

SC/69A/WW/07

Sub-committees/working group name: WW

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Swim-with-cetaceans in Mexico, a risky and illegal activity

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Abstract

In Mexico, the whale-watching of large species of cetaceans is controlled by the Official Mexican Standard 131, which clearly establishes the prohibition of swimming with whales. Any company that offers swim-with-whales or swim-with-dolphins without a non-extractive use permit would incur illegality. Despite this legal situation, swim-with some species of dolphins (*Tursiops truncatus*, *Stenella attenuata*, and *Stenella longirostris*) has been a tourist activity for more than 20 years following some of the international standards for swimming with cetaceans. In recent years, the “Sea Safari” also emerged in Baja California Sur, offering to swim with killer whales (*Orcinus orca*). During this activity, several vessels surround the group of orcas, and people jump into the water, swim, and dive. In such events, there is no discrimination in the type of killer whale group. It is important to recommend developing and implementing regulations by the Mexican Government to manage this situation. These activities of "swimming with cetaceans" should be detained or, after evaluating the impact of these activities on cetaceans, a Mexican Standard should be established.

According to the Official Mexican Standard 059 (NOM-059 SEMARNAT, DOF 2002), all marine mammals are under special protection in Mexico. Implies that no specimen can be partially or totally extracted from its natural environment. Non-extractive use, such as whale-watching, requires a permit issued by the Wildlife Direction (DGVS) of the Ministry of Environment and Natural Resources (SEMARNAT).

Whale-watching of large species, such as humpback (*Megaptera novaeangliae*), blue (*Balaenoptera musculus*), fin (*B. physalus*), and gray (*Eschrichtius robustus*) whales, as well as sperm whales (*Physeter macrocephalus*), is controlled by the Official Mexican Standard 131 (NOM 131-SEMARNAT DOF, 2011). This standard considers no other odontocete besides the sperm whale. The NOM-131 defines what is allowed during whale-watching activities and what is prohibited: harassment, swim course obstruction and the dispersal of cetaceans by WW vessels. The NOMs aim to reduce the impact of whale-watching, promoting a good experience for tourists, and making the activity economically profitable for tour operators.

It is noteworthy that NOM-131 clearly establishes the prohibition of swimming with whales. Any company that offers swim-with-whales or swim-with-dolphins without a non-extractive use permit would incur illegality. Despite this legal situation, swim-with some species of dolphins (*Tursiops truncatus*, *Stenella attenuata*, and *Stenella longirostris*) has been a tourist activity for more than 20 years (Urbán and Viloria-Gómora, 2021), especially in the States of Sinaloa and Jalisco. Despite being illegal and without any Mexican regulation, it is known from personal communication with local tour operators that they follow the international

standards for swimming with cetaceans (Lewis & Walker, 2018) as they are aware of the necessity of reducing the impact that their activities may have on dolphins.

However, in recent years a form of “nature” tourism, called “Sea Safari,” emerged in Baja California Sur, Mexico. This activity consists of trips to search for and swim with marine megafauna (e.g., marlin fish, sharks, and whales, among other species). Sometimes, the conditions in which this activity is carried out are risky for tourists; but in most cases, the activity can negatively affect the animals. During this activity, the vessels have been reported to approach the animals from the front, very close (< 10 m) and at high speed (> 5 kt). When the vessel is as close as possible to the cetaceans, tourists jump in the water, swimming and diving behind the whales. When the animals move away, the tourists climb back into the vessel and the chasing resumes. The number of companies that practice this activity is currently unknown. There is also no record of the number of vessels involved simultaneously around the whales. However, some witnesses indicate that the harassment described above can last for more than eight hours, with more than 10 vessels involved simultaneously. Swim with- cetaceans is carried out in Cabo San Lucas, the Cerralvo Channel, and the area of the Pacific Ocean near Puerto San Carlos (Figure 1). The authors have collected this information through personal communication from tour guides, captains, and social network publications.

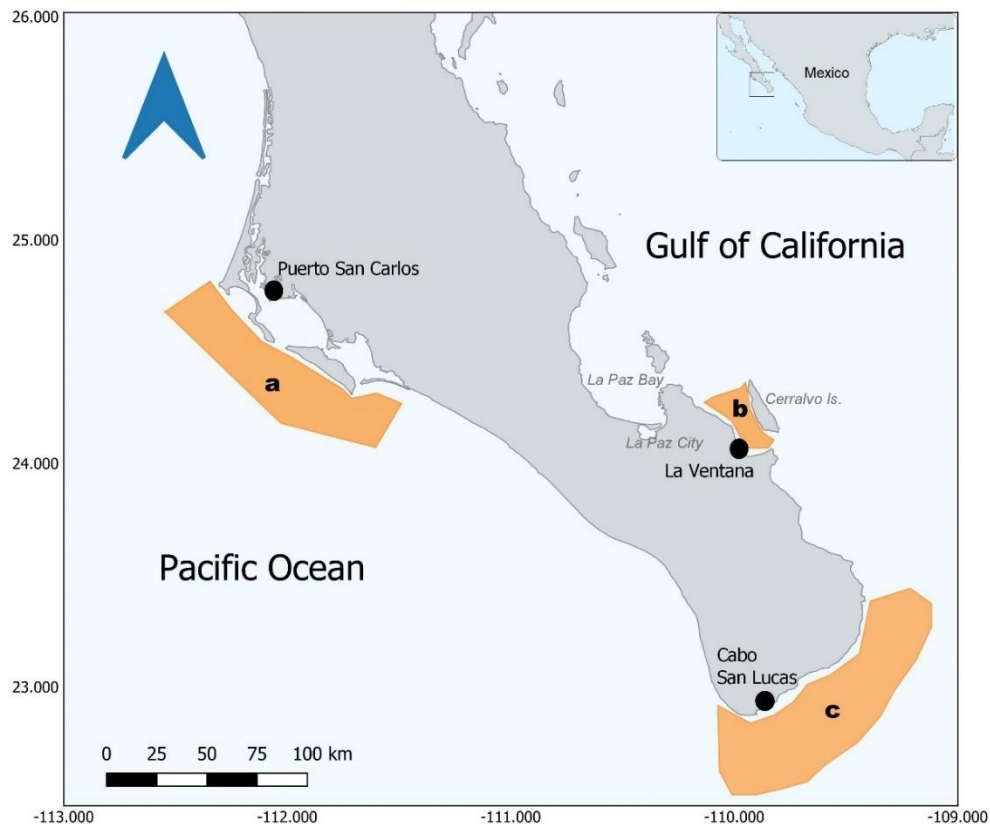


Figure 1: Areas of Mexico where swimming with orcas and whales are reported. a) Pacific Ocean near Puerto San Carlos, b) Cerralvo Chanel, and c) Cabo San Lucas.

The "Sea Safari" offers to swim with killer whales (*Orcinus orca*). Sources that have witnessed these "Safaris" describe it as a chaotic activity. Scientific studies indicate that killer whales do not generally have a recognized temporal pattern in the Gulf of California and the Mexican Pacific. They distribute and move based on where the prey species are (reference). They are generalists, and their preys include bony fishes, elasmobranchs, sea turtles, pinnipeds, and cetaceans (Guerrero-Ruiz et al., 1998, 2007; Niño-Torres et al., 2011; Vargas-Bravo et al., 2020). Particularly in the Cerralvo Channel region, for approximately four years, a relationship has been detected between the presence of killer whales and manta rays (especially with the dwarf devil manta, *Mobula munkiana*). Manta rays are present in the region between May and November, and killer whales come in this period to feed on them (Higuera-Rivas et al., 2023)

This event is used by tour operators of the town La Ventana to make trips to swim with orcas. This activity is carried out with small vessels (22-27 feet), with outboard engines (75-250 hp). A light aircraft (<https://fb.watch/jRg-Vskc9K/>) looks for killer whales and when the group of orcas is found, the captains are notified, and the pursuit begins. We have yet to estimate how often these aircraft types are used (Figure 2). Tour guides have indicated the participation of up to 14 vessels in a single event. The vessels surround the group of orcas, people jump into the water, swim, and dive. In such events, there is no discrimination in the type of killer whale group (Figure 3). This activity is conducted with lone males, groups with calves, groups of juveniles, etc. There is no discrimination in the behavior type displayed (feeding, mating, etc.). Until now, no systematic study has been carried out that records the number of vessels, the way in which the activity is carried out, or the behavior of the killer whales. All that is known is through personal communications and social networks.



Figure 2. Small vessels pursue a group of killer whales (circled in red) seen from a light aircraft. Image from a video posted on social media.



Figure 3. Images of a swimming event and harassment of a group of killer whales feeding. a) Boats within 10 m of the killer whale feeding b) A tourist ready to jump into the water and swim with the killer whale, and c) Numerous boats surrounding the group of killer whales. Images from a video posted on social media. (https://www.instagram.com/p/CO80C_0AiJi/?utm_source=ig_embed&utm_campaign=embed_video_watch_again).

It is relevant to mention that swimming with orcas and whales, particularly with the humpback whale, is currently offered on several internet pages: (<https://oceansafaris.com/swim-with-orca/>; , [https://www.insiderdivers.com/baja](https://www.insiderdivers.com/baja;); <https://sdmdiving.com/baja-orcas>; , <https://www.whalesforever.com/swimming-with-killer-whales-in-mexico/>; , <https://bajaex.com/destinations/sea-de-cortez-mobulas-y-orcas-day-trip-old/>, etc.).

Some tour operators and tourist guides are concerned about how the activity of swim-with whales and orcas is carried out. Consequently, they have made infographics and organized informative talks on good practices. Despite being alerted by this report's authors, the Mexican authorities have yet to become involved.

It is important to recommend developing and implementing regulations by the Mexican Government to manage this situation. These activities of "swimming with cetaceans" should be detained or, at least, after an evaluation of the impact of these activities on cetaceans, a Mexican Standard should be established, similar to that of whale-watching, where the species, places and temporality in which this activity is allowed are indicated, as long as they follow the guidelines of good practices designed by a panel of experts.

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