

ARGENTINA REGULATIONS

Peninsula Valdes, Province of Chabut

PROVINCIAL LAW No 2381/84 (modified by PROVINCIAL LAW No 2618/85)

Forbids approach and/or harassment, sail, swim and diving with any marine mammal species and their calves, inshore and offshore, in provincial waters during the whole year. (This item was modified by Provincial Law 2618/85 and it states “..within provincial waters during the entire year without a provincial Department permit”).

The regulations for permitted operations include:

1. a minimum distance of 100m between whale watchers and whale while engines are on; not less than 50 m with engines off;
2. stopping the engines near the animal;
3. only one boat per individual whale;
4. avoid harassing or chasing the animals;
5. avoid sudden changes in boat speed;
6. do not drive the boat in circles around the animals;
7. avoid flying lower than 150m over whales;
8. do not approach mothers with calves;
9. avoid any activity that would alter the behavior of the whales;
10. avoid entering the water in the vicinity of whales.

Other items related to:

....a. Two Golfo Nuevo areas were established by this Provincial law:

1. **Intangible Zone:** It is forbidden to sail in a parallel or imaginary line to the shore between Punta Piramides and Beliza 25 de Mayo, considering 500m from low tide zone to open ocean.
2. **Restricted Zone:** It is forbidden to sail private boats, with the exception of authorized whale watching boats, in a parallel and imaginary line to the shore between Punta Pirimades and Baliza 25 de Mayo, but out of the imaginary zone.

....b. Journalistic Activities

....c. Scientific Activities

....d. Fines: breaking the law can result in fines up between 250 entry fees in the provincial Nature reserve and 2000 entry fees for non-authorized operators. The same fine is applied to authorized operators plus a suspension of a minimum of 5 days from their permits up to the definite revocation of the permit.

....e. Establishment of Application Authorities.

2) PROVINCIAL REGULATION DECREE No916/86 (modified by PROVINCIAL DECREE No 1127/91):

Designates the application authorities named in Law No 2381.

Creates the provincial Whale Watching Tour Operators Register and

establishes the minimum requirements for their inscription. No more than two boats are allowed per permitted operator.

Creates the Provincial Field Naturalist register and establishes the minimum requirement for their inscription.

Regulates the tour operator' qualifications for carrying out whale watching activities.

Provincial Wardens will supervise all whale watching activities.

Provincial Decree No 1127/91 derogates the number of licenses for Golfo Nuevo (5 maximum) and the valid time for each license.

3). PROVINCIAL LAW No 3258/90

regulates the activity of film crews, photographers and research projects within the Chabut Province Territory.

4). PROVINCIAL TERMINATION No 111 OPT/97

Forbids particular boats within the Pardelas Beach Zone during the whale season. Authorized dive operators are the only ones allowed to give this service in the area. Diving with marine mammals however, is forbidden.

PROGRESS IN WHALEWATCHING REGULATIONS:

PROVINCIAL LAW 5714 ENACTED IN 2008

During a workshop organized by the Instituto de Conservación de Ballenas in 2004 in Puerto Pirámides, the participants analyzed the regulations and detected points in the Law 2381 from 1984 that had become incompatible with the local conditions for whalewatching at Península Valdés (see Sironi et al., 2005 for further details). Some practical problems that were detected included:

Age class of whales: the law forbade boats from approaching mothers with calves, but mother/calf pairs were approached regularly because they are the most abundant whales on the nursery ground

Minimum distance to the animals (100m) and maximum number of boats (1) per group of whales were rarely observed.

Government officials acknowledged that new regulations needed to be created specifically for whalewatching at Península Valdés. So, in 2006 the Secretaría de Turismo from Chubut Province organized a series of monthly workshops (see Timeline above) to develop the text for a new whalewatching law that would address these and other practical incompatibilities. After two years of work, the result is the Law 5714 enacted in 2008.

The main aspects of Provincial Law 5714 from Chubut include:

It is forbidden to approach, chase, sail, swim and/or dive with southern right whales in provincial waters during the calendar year without an official permit issued by the Enforcement Authority.

Whalewatching should be responsible, and in accordance with the principles for the conservation of the species, avoiding and/or minimizing potential negative effects on the animals.

The Enforcement Authority grants official permits to applying companies through public bidding for a period of no less than six years, and determines the tax that whalewatch companies should pay to the Province. The totality of this tax should be transferred to the Fund for the Development of Protected Natural Areas.

The main aspects of Provincial Decree 167/08 that regulates Law 5714 include: The Subsecretaría de Turismo y Áreas Protegidas from the Ministerio de Comercio Exterior, Turismo e Inversiones is the Enforcement Authority.

The area for commercial whalewatching is a 3-nautical-mile-wide strip of the bay between Punta Piaggio and Punta Cormoranes, and boats can operate in and out of Puerto Pirámides only.

The Enforcement Authority can grant between four and six official permits to commercial whalewatch operations.

The “Patagonian Technique for Whale Watching” and “Code of Conduct for Whale Watching” are approved (see below).

Each whalewatch company is allowed to operate with only one boat at any one time with a maximum capacity of 70 passengers. Under certain circumstances, the Enforcement Authority can authorize the operation of a second boat per company.

A Whalewatching Advisory Committee chaired by the Enforcement Authority with members from the operating companies is created. Its aims are to suggest improvements to the activity and guarantee the principles for resource conservation and sustainable development. Infractions to the Law will be fined in accordance to Title VII in the Law 4617.

The main aspects of the “Patagonian Technique for Whale Watching” include: The Whalewatch Tour Guides will be responsible for the announcement of safety rules on board to the tourists.

Right whale mothers and calves cannot be approached until September.

The following maneuvers are forbidden: separating mothers from their calves or separating animals in mating groups; cornering whales against the shore; circling around the whales; multiple boat speed changes; drifting on the animals; chasing animals that swim away from the boats; collisions; physical contact between passengers and the whales.

Only one boat is allowed to approach a whale or group of whales at a time; two boats per whale or group of whales are allowed only under exceptional restricted navigation conditions within the bay of Puerto Pirámides, and after December 1st, when the number of whales is low. In this case, the captains of the two boats will coordinate with each other to stay for no longer than 15 min with the same animals.

Time restrictions: the minimum duration of whalewatch trips is 90 min with a minimum of 30 min between consecutive trips.

Speed and distance restrictions: maximum of 20 knots between different sectors of the whalewatching area, and maximum of 10 knots in areas with high density of whales; whales should be approached at cruising speed to a distance of 200m of the animals, then speed should be reduced to less than 5 knots to a distance of 50m, and then speed will be adjusted depending on the type of group of whales, that may or may not get closer to the boat; in all cases, leaving a group of whales should be at no-wake speed; minimum distances: 30m from the focal whale in a mating group, 50m from a breaching whale, 15m from a tail-slapping whale, 50m from a resting whale.

The main aspects of the “Code of Conduct for Whale Watching” include: Whalewatch Tour Guides should inform the tourists the rules of the Code, that are aimed at making the experience safe, educational and pleasant to the visitor.

Basic rules: do not throw garbage to the water; do not touch the animals; speak in a low voice to enjoy the sounds of nature.

Copies of the “Patagonian Technique for Whale Watching” are available to tourists from the whalewatch operators and from the Subsecretaría de Turismo y Áreas Protegidas.

Visitors who observe infractions to the rules can report them directly to the Enforcement Authority.

