

APPENDIX F

EXEMPTIONS AND HAWAII SUPERFERRY'S WHALE AVOIDANCE POLICY

HAR-ED
9145.06

July 13, 2005

TO: GENEVIEVE SALMONSON, DIRECTOR
OFFICE OF ENVIRONMENTAL QUALITY CONTROL
DEPARTMENT OF HEALTH

FROM: BARRY FUKUNAGA
DEPUTY DIRECTOR OF HARBORS

SUBJECT: PIER 1 COMFORT STATION, WATERLINE AND SEWERLINE
IMPROVEMENTS, KAHULUI HARBOR, MAUI – JOB H. C. 30000

We have considered the potential effects of the subject project as provided by Chapter 343, Hawaii Revised Statutes, and Chapter 11-200, Hawaii Administrative Rules, and have determined that the subject project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment. This determination is based on the following Exemption Classes as listed on the Comprehensive Exemption List for the State of Hawaii Department of Transportation Amended November 15, 2000.

Exemption Class: Exemption Class 2: Replacement or reconstruction of existing structures and facilities where the new structure will be located, generally on the same site, and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced.

A. Structures

5. Replacement or repair of existing deteriorated and/or damaged structures to their original/better condition within areas under the jurisdiction of the Department of Transportation such as piers, mooring buoys, single story office buildings, warehouses, sheds, comfort station, and shelters.

B. Facilities

2. Upgrade or replace utility and drainage systems to maintain a consistent level of service. Drainage improvements will generally consist of installation of pipe culverts, construction of gutters where minor flooding occurs.

The proposed project includes the replacement of two existing comfort station structures that service the Pier 1 area of Kahului Harbor by constructing a new structure in the same general vicinity. The replacement comfort station will serve the same purpose and maintain the same capacity of the two comfort stations it replaces. Passenger cruise vessels and containerized cargo operations are the primary uses at the Pier 1 area of Kahului Harbor.

Also included in this project is the construction of a new sewerline and sewer pump station to enable the closure of two cesspools, one of which is a large capacity cesspool, that presently serve as disposal points for all wastewater generated in the Pier 1 area. The U.S. Environmental Protection Agency (EPA) Class V Rule promulgated on December 7, 1999 (and found at 40 CFR Part 144) mandates the closure of the large capacity cesspool. EPA has granted the Department of Transportation an extension beyond the original closure deadline of April 5, 2005. The new sewerline will connect to the County of Maui's (County) wastewater collection system and enable appropriate treatment at the County's wastewater treatment plant. En route to the connection point with the County wastewater system, a new service lateral will be installed to collect the wastewater generated at the Harbors Division Maui District Office. Wastewater generated at the District Office is presently disposed into a seepage pit after partial treatment in a package treatment unit. The package treatment unit will be demolished and the seepage pit abandoned under this project. An upgraded waterline to service Pier 1 was also a part of this project's scope; however, it was eliminated in order to reduce the cost within the budgeted construction funds.

Except for minor and short-term impacts from construction activities, there will be no air quality impacts. Noise impacts generated during construction will be minimal and of short duration. Since the work will be done on land, there will be no water quality impacts. Construction will be performed in compliance with Federal, State and County environmental protection regulations. All minor and short-term impacts are compatible with existing and planned uses of the area. The Department of Transportation will instruct the contractor to adhere to the proposed efforts to mitigate any temporary adverse effects during construction.

Should you have any questions, please contact Marshall H. Ando of the Harbors Division Engineering Design Section at 587-1961.

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IN REPLY REFER TO:
DEP-H 8573.05

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION
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February 23, 2005

TO: GENEVIEVE SALMONSON, DIRECTOR
OFFICE OF ENVIRONMENTAL QUALITY CONTROL
DEPARTMENT OF HEALTH

FROM: BARRY FUKUNAGA
DEPUTY DIRECTOR OF HARBORS
DEPARTMENT OF TRANSPORTATION

SUBJECT: ENVIRONMENTAL REVIEW EXEMPTION DETERMINATION,
KAHULUI HARBOR

The State Department of Transportation, Harbors Division has reviewed the requirements and needs associated with harbor access and use of pier facilities by Hawaii Superferry Inc., at Kahului Harbor on the Island of Maui.

Following discussions with Hawaii Superferry and consultation with State and County agencies regarding the intended use of the harbor facility and in consideration of the provisions of Chapter 343, Hawaii Revised Statutes, and Chapter 11-200, Hawaii Administrative Rules, we have determined that the operation of Hawaii Superferry at Kahului Harbor conforms with the intended use and purpose of the harbor and meets conditions that permit exemption from environmental review at such location based on the method of operation planned. The ferry activity at Kahului Harbor will use equipment appropriate for a harbor, include only minor facilities improvements and will be conducted at an existing pier facility that is consistent with the purpose and reason for which it was originally developed.

The approach that will be undertaken involves the utilization of a barge (floating platform) that will be moored at pier 2 to provide a transition platform between the Hawaii Superferry vessel and the pier. The barge will be configured with a boarding ramp to provide a connection between the vessel and the barge; and a separate ramp between the barge and pier for safe vehicle loading and off-loading. The barge will be anchored alongside the pier and secured in position by mooring lines and the ferry vessel will be positioned to berth next to the barge. The enclosed exhibit depicts the intended arrangement.

Operational support to accommodate Hawaii Superferry will also include the addition of minor improvements on or adjacent to the pier in the form of utility service (water, power and lighting);

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security fencing, pavement striping, the placement of boarding gangway ramps; and the installation of tents at inspection points or customer waiting areas. These minor improvements are limited in scale and scope, represent the type of changes introduced from time-to-time at various harbor areas to accommodate operational activities in the designed use of piers, storage yards and service areas for all classes of vessels and types of harbor uses.

The installation and result of the minor improvements noted will not produce or create any adverse air quality, noise or water quality impact. All changes, modifications, additions or adjustments remain compatible with the uses established for the harbor and its piers, fall within maritime activities that were identified in environmental reviews conducted in conjunction with the original development of the facilities and conform to the purpose for which the harbor was built.

We find that the commencement of service by the Hawaii Superferry in the manner described falls under permitted Exemption Classes as listed on the Comprehensive Exemption List for the State of Hawaii Department of Transportation amended November 15, 2000. The applicable exemption classes are as follows:

Exemption Class 3: Construction and location of single, new, small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of the same including but not limited to:

Item 3: Installation of security and safety equipment

Exemption Class 6: Construction or placement of minor structures accessory to existing facilities.

Item 8: Alteration or addition of improvements with associated utilities, which are incidental to existing harbor and boat ramp operations, in accordance with master plans that have met the requirements of Chapter 343, Hawaii Revised Statutes. Such improvements and associated utilities include concessions, comfort stations, pavilions, paving, rock walls, fencings, walkways, loading docks, warehouses, piers, offices, container freight stations, cranes, fuel lines, lighting, sprinkler and drainage system.

Please let me know if there are any questions or if additional information is needed to further clarify any of the improvements or items described herein.

Enclosure

c: Bruce Matsui
Glenn Okimoto
Jean Oshita
Julia Tsumoto

DRAFT 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.

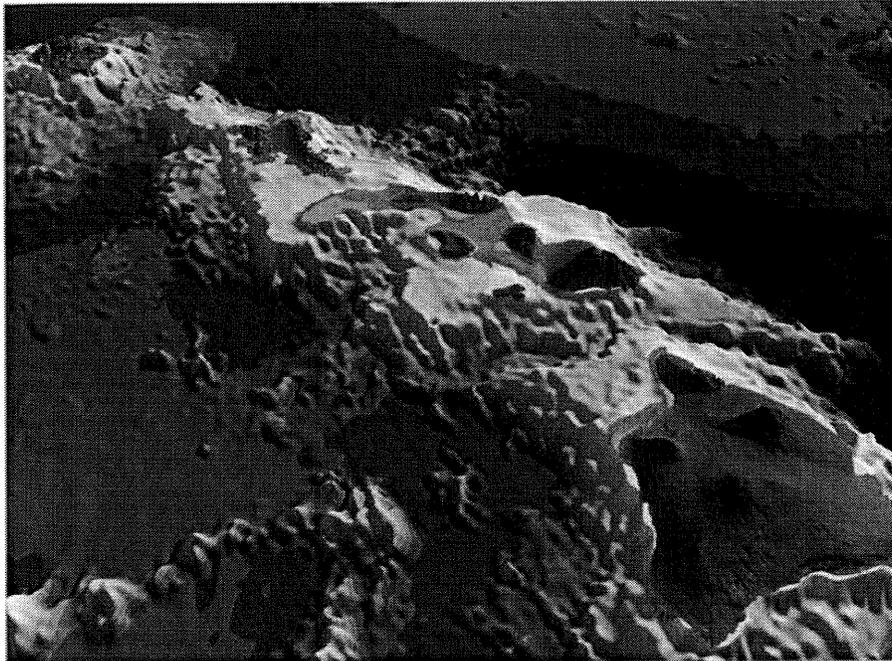


Fig. 1: Hawaiian Islands Humpback Whale National Marine Sanctuary

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)

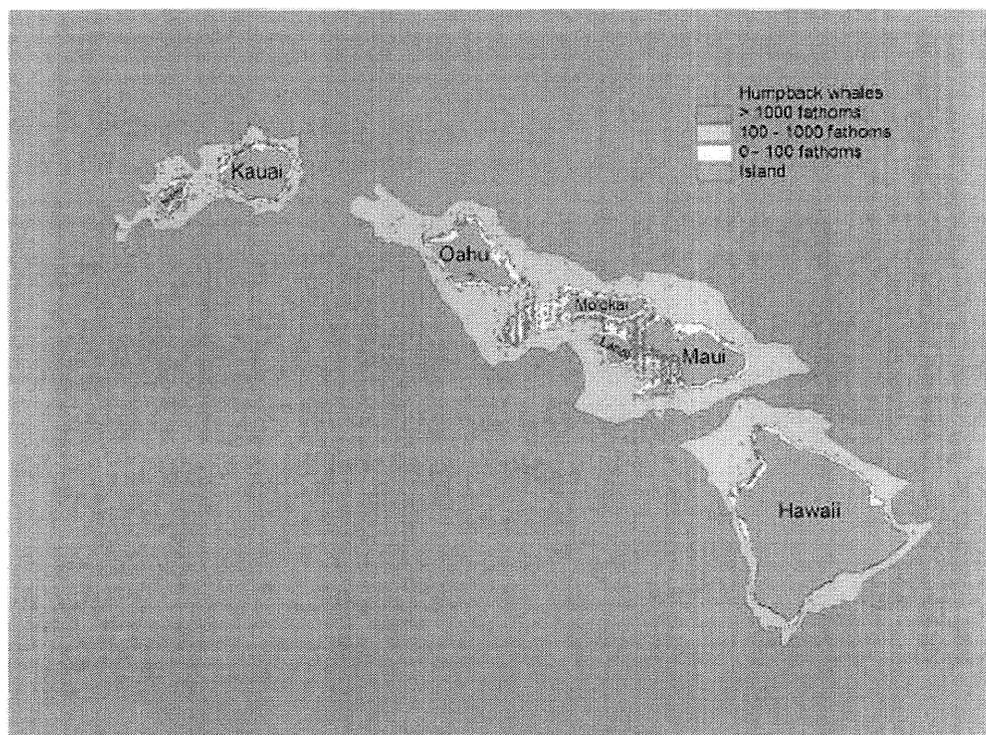


Fig 2. Hawaii's humpback whale distribution from aerial surveys 1993-98
Source: Dr. Joe Mobley, University of Hawaii.

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.

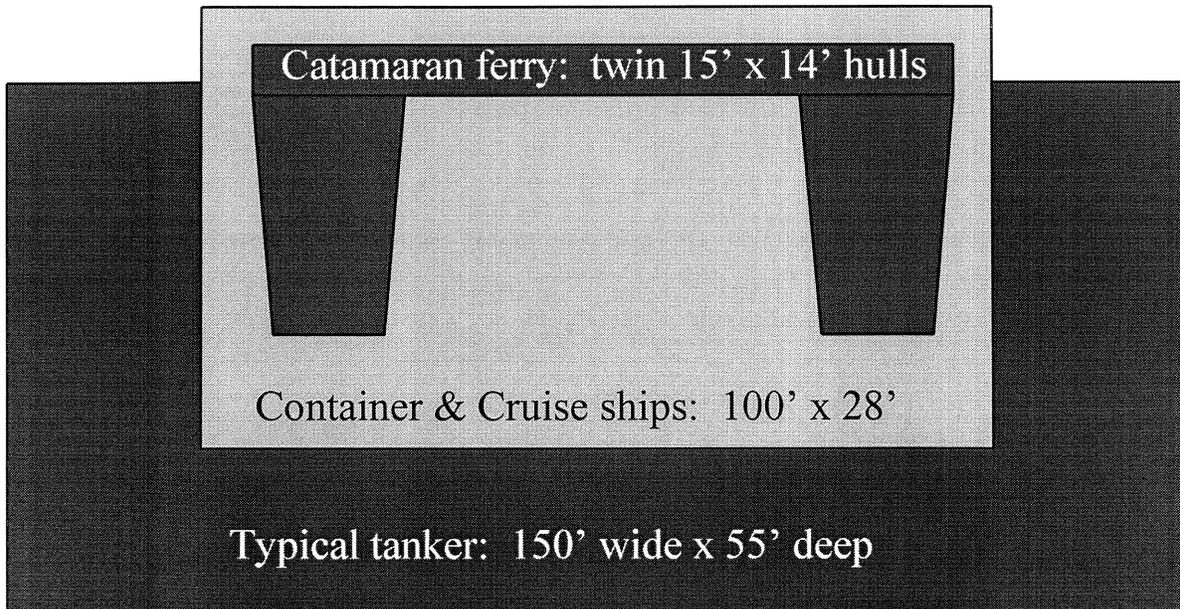


Fig. 3 Example of small cross-section vessel technology (green outline)

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.

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

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.

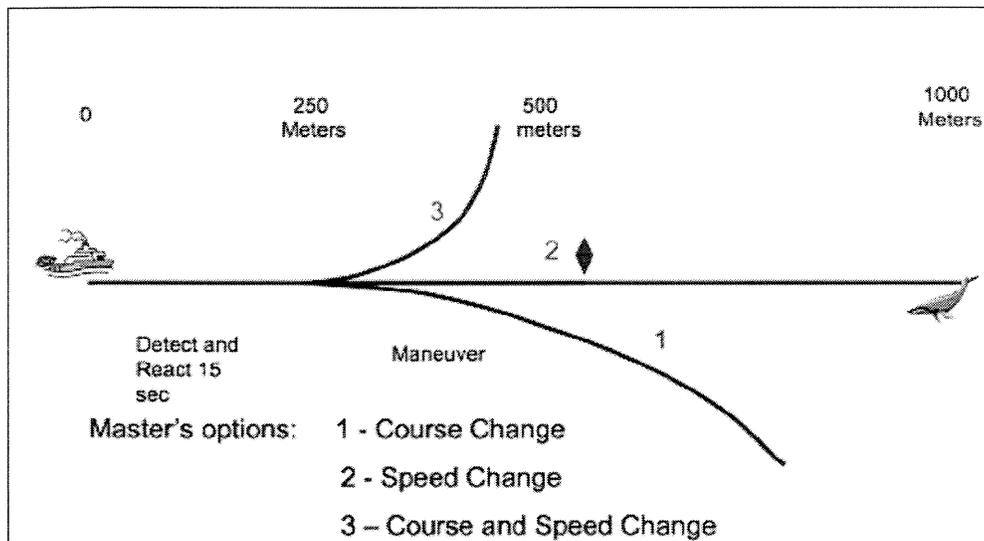


Fig. 4 Avoidance procedure options

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.