

Proposed Regulations for Hawaiian Spinner Dolphins under the Marine Mammal Protection Act

Presented on behalf of Pacific Whale Foundation

Humpback Whale Sanctuary Visitor Office, Kihei, Hawaii

September 22, 2016

On behalf of Pacific Whale Foundation and our members and supporters, I would like to endorse the proposed regulations for Hawaiian spinner dolphins under the Marine Mammal Protection Act.

The research team at Pacific Whale Foundation has reviewed the proposal and agrees that there is sufficient credible scientific evidence to demonstrate that Hawaiian spinner dolphins require protection as they rest during the day. As the amount of human interaction with spinner dolphins increases, there is also a growing body of research to show that these interactions are detrimental to the dolphins. Spinner dolphins in Hawaii are showing signs of exhaustion and stress from being subjected to human interactions and disrupting their rest. Disturbed dolphins lose energy in two ways: by missing out on rest, and by engaging in behaviors such as avoidance of a disturbance. This chronic stress can lead to a reduction in fitness over time.

We agree with banning all swim-with activities and instituting an approach limit for vessels and water users. Pacific Whale Foundation has developed a “Be Dolphin Wise” set of best practices for ocean users in Hawaii. Among our recommendations are: do not approach closer than 50 yards, do not promote swimming with wild dolphins, drive at a speed of 6 knots or less and never faster than the pod, do not encourage bow riding, limit observation time to 30 minutes, and move away if the animal’s behavior indicates stress. The complete list of PWF recommendations is being submitted as an appendix to this testimony.

While we acknowledge the public’s desire to swim with dolphins, there is a tendency to look at this activity from a human perspective. Scientists can measure variables indicative of stress or disturbance that may not always be obvious to an untrained observer, such as heart rate, coming out of a resting state, spinning, avoidance behaviors, or leaving the area. There is irrefutable evidence that swim-with activities do cause these changes in the dolphins, which are aligned with the MMPA definition of level B harassment. Irresponsible boating activities can cause dolphins to be “on alert” and not getting adequate rest during the day.

At this time we do not believe either mandatory or voluntary area closures to be necessary, as the proposed ban of swim-with activities, and approach limit should provide adequate protection. The proposed rule identifies La Perouse Bay, Maui as an area of potential closure. Our research has identified both Manele Bay and Honolua Bay to be areas where spinner dolphins are often sighted, in addition to La Perouse Bay. These areas are also targeted by tour operators, and so we recommend considering these areas if extra protection is deemed necessary.

We believe that 50 yards is a reasonable distance for the proposed regulation, as swimmers will not be able to see farther than this distance and it is aligned with the current Dolphin SMART regulations and Dolphin Wise guidelines. We propose adding a speed limit of 6 knots or less when viewing dolphins, as our humpback whale research indicates that vessel speed may be a better measure of protection than approach limits.

As a Dolphin SMART certified tour operator, we are committed to educating the public about the dolphins of Hawaii and to help achieve greater public recognition of their importance in the ecosystem and of the value of protecting them. We believe there is great value in programs like Dolphin SMART which allow the public to make an informed choice about responsible eco-tour operators.

Pacific Whale Foundation's odontocete research is ongoing. It is one of our goals to add to the body of knowledge about Hawaiian spinner dolphins, and to share our findings with wildlife management agencies at NMFS and NOAA, which in turn leads to stronger management plans. From January 1, 2013 to the present we have documented 703 spinner dolphin sightings from platforms of opportunity using the web application Whale and Dolphin Tracker onboard PWF Eco-Adventures vessels. Of these, 54% occurred on the southeast coast of Lanai (Fig 1). Additionally, there is evidence of two more clusters occurring on the west and southwest coasts of Maui. Our line-transect research efforts show three main clusters of spinner dolphins, corresponding with the findings using platforms of opportunity (Fig 2). We recommend further research be focused on these locations.

Thank you,

Appendix

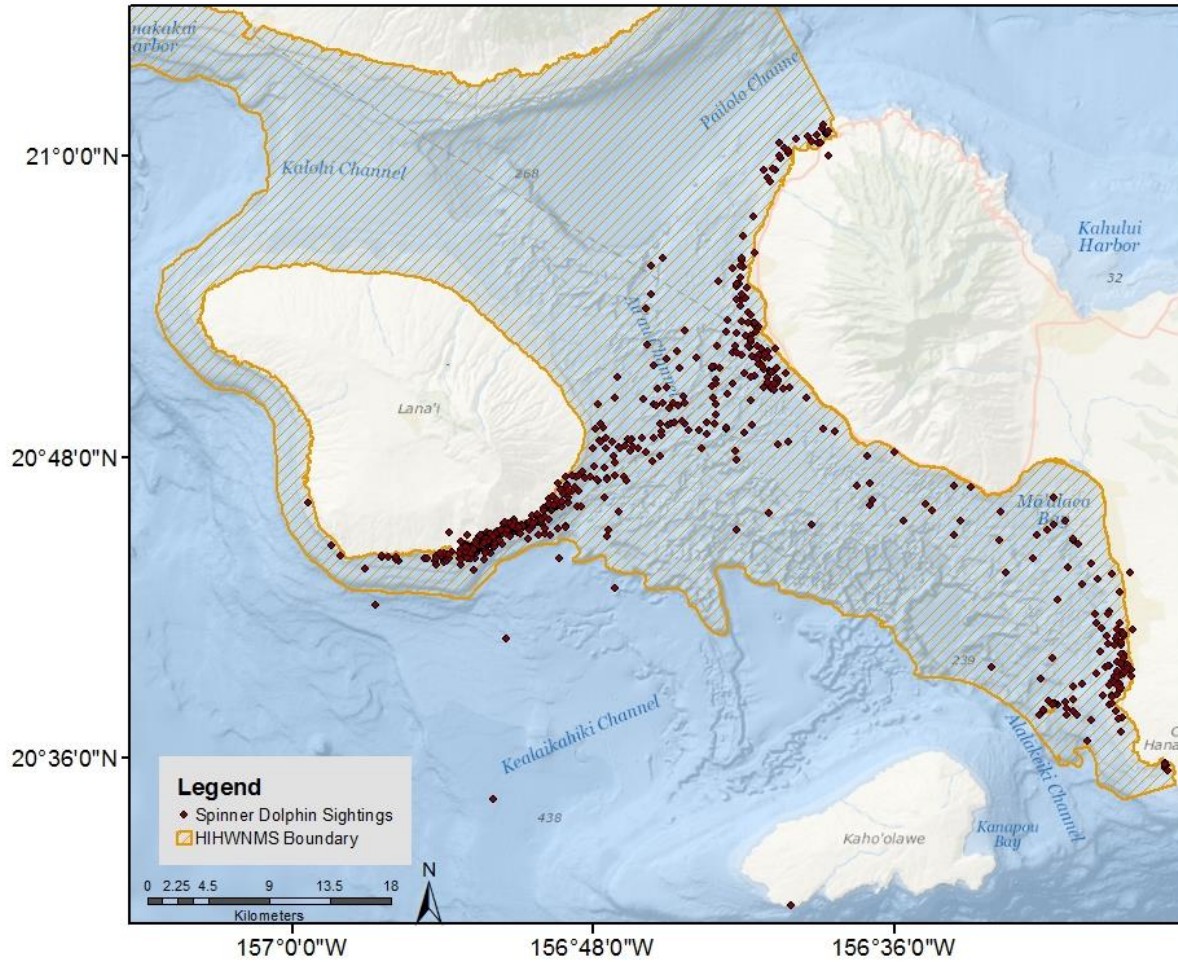


Fig 1. Spinner dolphin sightings gathered during Platform of Opportunity research using the web-application Whale and Dolphin Tracker on PWF Eco-Adventures tours from 2013-2016.

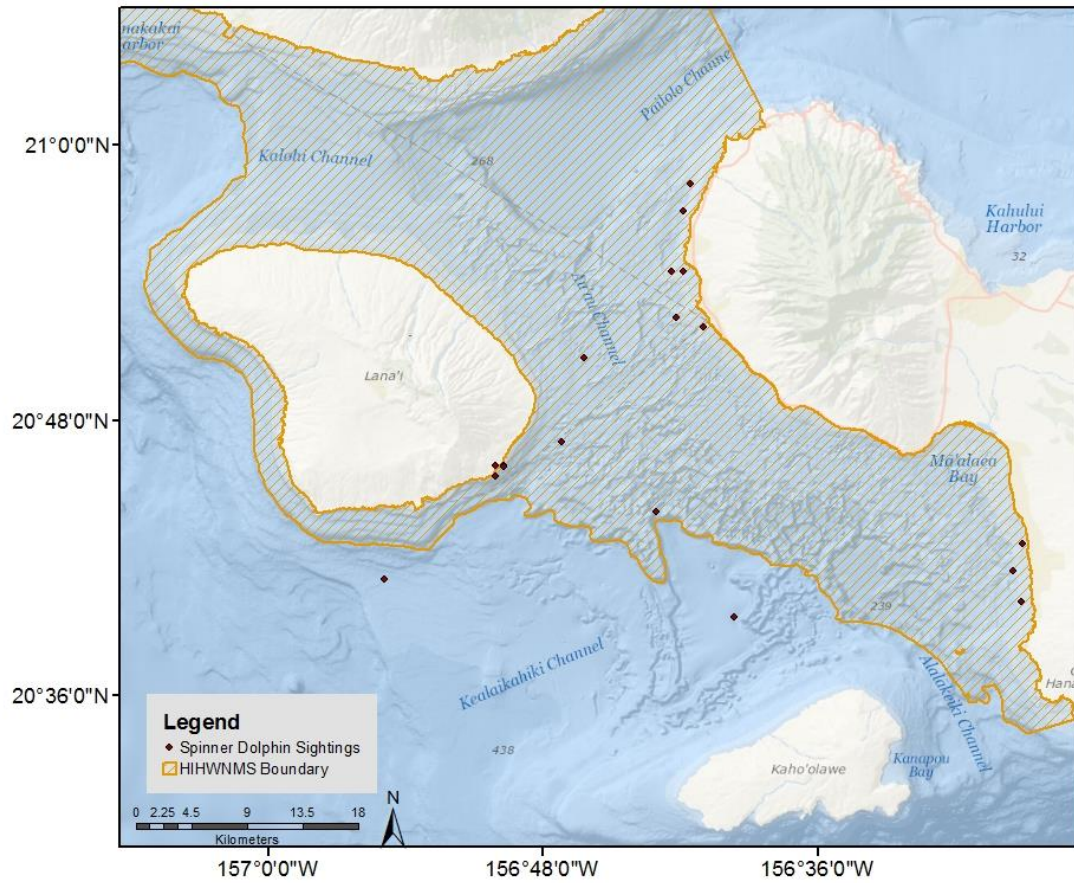


Fig 2. Spinner dolphin sighting locations gathered during systematic surveys from our research vessel between 2013-2016.

Be 'Dolphin Wise'

BEST PRACTICES DOLPHIN VIEWING GUIDELINES FOR OCEAN USERS AND BOATERS IN HAWAII



1. **WATCH OUT WHERE DOLPHINS MAY BE ABOUT:** Be cautious when boating; approach areas of known or suspected dolphin activity at low speed and stay alert, looking in all directions.
2. **APPROACH FROM THE BACK:** Vessels should approach only at the side rear of the pod's travel direction.
3. **KEEP IT SLOW:** A vessel's speed should be six knots or less and never faster than the pod's speed.
4. **KEEP YOUR DISTANCE:** Approach no closer than 50 yards from the nearest dolphin. (This distance is also advocated by the Hawaiian Islands Humpback Whale National Marine Sanctuary and National Marine Fisheries Service).
5. **DON'T LEAP FROG:** Do not leap-frog ahead or cut in front of a pod's path. There may be young calves or older animals that are slower to respond to your maneuver.
6. **DON'T DRIVE THROUGH:** Do not drive your vessel through groups of dolphins to encourage bow riding or for any other reason.
7. **NEVER MORE THAN THREE:** No more than three vessels of any size or type should stop to watch a dolphin group.
8. **GIVE THEM ROOM:** Never encircle or trap dolphins between vessels or between your vessel and the shoreline.
9. **LIMIT YOUR TIME:** Limit your time observing an animal or pod to a half hour.
10. **BE PREDICTABLE AND RESPECTFUL:** Avoid abrupt or unpredictable movements or loud noises around dolphins.
11. **KEEP MOMS AND CALVES TOGETHER:** Do not separate mother/calf groups.
12. **AVOID CAUSING STRESS:** Move away slowly if an animal's behavior indicates it is stressed. Dolphins generally slap their tail on the surface of the water as a threat display (although this behavior can also be used in other circumstances). They also tend to dive when the boat or a swimmer approaches and re-surface a distance away. If this repeats every time you approach to 50 yards, give the dolphins more space.
13. **ANGLE AWAY:** When disengaging from a school, angle the vessel away from the nearest dolphin and depart at slow, no-wake speed.
14. **STEADY SPEED:** Should dolphins choose to ride the bow wave of your vessel, maintain your heading and speed. Avoid any sudden course changes.
15. **DON'T PROMOTE SWIMMING WITH WILD DOLPHINS:** Do not put people in the water to swim with wild dolphins. Never attempt to touch wild dolphins.
16. **NO FOOD PLEASE.** Do not use food to attract wild dolphins. Do not attempt to feed a wild dolphin. It is dangerous and illegal.

Fig. 3. "Be Dolphin Wise" guidelines, developed by Pacific Whale Foundation.