

Guidelines and regulations for whale watching

Q15

Yes

1.1 Guidelines and/or regulations related to the interactions between humans and cetaceans support international best practice and are appropriate to local context. Guidelines and/or regulations must be developed collaboratively by all of the key stakeholders, reviewed regularly, and clearly communicated to relevant audiences. Do you wish to meet the requirements of this criterion 1.1?

Please briefly describe the guidelines and/or regulations used within the WHS below.

There are various national and international regulation and laws that protect populations of cetaceans in the proposed site, including:

- 1) Decreto 178/2000. Observación de cetáceos. Regulación. (B.O.C. 133, de 06/10/200). Legal framework that regulates whale watching activities in the area (Canary Islands Government).
- 2) RD 1727/2007. Medidas de protección de los cetáceos. (BOE, núm 11. 2292 a 2296). Legal framework for cetacean protection (Spain Government).
- 3) Carta por la sostenibilidad para el avistamiento de cetáceos. Versión 2, Mayo, 2018. A voluntary commitment made by whale watching companies that their activity will be sustainable with respect to the activity itself, and also with respect to the effect on the environment. (Tenerife Tourism Council).

Summary of Regulations:

Required:

- Boats should not approach a cetacean closer than 60 metres.
- Maximum observation time: 30 minutes.
- Navigate at reduced speed.
- Avoid concentration of boats.
- Leave the area if the animals are disturbed.

Prohibited:

- Carry out approach maneuvers within 60 m of a cetacean or group of cetaceans.
- When the boat is in neutral in the sighting area, start the engine or reverse at a distance of less than 60 m from the cetaceans.
- Change in direction or increase speed while moving accompanied by dolphins (dolphins bow-ride) that are less than 60 m away.
- Make noises or strident sounds within a radius of 500 m from the cetaceans.
- Carry out aerial motorized observation of cetaceans at a distance of less than 500 m vertically or horizontally.
- Use personal motorized boats (jet skis) for cetacean watching at a distance of less than 500 m from the cetaceans.
- Intercept the swimming path of the cetaceans, navigate in circles around them, chase them, separate or scatter them, come into physical contact, use any method for attraction or repulsion, as well as throwing food, waste or any type of solid or liquid residue overboard that could be harmful, within a radius of 500 m from the cetaceans.
- Navigate at a speed greater than 4 knots, or that of the slowest animal in the group within a radius of less than 500 m from the cetacean or group of cetaceans.
- Navigate within a radius of less than 100 m from a cetacean or group of cetaceans when two boats are already present in that radius.
- Navigate within a radius of less than 500 m from a cetacean or group of cetaceans when three boats are already present in that radius.
- Swim or dive within a radius of less than 500 m from a cetacean or group of cetaceans.
- Approach perpendicular to the swimming path of the cetaceans, directly from behind or in front at an angle of less than 30° of the swimming direction within a radius of 500 m.
- Stay more than 30 minutes within a radius of less than 100 m from a cetacean or group of cetaceans

Please describe how and by whom these guidelines and/or regulations were developed?(300 word limit)

The regulations were developed originally considering different information from local and international experts and adding all the measures to satisfy the local needs. The first regulation was developed based on guidelines established in Canada, with some adaptations. It is important to mention that Canada was a pioneer in the creation of guidelines for this activity, and those guidelines were the result of scientific studies about cetacean behaviour in response to human activities.

As years passed, more scientific studies were considered, as well as more data from observing the development of human activities around the whales. The government both regional, and federal, had more personnel expertise in the area, more resources, and higher level of necessity to elaborate competent regulations, that cover every aspect of it.
(evidence 1.22 - 1.29 folder)

Q18

75

What percentage of local whale or dolphin watching tour operators participate in the ongoing development and implementation of these guidelines?

Q19

Is there an active whale watching association within the proposed Whale Heritage Site?

Yes,

If yes, what percentage of local whale or dolphin watching tour operators participate in this association? How many times per year does this association meet?:
31%. A minimum of 12 times, once or twice a month.

Q20

Are there any regular meetings held between all stakeholders, such as whale or dolphin watch tour operators, NGOs, research centres or universities, and government officials, to review or communicate the guidelines and/or regulations?

Yes,

If yes, how many times per year do these meetings occur?:
There are some meetings, including all stakeholders, but scarce in time, not regularly. Thanks to the present initiative of Whale Heritage Site, ACEST is bringing together regularly whale watching tour operators, NGOs, research centres, universities, and government representatives to be part of the Directive Committee. This is a beautiful opportunity to discuss the general compliance of the regulations and to create beautiful outreach projects. This Committee will meet a minimum of once per month, and more often every time that it is needed.

Monitoring and enforcement of regulations

Q22

Yes

1.2 Guidelines and/or regulations are monitored by a minimum of two authorities, one of which can be advisory, but the other should be a responsible government body authorised to take effective action. There should be a clear process for any breaches including consequences for offenders. Do you wish to meet the requirements of criterion 1.2?

Please list all regulatory and advisory authorities responsible for monitoring compliance with local guidelines and/or regulations for cetacean-human interactions.

Authorities:

- Canarian Government (Consejería de Transición Ecológica, Lucha contra el Cambio Climático y Planificación Territorial).
- Spanish Government (Ministerio para la Transición Ecológica y el Reto Demográfico).

NGO, University and research groups:

- University of La Laguna (Grupo de investigación de Biodiversidad, Ecología marina y Conservación, BIOECOMAC).
- CIMA Canarias (Centro de Investigaciones Medioambientales del Atlántico).
- Tonina Asociación (Asociación para la investigación y divulgación del medio marino).
- SECAC (Sociedad para el Estudio de los Cetáceos en el Archipiélago Canario).
- CEAMAR (Cetaceans and Marine Research Institute of the Canary Islands).
- Canarias Conservación (Cetaceans & Sea Turtle Research Society).

Q24

Is at least one of these authorities a government body that is empowered to take action against non-compliance? For example, this could include the National Park or Marine Park authority, the navy, the coastguard, or the Department for the Environment.

Yes,

If yes, describe the processes for any compliance breaches, including consequences for offenders (200 word limit):

From June 2019 to the present day, there is a surveillance team in the area. This team is from a governmental company called TRAGESA who belongs to the Canarian Government. The monitoring team uses both, land and sea stations in the area. The sea station is a boat called "Mar Canario". Noncompliance evidence have been collected, but the Canarian government claims that the Ministry of Ecological Transition are the ones competent to sanction the offenders. The Ministry have not issued any of these fines either. From ACEST we have contacted the Ministry claiming to accelerate this process, so that all the reported incidents (both from ACEST's lawyer, and monitoring team) are processed. They replied that it is their top priority, and they will take action. From October 2020, the Ministry of Ecological Transition are the ones competent to sanction the offenders. The Ministry have not issued any of these fines either. From ACEST we have contacted the Ministry claiming to accelerate this process, so that all the reported incidents (both from ACEST's lawyer, and monitoring team) are processed. They replied that it is their top priority, and they will take action. From October 2020, the Ministry of Ecological Transition, sent one person to join the team of guards the canarian government, in order to take direct and in situ evidence of actions of noncompliance with the regulations. Hopefully the evidences collected by this person from the Ministry are legally valid to be used for legal complaints, that will result in fines to offenders in accordance with the sanction regime described in the Royal Decree 1727. The sanction regime ranges from 30 to 60 thousand euros per offense, and the possibility of taking off the license to carry out the activity.

Q25

Is at least one of these authorities an advisory or non-governmental body? For example, this could include a university or NGO responsible for reporting bad practices.

Yes,

If yes, describe how they monitor compliance and report bad practice? (200 word limit):

There are research groups, associations and naturalists that are monitoring the cetaceans and the anthropic impacts to this population using both, land and sea observations stations on the area. Bad practices such as the reckless approach at high speeds, or the accumulation of boats around groups are included in reports and presented to the proper authorities. Basically, anyone can collect evidence and report it to the authorities. The problem is that the authorities need to improve their proceedings. A few examples of bodies reporting bad practices are: - ACEST, Association for Cetaceans, Stakeholders, South of Tenerife. - University of La Laguna (Grupo de investigación de Biodiversidad, Ecología marina y Conservación,

BIOECOMAC). - CIMA Canarias (Centro de Investigaciones Medioambientales del Atlántico). - Tonina Association (Asociación para la investigación y divulgación del medio marino). - SECAC (Sociedad para el Estudio de los Cetáceos en el Archipiélago Canario). - CEAMAR (Cetaceans and Marine Research Institute of the Canary Islands). - Canarias Conservación (Cetaceans & Sea Turtle Research Society). (Evidence 1.32.1)

Q26

Does self-regulation occur at the proposed site? For example, do whale and dolphin watching tour operators work collaboratively to ensure that rules are adhered to?

Yes,

If yes, briefly describe::

1. Operators are becoming new members of ACEST, and many already members of ACEST are becoming more active assisting to meetings and participating. 2. Out at sea, many operators that care about complying with the regulations are educating others that do not, by means of calling them on the VHF when bad practices occur. 3. The same that in point 2, but with private boaters. Commercial whale watching boats are calling the attention and reprimanding them if any bad practice is observed. 4. Following good examples. The team of Whale Wise Eco Tour (highly responsible operator) have reported that in their area of operation (Los Gigantes area) the other stakeholders are copying their good practice when taking turns to watch cetacean pods. The regulation says only 2 boats within 300 meters, and one other boat within 500 meters. Whale Wise Eco Tours was the only company respecting the turns. One

by one the other boats started waiting for their turn and coordinating by VHF. Nowadays (November 2020) only 2 boats (out of the 18 commercial boats present at that marina) are not waiting their turn. (evidence 1.31)

Training

Q28

Yes

1.3 Regular training takes place for skippers, crew, guides, onshore staff, and other stakeholders to ensure ownership and maintenance of responsible standards for interactions. Do you wish to meet the requirements of criterion 1.3?

Page 12: Criteria in detail - criteria 1.3

Q29

Please describe when training is available, what it involves, and who attends? 300 word limit

-Specialist in cetaceans and other marine animals course (by Local Employment Department). Aimed at residents in Spain interested in working with marine animals. Students learn how to carry out work as a specialist in cetaceans in whale watching boats, both for scientific and tourism purposes.

-EGAC: Specialization as a Cetacean Watching Guide (by SEA WOLVES). Aimed at all people, who wants to work with these animals. This course offers the opportunity to learn about and to identify all species of cetaceans that exist, so the students will be able to work not only in Canary waters but in any part of the world.

- Master in Marine Biology: Biodiversity and Conservation (at La Laguna University). This training prepares the student to apply and integrate broad and multidisciplinary scientific knowledge on marine biodiversity, the conservation and management of the marine environment, ecosystems and resources.

-Marine Environment Interpreter in the Canary Islands (By Canarian Government). Aimed to people who want to work as whale watching tour guide. This course is in accordance with the agenda of the "Carta por la Sostenibilidad" (Charter for Sustainability) for watching cetaceans that are resident in the waters of the Island.

-Cetacean Watching Course (By Canarian Government) Aimed at guides and interpreters who work in whale watching companies (or who are going to work), or for those who are not qualified in "Whale watching sectoral tourism guides" and are working or supporting on board.

Permit system for whale watching

Q31

Yes

1.4 A permit system exists that manages and limits licences for cetacean interactions according to the best available local research and includes regular assessment and reapplication. Do you wish to meet the requirements of criterion 1.4?

Page 14: Criteria in detail - criterion 1.4

Q32

Describe the general process and requirements for obtaining a permit at the proposed site, with emphasis on its effectiveness in ensuring that whale or dolphin watching is managed responsibly? 300 word limit

Since 1996, the Canary Island government has stipulated that any company offering a whale watching activity must have a permit to operate. In order to obtain it, the company must demonstrate their compliance with the safety, environmental and animal welfare standards outlined in the current legislation.

The process to obtain a license is for every commercial boat that wants to provide the service of commercial touristic activity of whale watching. The process consists on the obtention of 2 permits:

1. The authorization to observe cetaceans. Given by The General Division of Biodiversity and Deforestation of the Ministry for Ecological Transition (Spanish Government).
2. The authorization to carry out a touristic activity. Given by Tourism Office of the Government of the Canary Islands. It involves paying 6000 euros as deposit, and the obtention of the Blue Boat Flag.

The two permits are mandatory, and each boat needs BOTH to operate. Under no circumstance only one permit alone is considered valid to operate as a whale watching operator.

In the past, there was no limit on the number of permits allocated to whale watching activities. However, at present, the Ministry of Ecological Transition from the Spanish Government has established a two-year moratorium on the number of whale watching permits.

Q33

52

What percentage of operators within the proposed site currently hold a permit / licence?

Q34

How many licences are available annually for whale and dolphin watching activities?

Froze by a moratorium at 67 licenses

Q35

Is the number of permits limited or restricted in some way?

Yes,

If yes, please describe what information or evidence led to these restrictions? (300 word limit):

Right now there are only 67 licenses that are valid within the proposed Whale Heritage Site. As explained in Q.32, there is in place a moratorium in the giving of permits. The moratorium will be lifted when the Ministry has carry out a capacity study in the area, and will be ready to state how many licenses and under what criteria. In the past, there was no limit on the number of permits allocated to whale watching activities. However, at present, the Ministry of Ecological Transition from the Spanish Government has established a two-year moratorium on the number of whale watching permits. This is due to: 1. The uncontrolled increase of whale watching activity in the area. 2. Evidence that confirms behavioural changes in cetaceans related to nautical activities in the area, including high cortisol levels (stress hormone) registered in the blubber. Currently, a

study is being carried out to evaluate if those effects could have an impact on calf mortality of the resident population of pilot whales in the proposed Whale Heritage Site. 3. Constant demands from ACEST to the authorities, government and media for a better regulation of the authorization of permits. This is a temporary measure, until a study is carried out to know the capacity of the system in the SACs with special interest in the cetaceans of the area. There is also a study underway to stablish the environmental criteria that Whale watching operators must meet in order to obtain a whale watching license. The trajectory of the actions of the Ministry in charge, as well as the Canarian Government point towards a permanent establishment of limited and restricted numbers of licenses.