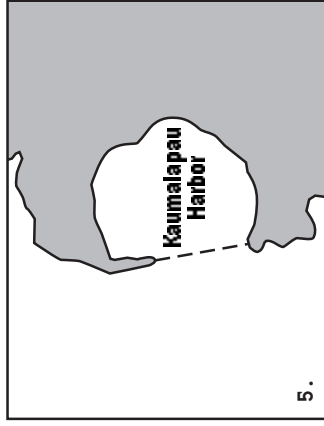
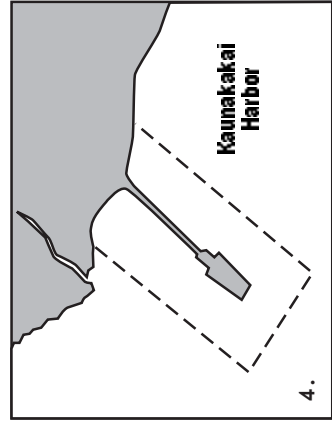
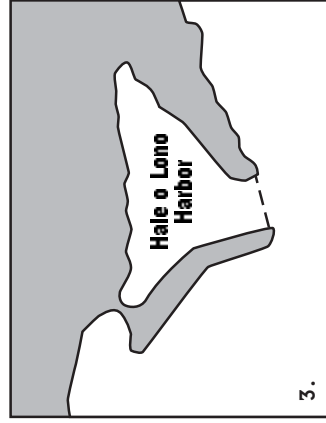
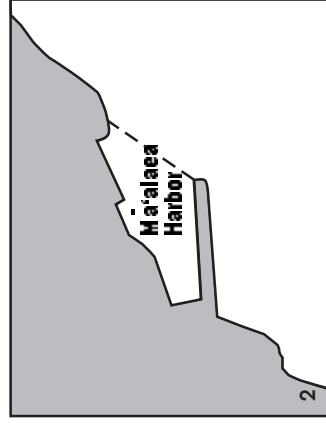
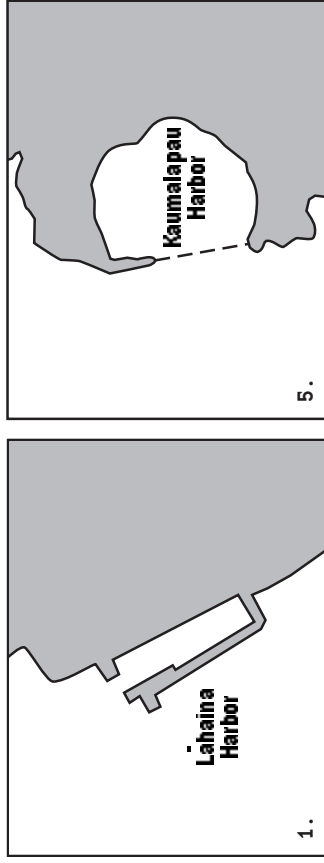


These maps were produced by the Office of Planning (OP) for planning purposes. It should not be used for boundary interpretations or other spatial analysis beyond the limitations of the data. Information regarding compilation dates and accuracy of the data presented can be obtained from OP.

Sources:

Exclusion Zone Boundary - OSP and NOAA, 1995.

Coastline - USGS DLG files, 1:24,000, 1963.



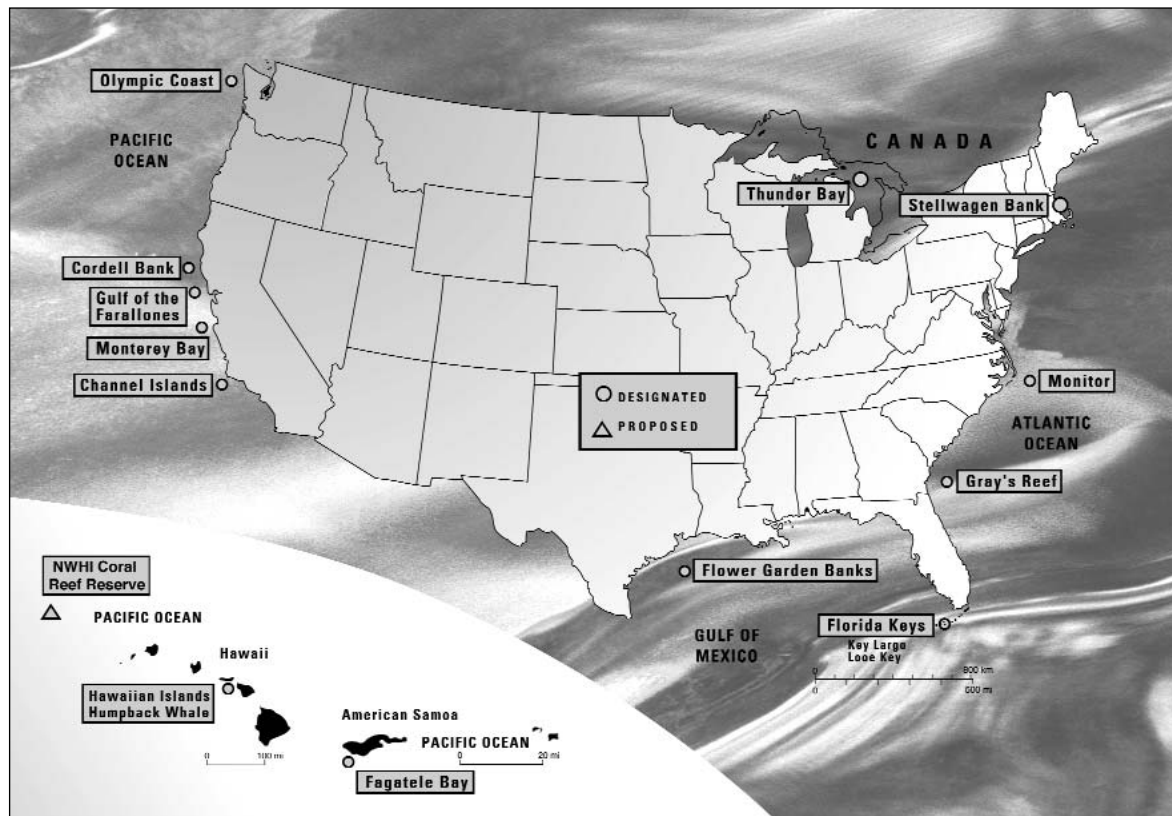
NOTES

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THE NATIONAL MARINE SANCTUARY SYSTEM



MISSION STATEMENT

The mission of the National Marine Sanctuary System is to manage marine areas of special national significance to protect their ecological and cultural integrity for current and future generations. To achieve this mission, the goals of the Hawaiian Islands Humpback Whale National Marine Sanctuary are: to protect the humpback whale and its habitat, to educate and interpret for the public the relationship of humpback whales to the Hawaiian Islands marine environment, to manage selected uses of the sanctuary and to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary.

HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY

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