



Natural Resource Protection Action Plan

Introduction

The highest management priority for the HIHWNMS is the long-term protection of humpback whales, and their habitat within the Sanctuary's boundary. During the development of the Sanctuary's original management plan, NOAA concluded that no additional independent regulatory prohibitions or restrictions were needed for their protection. Instead, NOAA determined that the Sanctuary should play an integral role by facilitating and coordinating complementary management and regulatory efforts to enhance education, research, monitoring, and enforcement with existing Federal and State authorities sharing regulatory responsibility for protection and management of humpback whales and their habitat.

This action plan provides the strategies (Tables 4 and 5A/B and Figure 2) that will be used to continue a complementary management approach to help protect the humpback whale and its habitat. The strategies were prepared in response to issues identified by the original management plan, Sanctuary staff, and the Sanctuary Advisory Council. The strategies and activities in this action plan address Goal 1: *Conserve, enhance, and protect humpback whales and their habitat*; Goal 4: *Foster all uses of the Sanctuary compatible with protection of humpback whales and their habitat (including uses by Native Hawaiians customarily and traditionally exercised for subsistence, cultural, and religious purposes)*; and Goal 7: *Identify and evaluate resources and ecosystems for possible inclusion in the Sanctuary*. The following sections discuss each strategy in detail.

Outcomes and Performance Indicators

NRP Outcome 1: By the end of 2004, the Sanctuary will have an enhanced capability to protect its resources, as indicated by:

- A defined role and responsibilities in contingency planning in coordination with appropriate Federal, State, and local agencies by the end of 2003.
- An identified and trained point of contact for consultation and permits by the end of 2004.
- A defined policy and mechanisms necessary for damage assessment and restoration to incidents that result in destruction, loss of, or injury to humpback whales and their Hawaiian Sanctuary habitat by the end of 2004.

NRP Outcome 2: By the end of 2005, the Sanctuary will understand and communicate the full range and patterns of uses of the Sanctuary, as indicated by:

- A comprehensive report on Sanctuary uses prepared and distributed by the end of 2003.
- Outreach products and activities promoting sustainable uses developed and distributed/implemented by the end of 2005, and annually thereafter as necessary and appropriate.
- Increases in public awareness of appropriate and inappropriate uses of Sanctuary resources as determined by the awareness survey conducted in 2005.

NRP Outcome 3: By the end of 2006 the Sanctuary will have determined if it has a role to play in the protection of other resources not currently included in the Sanctuary, as indicated by:

- A list of potential resources to be added to the Sanctuary by the end of 2004.
- Initiation of the public review of the list of potential resources by the end of 2005.
- Initiation of a process, if needed, to add resources to the Sanctuary by the end of 2006.

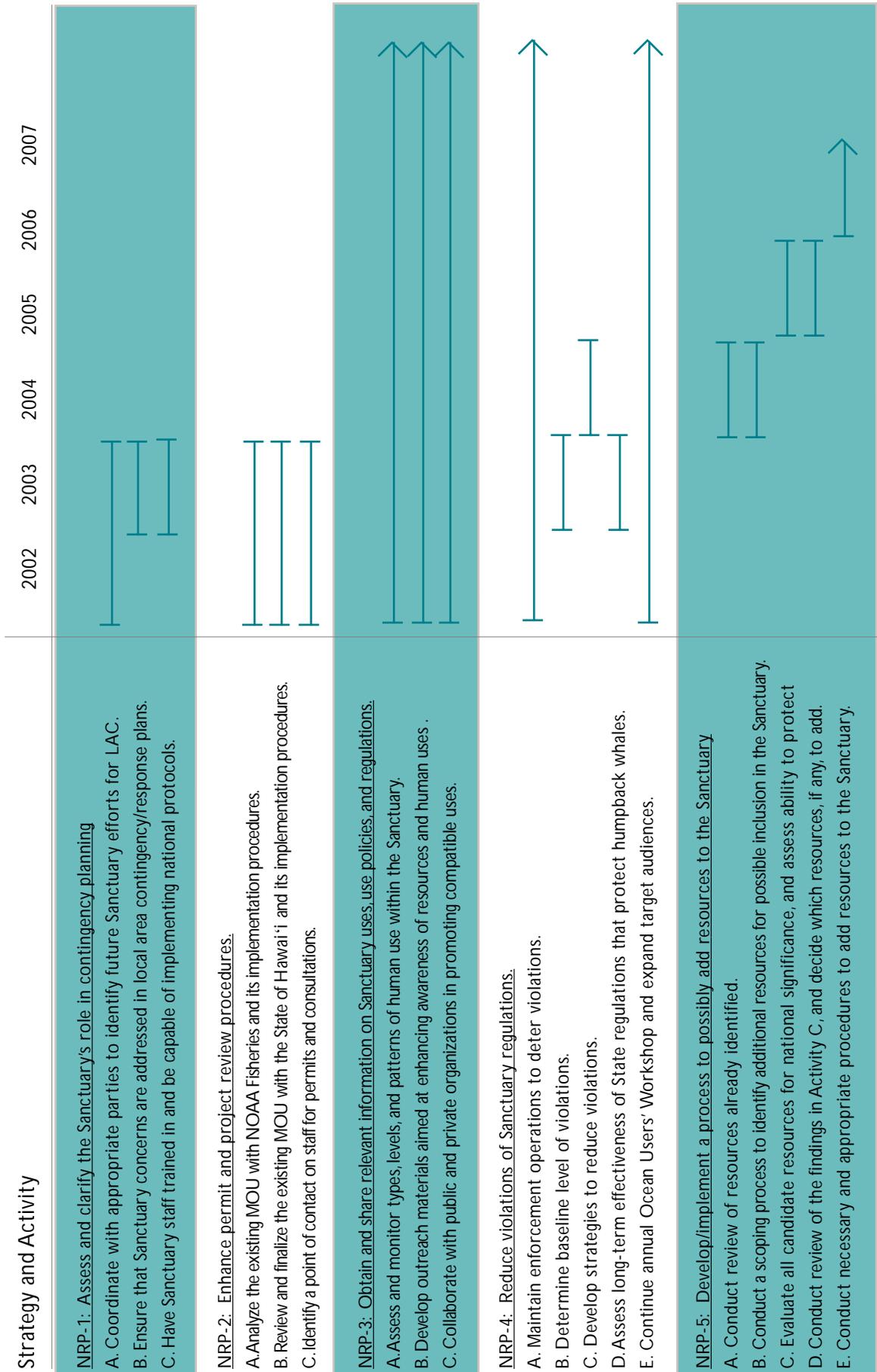


Table 4: Summary of Natural Resource Protection Strategies and Activities

Strategies	Activities
<p>NRP-1: Assess and clarify the Sanctuary's role and responsibility in contingency planning, emergency response, and damage assessment activities.</p>	<p>A. Coordinate with NMSP headquarters, NOAA Fisheries, and other appropriate parties to identify future Sanctuary efforts that will help support efforts of the Local Area Committee.</p> <p>B. Ensure that Sanctuary concerns are addressed in local area contingency and response plans, damage assessment efforts, and restoration projects, as appropriate.</p> <p>C. Have Sanctuary staff trained in and be capable of implementing the NMSP and other damage assessment and restoration protocols and procedures.</p>
<p>NRP-2: Enhance project and permit review procedures.</p>	<p>A. Analyze the existing MOU with NOAA Fisheries and its implementation procedures to determine where operational enhancements can be made.</p> <p>B. Review and finalize the draft MOU with the State of Hawai'i and its implementation procedures to determine where operational enhancements can be made.</p> <p>C. Identify a point of contact on staff for permit review and consultations, and provide appropriate guidance and training.</p>
<p>NRP-3: Obtain and share relevant information on Sanctuary uses, use policies, and regulations.</p>	<p>A. Assess and monitor types, levels, and patterns of human use within the Sanctuary.</p> <p>B. Develop outreach materials aimed at enhancing public and agency awareness of Sanctuary resources and human uses within the Sanctuary.</p> <p>C. Collaborate with public and private organizations in promoting uses of the Sanctuary that are compatible with primary mandate of resource protection.</p>
<p>NRP-4: Reduce violations of Sanctuary regulations.</p>	<p>A. Maintain enforcement operations to deter violations.</p> <p>B. Determine baseline level of violations.</p> <p>C. Develop strategies to reduce violations.</p> <p>D. Assess long-term effectiveness of State regulations that protect humpback whales.</p> <p>E. Continue annual Ocean Users' Workshop and expand target audiences.</p>
<p>NRP-5: Develop and implement a process that identifies and evaluates resources for possible inclusion in the Sanctuary.</p>	<p>A. Conduct review of resources already identified.</p> <p>B. Conduct a scoping process to identify additional resources for possible inclusion in the Sanctuary.</p> <p>C. Evaluate all candidate resources for national significance and assess the ability of the Sanctuary to protect those resources.</p> <p>D. Conduct further public and agency review of the findings in Activity C, and decide which resources, if any, will be added to the Sanctuary.</p> <p>E. Conduct the necessary and appropriate procedures to add resources to the Sanctuary, either during the next five-year review or at the appropriate time.</p>



Figure 2: Timeframe of NRP Strategies and Activities



Action Plans: Natural Resource Protection

Table 5A: Estimated One Time Only Costs (in \$1000s) for NRP Strategies and Activities

Strategy and Activity	Personnel	Travel	Printing	Equipment & Supplies	Contract	One-Time Only Costs
NRP-1 Assess and clarify the Sanctuary's role in contingency planning						
NRP-1A Coordinate with appropriate parties.	1.7	-	-	-	-	1.7
NRP-1B Ensure Sanctuary addressed in local area plans.	1.7	-	-	-	-	1.7
NRP-1C Have Sanctuary staff trained in protocols.	10.0	-	-	-	-	10.0
NRP-2 Enhance project and permit review procedures						
NRP-2A Analyze existing MOU w/NOAA Fisheries.	2.5	3.0	-	-	-	5.5
NRP-2B Review and finalize existing MOU w/State.	0.5	3.0	-	-	-	3.5
NRP-2C Identify a permit point of contact on staff.	0.5	-	-	-	-	0.5
NRP-3 Obtain and share relevant information on Sanctuary uses, use policies, and regulations						
NRP-3A Assess and monitor human uses.	-	-	-	-	-	-
NRP-3B Develop outreach materials about human uses.	8.3	1.3	13.3	-	33.3	56.3
NRP-3C Collaborate in promoting compatible uses.	-	-	-	-	-	-
NRP-4 Reduce violations of Sanctuary regulations						
NRP-4A Maintain enforcement operations.	-	-	-	-	-	-
NRP-4B Determine baseline level of violations.	1.3	-	-	-	-	1.3
NRP-4C Develop strategies to reduce violations.	10.0	1.3	1.3	-	20.0	32.7
NRP-4D Assess effectiveness of State regulations.	3.3	0.7	-	-	13.3	17.3
NRP-4E Continue annual Ocean Users' Workshop	-	-	-	-	-	-
NRP-5 Develop process to evaluate possible resources for inclusion to the Sanctuary						
NRP-5A Conduct review of resources already identified.	3.8	-	-	-	50.0	53.8
NRP-5B Identify additional resources.	37.5	10.0	15.0	-	25.0	87.5
NRP-5C Evaluate all candidate resources.	8.8	-	-	-	25.0	33.8
NRP-5D Conduct review of the findings in Activity C.	7.5	4.0	5.0	-	10.0	26.5
NRP-5E Add resources to the Sanctuary.	5.0	1.0	2.0	-	10.0	18.0

Table 5B: Estimated Annual Costs (in \$1000s) for NRP Strategies and Activities

Strategy and Activity	Personnel	Travel	Printing	Equipment & Supplies	Contract	One-Time Only Costs
NRP-1 Assess and clarify the Sanctuary's role in contingency planning						
NRP-1A Coordinate with appropriate parties.	1.7	-	-	-	-	1.7
NRP-1B Ensure Sanctuary addressed in local area plans.	1.7	-	-	-	-	1.7
NRP-1C Have Sanctuary staff trained in protocols.	10.0	-	-	-	-	10.0
NRP-2 Enhance project and permit review procedures						
NRP-2A Analyze existing MOU w/NOAA Fisheries.	2.5	3.0	-	-	-	5.5
NRP-2B Review and finalize existing MOU w/State.	0.5	3.0	-	-	-	3.5
NRP-2C Identify a permit point of contact on staff.	0.5	-	-	-	-	0.5
NRP-3 Obtain and share relevant information on Sanctuary uses, use policies, and regulations						
NRP-3A Assess and monitor human uses.	-	-	-	-	-	-
NRP-3B Develop outreach materials about human uses.	8.3	1.3	13.3	-	33.3	56.3
NRP-3C Collaborate in promoting compatible uses.	-	-	-	-	-	-
NRP-4 Reduce violations of Sanctuary regulations						
NRP-4A Maintain enforcement operations.	-	-	-	-	-	-
NRP-4B Determine baseline level of violations.	1.3	-	-	-	-	1.3
NRP-4C Develop strategies to reduce violations.	10.0	1.3	1.3	-	20.0	32.7
NRP-4D Assess effectiveness of State regulations.	3.3	0.7	-	-	13.3	17.3
NRP-4E Continue annual Ocean Users' Workshop	-	-	-	-	-	-
NRP-5 Develop process to evaluate possible resources for inclusion to the Sanctuary						
NRP-5A Conduct review of resources already identified.	3.8	-	-	-	50.0	53.8
NRP-5B Identify additional resources.	37.5	10.0	15.0	-	25.0	87.5
NRP-5C Evaluate all candidate resources.	8.8	-	-	-	25.0	33.8
NRP-5D Conduct review of the findings in Activity C.	7.5	4.0	5.0	-	10.0	26.5
NRP-5E Add resources to the Sanctuary.	5.0	1.0	2.0	-	10.0	18.0





Strategies

NRP-1: ASSESS AND CLARIFY THE SANCTUARY'S ROLE AND RESPONSIBILITY IN CONTINGENCY PLANNING, EMERGENCY RESPONSE, AND DAMAGE ASSESSMENT ACTIVITIES

Strategy Summary

Strategy NRP-1 addresses Objectives 1.1 and 1.2 to improve its coordination with other Federal and State agencies to mitigate and prevent harm to Sanctuary resources by helping reduce threats of catastrophic events (e.g., oil or other hazardous material spills).

Section 4202 of the Oil Pollution Act of 1990 (OPA; 33 U.S.C. § 2701 *et seq.*) amended Subsection j of Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321 (j)) to address the development of a National Planning and Response System. OPA called for the creation of planning teams to develop contingency plans to address oil and hazardous waste spills and responses. The National Response Team (NRT) is primarily a planning, policy, and coordination body, and does not respond directly to incidents. The NRT membership consists of 15 Federal agencies with responsibilities, interests, and expertise in various aspects of emergency response to pollution incidents and is responsible for developing a National Contingency Plan (NCP). EPA serves as the chair and USCG serves as vice-chair. The Oceania Regional Response Team (ORRT) is comprised of Federal and State (or Territory) representation. Like the NRT, the ORRT is mainly a planning, policy, and coordinating body, and does not respond directly to incidents. The ORRT has Federal and State representation. EPA and USCG co-chair the team. ORRT provides guidance and assistance to Area Committees and is responsible for developing Regional Contingency Plans (RCP).

As part of the National Planning Response and Planning System, Area Committees are to be established for each area designated by the President. These Area Committees are to be comprised of qualified personnel from Federal, State, and local agencies. Each Area Committee, under the direction of the Federal On-Scene Coordinator for the area, is responsible for developing an Area Contingency Plan (ACP) which, when implemented in conjunction with the NCP and RCP, shall be adequate to remove a worst case discharge of oil or a hazardous substance, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the geographic area. Each Area Committee is also responsible for working with State and local officials to pre-plan for joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife.



Action Plans: Natural Resource Protection

Title III of the Superfund Amendments and Reauthorization Act of 1986 is entitled the Emergency Planning and Community Right-to-Know Act (EPCRA; 42 U.S.C. 11001 *et seq.*). This Federal statute requires emergency response planning at the State and local level. The State of Hawai'i established a Hawai'i State Emergency Response Commission (HSERC) to comply with this requirement and designated DOH as the lead agency to implement the EPCRA. The HSERC was required to delineate emergency planning districts and appoint local emergency response committees to facilitate the preparation and implementation of local emergency plans. Hawai'i's four counties (Hawai'i, Honolulu, Maui and Kaua'i) represent the emergency planning districts for the State. The HSERC established a technical subcommittee to draft a State plan to provide statewide guidance on oil and hazardous substances emergency response. The result is Hawai'i's Oil and Hazardous Substances Emergency Response Plan. This management plan is incorporated in the Area Contingency Plan (ACP).

Contingency plans provide the basis under which agencies and individuals respond to oil spills, chemical releases, vessel groundings, and other events which may threaten natural resources and human life. As a resource trustee, the Sanctuary is involved in several levels of contingency planning with various State and Federal agencies at both the national and local level. The NCP provides the basic framework and organization under which all oil and chemical response efforts are conducted. It provides for a National Response Center, which acts as a nationwide notification and reporting point for all spill incidents, and defines the roles of the regional response teams, Federal and State on-scene coordinators, and special forces. The Regional Response Teams (RRT) are aligned within the boundaries of the Federally defined Regions and provide for large scale contingency planning and resolution of issues related to response actions at the Federal-State interface level. The regional response plans generally deal with strategic issues which affect large areas and cross many local jurisdictional boundaries. The Local Area Committees (LAC) are mandated by the Oil Pollution Act of 1990. The boundaries and size of these Local Areas vary from region to region, and generally tend to follow county or city boundaries in most areas. Some Local Areas have been delineated to coincide with the limits of Coast Guard Districts or Marine Safety Office areas. The Local Area Contingency plans are more detailed in nature and are tasked to consider several potential worst-case scenarios for the local area, making these plans tactical in scope and effect.

The NMSP is represented at both the regional and local levels by involvement in the RRT and LAC processes. The HIHWNMS seeks to improve its participation in local contingency planning efforts by supporting response efforts of the Federal, State, and local agencies within the boundaries of the Sanctuary. The activities contained in this strategy will clarify the Sanctuary's role in contingency planning and improve its emergency response and damage assessment capability.

Activities

Activity A: Coordinate with NMSP headquarters, NOAA Fisheries, USCG, and other appropriate parties to identify future Sanctuary efforts that will help to support response efforts of the LAC.

The Sanctuary staff will consult with personnel at NOAA, USCG, and other agencies to determine future Sanctuary activities with regard to existing contingency plans and procedures.

Activity B: Ensure that Sanctuary concerns are addressed in local area contingency and response plans, damage assessment efforts, and restoration projects, as appropriate.

Sanctuary staff will provide information to appropriate contacts, area contingency committee(s), and RRTs, including ensuring that the Sanctuary is included on notification lists for emergencies. Such information will then be used to ensure that Sanctuary concerns and responsibilities are considered in





all such projects. This information may take the form of one page information sheets, maps of sensitive habitat areas, research reports, or other forms that provide technical information or policy information about the NMSP's damage assessment and restoration responsibilities as a trustee agency.

Activity C: Have Sanctuary staff trained in and be capable of implementing the national NMSP and other damage assessment and restoration protocols and procedures.

Such protocols will include tracking response, monitoring, and restoration costs, documenting the extent of damage to Sanctuary resources, etc. This will help ensure that the Sanctuary fulfills its damage assessment and restoration responsibilities.

Estimated Timeframe

See Figure 2 for an overview of the anticipated scheduling of these strategies. In general each of the activities in this strategy are expected to take the following amounts of time:

- Activity A: two years, starting in 2002.
- Activity B: one year, starting in 2003.
- Activity C: one year, starting in 2003.

Estimated Costs

See Table 5 for an overview of the anticipated costs of these strategies.

Products

- Defined role for the Sanctuary in existing contingency plans, and response and restoration protocols.
- Improved damage assessment and restoration capability in the Sanctuary office.

Partners

- DLNR/DOH, and other State of Hawai'i agency staff
- NOAA Fisheries
- U.S. Coast Guard
- Other resource trustee partners

Related Strategies

- AD-1: Establish agreements for coordination among agencies and organizations relevant to Sanctuary management to better protect humpback whales and their habitat.
- AD-2: Enhance opportunities for Sanctuary Advisory Council participation in planning, education, research, and other appropriate activities.



NRP-2: ENHANCE PROJECT AND PERMIT REVIEW PROCEDURES

Strategy Summary

Strategy NRP-2 addresses Objective 1.3 to enhance project and permit review procedures for activities that may impact humpback whales or their Sanctuary habitat.

NOAA Fisheries and NOS have significant roles in the protection and management of humpback whales and their habitat in Hawai'i. NOAA Fisheries has the responsibility for protection and management of humpback whale under the Marine Mammal Protection Act of 1972 (MMPA), as amended, and the Endangered Species Act of 1973 (ESA), as amended. NOS administers the Sanctuary under the NMSA. It is therefore essential that these two agencies function in close cooperation and coordination in carrying out the respective functions and responsibilities in the protection of the humpback whale and its habitat in Hawai'i.

In August 1995, NOS and NOAA Fisheries signed a Memorandum of Understanding (MOU) concerning permits and consultations for activities that affect the HIHWNMS. This MOU set forth specific procedures by which NOAA Fisheries' Office of Protected Resources and the NMSP will cooperate and coordinate on the issuance of permits and other authorizations with respect to consultations under the ESA, MMPA, and NMSA for activities that may affect humpback whales and their Sanctuary habitat. This MOU was developed to reduce agency duplication and establish a more coordinated NOAA response. The MOU states that NOAA Fisheries would remain the lead agency, and will work closely with the Sanctuary Manager to incorporate Sanctuary concerns into permits issued under the ESA and MMPA.

The HIHWNMS will review existing procedures and protocols to ensure that the Sanctuary is providing effective and efficient support to NOAA Fisheries in the review of ongoing and proposed activities that may affect humpback whales and their Sanctuary habitat.

In addition, the Sanctuary developed separate MOUs with NOAA Fisheries and the State to establish mutually agreeable procedures for coordinated review of activities requiring permits for proposed activities that are subject to Sanctuary regulation (i.e. discharge and alteration of the seabed activities), and that may impact humpback whales or their habitat.

The Sanctuary's habitat regulations provides enhanced resource protection for the whales' habitat since violations of valid Federal or State permits, leases, licenses, or specific authorizations also constitute a violation of Sanctuary regulations. Any authorized discharge or alteration of the seabed activities will not be a violation of Sanctuary regulations as long as it is conducted in accordance with a permit. The Sanctuary's regulatory regime to protect humpback whale habitat provides a backdrop or safety net to existing authorities to ensure compliance with valid permits, leases and authorizations, and supplements the enforcement of permit violations and unlawful discharges or alteration of the seabed activities.

Because the Sanctuary's regulatory structure was designed so that the Sanctuary works within the existing review structures, it does not have independent authority to prevent discharge or alteration of the seabed activities permitted by other Federal and State agencies. The Sanctuary relies on these agreements to ensure that the Sanctuary's concerns are addressed through these permitting processes.





The Sanctuary will also review the MOUs that address the coordinated management for proposed activities requiring permits from NOAA Fisheries and from the State that may impact humpback whales or their Sanctuary habitat.

Activities

Activity A: Analyze the existing MOU with NOAA Fisheries and its implementation procedures to determine where operational enhancements can be made.

Reviewing and, if necessary, revising the MOU will strengthen the relationship between the Sanctuary and NOAA Fisheries, and help make review procedures more efficient and effective.

Activity B: Review and finalize the draft MOU with the State of Hawai'i and its implementation procedures to determine where operational enhancements can be made.

Reviewing and, if necessary, revising the MOU will strengthen the relationship between the Sanctuary and the State and help make co-management arrangements more efficient and effective.

Activity C: Identify a point of contact on staff for permit review and consultations and provide appropriate guidance and training.

Estimated Timeframe

See Figure 4 for an overview of the anticipated scheduling of these strategies. In general each of the activities in this strategy are expected to take the following amounts of time:

- Activity A: up to two years, starting in 2002.
- Activity B: up to two years, starting in 2002.
- Activity C: up to two years, starting in 2002.

Estimated Costs

See Table 5 for an overview of the anticipated costs of these strategies.

Products

- Enhanced MOU implementation.
- Streamlined permit review and consultation procedures within the Sanctuary office.

Partners

- DLNR/DOH, and other State of Hawai'i agency staff
- NOAA Fisheries
- NOAA and State of Hawai'i attorneys



Related Strategies

- AD-1: Establish agreements for coordination among agencies and organizations relevant to Sanctuary management to better protect humpback whales and their habitat.
- AD-3: Enhance the infrastructure of the Sanctuary.





NRP-3: OBTAIN AND SHARE RELEVANT INFORMATION ABOUT SANCTUARY USES, USE POLICIES, AND REGULATIONS

Strategy Summary

Strategy NRP-3 addresses Objective 4.1, to gain a better understanding of the uses within the Sanctuary, who the users are, and the pattern and frequency of human use.

The Sanctuary will carry out efforts to gather data on different types of uses going on within the Sanctuary, who the users are, and the frequency of use. The Sanctuary needs this information to assess user impacts on the humpback whale and its habitat, and to make subsequent management decisions. The activities contained in this strategy will help the Sanctuary become more aware of how and where Sanctuary resources are being used and allow the Sanctuary to make better management decisions to protect Sanctuary resources. Such information will also be used to develop education programs geared toward specific user groups.

Activities

Activity A: Assess and monitor types, levels, and patterns of human use within the Sanctuary.

This will entail the study and documentation of the various human activities occurring within the Sanctuary. As a result of this activity, the Sanctuary and its partners will be provided with information on the types and levels of natural resource use occurring in Sanctuary waters and the possible positive and negative impacts of these activities on humpback whales and their habitat. The project will also generate baseline information to assess current threats and identify necessary research and monitoring studies. Further studies will provide information on economic value and social and cultural significance of human activities in the Sanctuary.

Activity B: Develop outreach materials aimed at enhancing public and agency awareness of Sanctuary resources and human uses within the Sanctuary.

Drawing on the findings of Activity A above, this strategy will involve developing and using outreach products and activities to foster enhanced awareness and support of ocean uses that are compatible with the Sanctuary's main goal. Improved public understanding of activities that are not compatible with humpback whale protection will also be cultivated via this activity.

Activity C: Collaborate with public and private organizations in promoting uses of the Sanctuary that are compatible with the primary mandate of resource protection.

This activity, related to the two preceding it, will bring the Sanctuary community together with other agencies and groups with interests in sustainable ocean use to develop collaborative education and research programs that simultaneously promote socially valuable uses of the Sanctuary while continuing to effectively protect humpback whales and their habitat. Such collaboration might include development of shore-based whale watching programs, naturalist certification programs, and vessel operator training programs.



Estimated Timeframe

See Figure 2 for an overview of the anticipated scheduling of these strategies. In general each of the activities in this strategy are expected to take the following amounts of time:

- Activity A: Throughout plan period.
- Activity B: Throughout plan period.
- Activity C: Throughout plan period.

Estimated Costs

See Table 5 for an overview of the anticipated costs of these strategies.

Products

- Report on uses in Sanctuary.
- Outreach materials.
- threat assessment study.

Partners

- DLNR and other State of Hawai'i agency staff
- NOAA and State of Hawai'i public affairs staff
- NOAA Fisheries
- Sanctuary Advisory Council

Related Strategies

- EO-1: Assess, enhance, and implement existing education and outreach programs.
- RM-2: Characterize and monitor the habitat and behavior of humpback whales including the natural and anthropogenic factors affecting them.



NRP-4: REDUCE VIOLATIONS OF SANCTUARY REGULATIONS

Strategy Summary

Strategy NRP-4 addresses Objective 3.2, to promote public stewardship and an ocean conservation ethic to help protect humpback whales and their habitat, by achieving voluntary compliance with applicable regulations protecting them.

The Sanctuary regulations essentially incorporate NOAA Fisheries humpback whale approach regulations for Hawai'i and regulations that prohibit taking or possessing a humpback whale or parts thereof (please see Appendix 2 for the complete Final Rule for the Sanctuary). Thus violations of the terms or conditions of NOAA Fisheries whale approach regulations would also constitute a violation of the Sanctuary regulations. Sanctuary prohibitions would not apply if the activity is authorized under the MMPA or ESA. Specifically, the Sanctuary regulations include the following prohibitions:

- 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 MMPA, as amended, 16 U.S.C. 1361 *et seq.*, and the ESA, as amended, 16 U.S.C. 1531 *et seq.*;
- Operating any aircraft above 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;
- Taking any humpback whale in the Sanctuary except as authorized under the MMPA and the ESA; and
- 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.

The Sanctuary aims to achieve resource protection for the humpback whale and its habitat by gaining voluntary compliance to prevent the occurrence of violations. Interpretive law enforcement emphasizes informing the public through educational messages and literature about responsible human behavior to prevent impacts to Sanctuary resources. The Sanctuary will address these issues by continuing a strong cooperative relationship with NOAA's Office for Law Enforcement (OLE) and its other Federal and State partners. Specifically, the Sanctuary will coordinate with OLE and other partners to maintain a seasonal on-site enforcement presence on Maui, to determine and assess the level and patterns of violations and by developing programs and projects to reduce violations through education, outreach, training, and enforcement.

NOAA will also work with other Federal and State resource management agencies, researchers, and Hawai'i ocean users to determine appropriate measures to address enforcement issues within the Sanctuary, including research and monitoring needs, training opportunities, and education and outreach efforts to prevent inadvertent violations of the law. One such project is the Ocean Users' Handbook produced annually by the Sanctuary (for use during the Ocean Users' Workshop) that includes fact sheets on protected species, excerpts from State and Federal laws protecting those species, guidelines for whalewatching, wildlife viewing, and documenting violations, and contact telephones numbers for various agencies to report violations.



NATIONAL MARINE
SANCTUARIES



Activities

Activity A: Maintain Sanctuary enforcement operations to deter violations.

The Sanctuary will continue to provide support to OLE to maintain a seasonal enforcement presence throughout Sanctuary waters to support education/interpretation activities, to deter violations of Sanctuary regulations, and to provide a quick response to any violations that do occur. The Sanctuary will work with OLE to develop enforcement operational plans that may include enforcement priorities, patrol schedules, procedures for documenting violations, boarding procedures, and information needs.

Activity B: Determine a baseline level of violations.

The Sanctuary will work with other Federal and State resource management agencies, research community, and Hawai'i ocean users to collect all relevant and available information and scientific data that will be used to more clearly define the level and pattern of Sanctuary violations and identify high use and sensitive areas. The Sanctuary will utilize the data results to assist in identifying areas of mutual concern and to develop effective resource protection strategies in response to enforcement issues.

Activity C: Develop strategies to reduce violations.

The Sanctuary will coordinate with OLE to develop strategies to reduce violations. These activities may include education and outreach products designed for Sanctuary users. The Sanctuary will also work with OLE, the State of Hawai'i, other Federal resource management agencies, and Hawai'i ocean users to develop a boater outreach program.

Activity D: Assess the long-term effectiveness of State regulations that protect humpback whales.

Humpback whales are protected as endangered species under Hawai'i State law (Chapter 195D, Hawai'i Revised Statutes) and regulations (Chapter 13-124, Hawai'i Administrative Rules). Under these regulations, no person may take, possess, process, sell, offer for sale, or transport any humpback whale or part thereof within the State without permission from the Hawai'i DLNR. Such permission (usually issued in the form of a scientific research permit) may only be granted for scientific purposes or to enhance the propagation or survival of the species. Compliance with all applicable Federal laws and regulations (e.g., ESA, MMPA) is always required whenever such permission is granted. DLNR endeavors to consult with NOAA Fisheries and the NMSP in granting any such permission. The Sanctuary will continue to participate in this consulting process to ensure that Sanctuary priorities and concerns are addressed to the maximum extent possible.





The State of Hawai‘i also regulates the operation of commercial and recreational thrill craft, water sledding, parasailing vessels, and high-speed motor craft that operate in State waters, including State waters within the Sanctuary. Section 13-256-16 of the Hawai‘i Administrative Rules (HAR) outlines the general provisions for thrill craft operations. Subsection (c), states, in part, “Thrill craft operations shall be curtailed in certain designated areas as described in subchapters two through eleven as necessary, to: 1) avoid possible adverse impacts on humpback whales or other protected marine life...” These protected areas are found in designated ocean recreation management areas (ORMA). In areas not designated as ORMAs, recreational thrill craft may only operate in waters between five hundred feet from the shoreline or the outer edge of the fringing reef whichever is greater to two miles off the islands of Kaua‘i, O‘ahu, Maui and Hawai‘i. Section 13-256-18 of the HAR outlines rules for commercial thrill craft operations, commercial high speed boating and water sledding operations. Another rule, Section 13-256-112, HAR, curtails the use of thrill craft use in the waters off Maui’s western shores during the whale season (December 15 through May 15) specifically to protect humpback whales. These regulations are an important step by the State of Hawai‘i to protect the humpback whale while in Hawaiian waters. The Sanctuary will work with the State, counties, and various interests to assess the long-term effectiveness of current and future laws, rules and regulations in protecting humpback whales from potential negative impacts posed by thrill craft, as well as other watercraft.

Activity E: Continue annual Ocean Users' Workshops, and expand target audience and workshop scope.

In order to broaden the audience that is reached by this successful workshop, target attendees may be expanded to include commercial boaters, kayak and other concessions, and whalewatching boat operators. Individuals, organizations, and companies that complete this workshop will receive a certificate from the Sanctuary.

Estimated Timeframe

See Figure 2 for an overview of the anticipated scheduling of these strategies. In general each of the activities in this strategy are expected to take the following amounts of time:

- Activity A: annually.
- Activity B: 2003.
- Activity C: 2004.
- Activity D: 2003.
- Activity E: annually.

Estimated Costs

See Table 5 for an overview of the anticipated costs of these strategies.

Products

- Violation baseline assessment.
- Database documenting violations and other whale-related incidents.
- Geographic information system data layers.
- Training/certification program.



Action Plans: Natural Resource Protection

Partners

- DLNR and other State of Hawai'i agency staff
- NOAA Fisheries
- U.S. Coast Guard

Related Strategies

- EO-1: Assess, enhance, and implement existing education and outreach programs.





NRP-5: DEVELOP AND IMPLEMENT A PROCESS THAT IDENTIFIES AND EVALUATES RESOURCES FOR POSSIBLE INCLUSION IN THE SANCTUARY

Strategy Summary

NRP-5 addresses Objective 7.1, to evaluate other resources for possible inclusion in the Sanctuary.

The HINMSA (Section 2304(b)(4)) required the Sanctuary to identify and evaluate resources and ecosystems of national significance for possible inclusion in the Sanctuary. However, several factors have delayed the Sanctuary's ability to focus on efforts to implement a process to identify other marine resource or ecosystems of national significance. The Sanctuary will address this requirement in the next five years, following the process developed in the original management plan. Public support to include other marine species, such as sea turtles (nā honu), other Hawaiian marine mammals (nā māmela kai), coral reefs (nā kohola), Hawaiian monk seals (nā 'ilioholoikauana), and other endangered species as resources of the Sanctuary has been expressed at recent (i.e., 2001) meetings of the Sanctuary Advisory Council.

If the Sanctuary decides that other resources are to be added to the Sanctuary, the boundary may need to be adjusted to ensure the new resources are adequately protected. The process to change the boundary is based on the same process used to designate the Sanctuary (since a term of designation would be changed), which includes scoping, preparation of a draft management plan and environmental impact statement, public review, and preparation of a final management plan and final environmental impact statement.

If the Sanctuary decides that other resources are to be added to the Sanctuary, all Sanctuary programs will need to be adjusted accordingly, including expansion of the scope and type of research, monitoring, education, and outreach programs; enforcement efforts; and the use of management tools such as zoning. Such new or expanded programs will be developed during the next five-year evaluation in 2007.

Activities

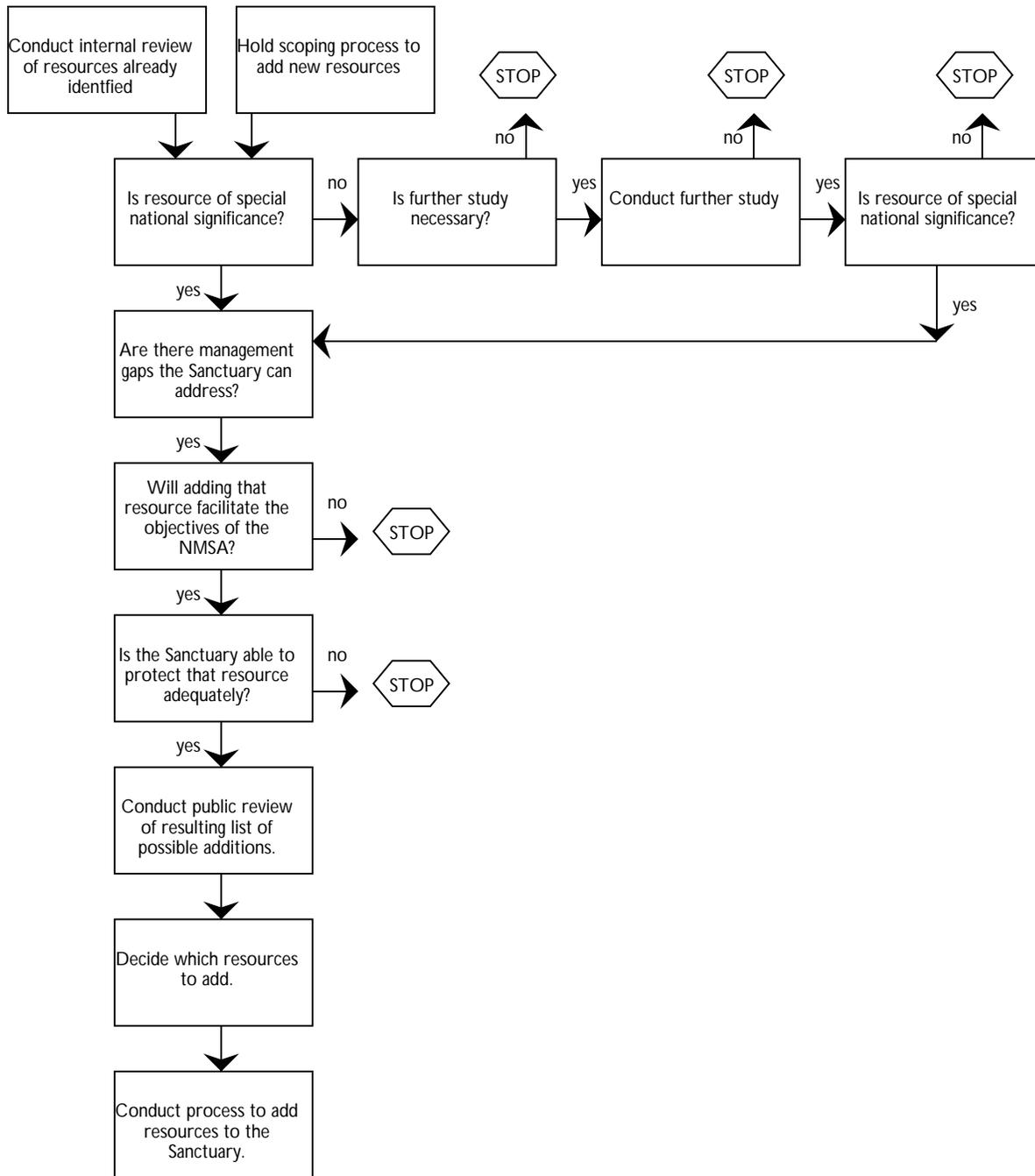
Activity A: Conduct review of resources already identified (see Figure 3 for an overview of this process).

A number of ecological, historical, and cultural resources were identified as possible Sanctuary resources, in addition to humpback whales and their habitat, during the Sanctuary's designation process. Priority will be given to review the resources that were identified in previous public meetings (from 1993 to 1995) and by the SAC. In examining these resources and their uses, the HIHWNMS will apply the Sanctuary designation standards described in the NMSA (§303(a)), consistent with the HINMSA. The following approach will be used by the Sanctuary in consultation with partner agencies and the SAC to assess whether other resources should qualify as Sanctuary resources and be included in the Sanctuary management regime.

1. Is the resource of special national significance? See NMSA §303(a)(2)(A) and §303(b)(1). If not, go to step 3.



Figure 3: Flowchart of Process to Consider Adding Resources to the Sanctuary.





2a. Are there *management gaps* which the NMSP can fill?

Management gaps for the purposes of this review will include any regulatory, administrative, or management deficiency. The review will specify whether the gaps result from shortfalls in regulatory authority or jurisdiction or from agency implementation constraints. Constraints may include, but are not limited to, limitations in non-regulatory management efforts such as education, research, monitoring, enforcement, and staffing. See NMSA §303(a)(2)(B),(D)]. If not, go to step 3.

2b. What are the management gaps and how can they be filled (research, monitoring, education, enforcement, regulation, staffing, etc.)? See NMSA §303(a)(2)(B),(D).

2c. Will the designation of the resource as a Sanctuary resource facilitate the objectives of the NMSA and the policies and purposes of the HINMSA? See NMSA §303(a)(1) and HINMSA §2304(b)(3).

3a. Should there be further study of the resource and its management because the resource may be of special national significance and suitable for Sanctuary management? If not, no further action is necessary.

3b. What other study is necessary to determine the significance of the resource and the need for additional management measures? Compile a list of research needs based upon this review.

Activity B: Conduct a scoping process to identify additional resources for possible inclusion in the Sanctuary.

This process will include holding meetings with the SAC, the public, and Federal and State agencies to help identify other resources for possible inclusion in the Sanctuary. Opportunities for general public comment will be provided at public meetings and also during an acceptance period of written public comments. A communications plan, including press releases and media packets, will be developed to support this process and help ensure wide public participation.

Activity C: Evaluate all candidate resources for national significance, and assess the ability of the Sanctuary to protect those resources.

The evaluation of resources for national significance will ensure that such resources are appropriate to be included in the Sanctuary under the requirements of the NMSA. The assessment of the ability of the Sanctuary to protect those resources will include feasibility and practicality of adding those resources, given current and projected funding and staff levels, and the effectiveness of the Sanctuary's existing programs.

Activity D: Conduct further public and agency review of the findings in Activity C, and decide which resources, if any, will be added to the Sanctuary.

Further public and agency review will be held prior to any action being taken to include additional resources, along with the proper resource protection and management regime, research, and education needs.



Action Plans: Natural Resource Protection

Activity E: Conduct the appropriate and necessary procedures to add resources to the Sanctuary, either during the next five-year review or at the appropriate time.

If necessary, a supplement to this management plan will be prepared and distributed for the review of proposed resources. The Sanctuary will work with the State of Hawai'i and other Federal agencies to assure that such additions are coordinated with the goals of these other agencies.

Estimated Timeframe

See Figure 2 for an overview of the anticipated scheduling of these strategies. In general each of the activities in this strategy are expected to take the following amounts of time:

- Activity A: one year, starting in 2004.
- Activity B: one year, starting in 2004.
- Activity C: one year, starting in 2005.
- Activity D: one year, starting in 2005.
- Activity E: starting in 2006 and beyond.

Estimated Costs

See Table 5 for an overview of the anticipated costs of these strategies.

Products

- Resource evaluation reports.
- Scoping comments and analysis.
- Potentially, description of resources to be added to Sanctuary.

Partners

- DLNR
- NOAA Fisheries
- U.S. Coast Guard
- Other Federal and State agencies as appropriate
- Sanctuary Advisory Council

Related Strategies

- AD-2: Enhance opportunities for Sanctuary Advisory Council participation in planning, education, research, and other appropriate activities.

