

NON-OFFICIAL TRANSLATION

MINISTERIAL RESOLUTION

N° 451 -2019-PRODUCE

Lima, 21st of October 2019

Viewed: Document N° 783-2019-IMARPE/DEC of the Instituto del Mar del Perú (Sea Institute of Peru) - IMARPE; the Report N° 284-PRODUCE/DPO of the Direction of Policy and Management and the General Direction of Regulatory Policy and Analysis in Fisheries and Aquaculture; the Report N° 880-2019-PRODUCE/OGAJ of the General Office of Legal Advice; and,

Considering:

That, according to article 2 of the General Fishing Law, Decree Law N°25977, the hydrobiological resources contained in the jurisdictional waters of Peru are the patrimony of the Nation; consequently, the State is entitled to regulate the integral management and rational exploitation of the aforementioned resources;

That according to article 9 of the aforementioned Law, it is responsibility of the Ministry of Production to determine the norms that are required for the preservation of hydrobiological resources;

That, according to article 2 of the Regulation of the General Fishing Law, approved by supreme decree N° 012-2001-PE, related to the role of the Ministry of Production, it is up to this body to ensure the balance between the sustainable use of hydrobiological resources, conservation of the environment and socio-economic development;

That, according to subparagraphs h) and i) of numeral 76.2 of article 76 of the aforementioned regulation, it is the responsibility of the Ministry of Production to promote actions aimed at the conservation and sustainable use of hydrobiological resources and to assume the actions required to promote activities intended for the protection of the environment, fishing efficiency and the conservation of hydrobiological resources.

That, article 122 of the Regulation of the General Fishing Law establishes that the Ministry of Production assumes the correspondent governing function when dealing with matters related to the scope of fishing and aquaculture activities and, in general, hydrobiological resources, in harmony with the preservation of the environment and the conservation of biodiversity.

That, Supreme Decree N° 002-97-PE, decreed Peru's accession to the "Convention on the Conservation of Migratory Species of Wild Animals", whose Appendix I includes migratory species threatened with extinction, such as the "Humpback Whale" (*Megaptera novaeangliae*), among others;

That, IMARPE, through the official letter of reference, sends the "PRECISIONS ON MINIMUM DISTANCES FOR THE CONSERVATION OF MARINE CETACEANS" and recommends the minimum distances of approach to marine cetaceans, in order to guarantee the conservation of the referred hydrobiological resources;

That, the General Directorate of Policies and Regulatory Analysis in Fisheries and Aquaculture, through a Report of views, indicates the need to implement the recommendations given by IMARPE, in order to guarantee the conservation of marine cetaceans.

With the approval of the Vice Minister of Fisheries and Aquaculture and of the General Directors of the General Directorate of Policy and Regulatory Analysis in Fisheries and Aquaculture and of the General Office of Legal Advice; and,

In accordance with the provisions of Decree Law N° 25977, General Fisheries Law; its regulation approved by Supreme Decree N° 012-2001-PE; Legislative Decree N° 1047, Law on Organization and Functions of the Ministry of Production and amendments; and the Regulation of Organization and Functions of the Ministry of Production, approved by Supreme Decree N° 002-2017-PRODUCE and amendment;

RESOLVES:

Article 1. – To establish the minimum distances for approaching marine cetaceans, according to the following detail:

	Minimal distance for approaching marine cetaceans
a) Minor cetaceans	50 meters
b) Cetaceans whose length is greater than five meters	100 meters
c) Minor cetaceans found in food or socialization activities	150 meters
d) Cetaceans whose length is greater than five meters and are in food or socialization activities	300 meters

The mentioned distances are applicable to cetaceans detailed in the Annex to this Ministerial Resolution.

Article 2.- It is prohibited to address or approach groups of cetaceans with offsprings or a mother with as offspring.

When groups with offsprings or mother with offsprings are found in a non-premeditated way, the area must be slowly abandoned until reaching a minimum distance of 300 meters

Article 3.- The following signals allow us to identify feeding and socialising activities:

	Feeding signals	Socialising signals
Minor cetaceans	<ul style="list-style-type: none"> - U-shaped grouping or in circles to surround prey; - Disordered displacement making turns to feed. 	<ul style="list-style-type: none"> - Constantly playing, cetaceans chasing each other and throwing objects at each other, such as seaweed, sponges, etc.
Cetaceans whose length is greater than five meters	<ul style="list-style-type: none"> - Blows with the tail and pectoral fins to confuse their prey and prevent them from escaping; - Disordered displacement, emitting sounds that synchronize their actions and temporary or long-term cooperation between individuals; - Bubble formation; - Lying on its side on the surface and swimming in circles at high speed, while whipping the sea with the tail and forming a foam ring; 	<ul style="list-style-type: none"> - Belly, tail and turn jumps; - Repeated blows of the pectoral fins; - Whiskers, the whale pulls its tail out of the water and hits the surface, or drops it; both movements can be aggressive behaviours; - Pursuit and competition with aggressiveness (resolved, shoves, shocks and collisions with the head, tail and body,

	<ul style="list-style-type: none"> - Immersing itself a short distance below the surface of the water, swimming in circles while making blows. 	<ul style="list-style-type: none"> with a lot of activity on the surface); - Head exposures that are like acts of vigilance and responses to disturbances.
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Article 4.- In the event of an accidental collision with a cetacean or if an injured or entangled cetacean is found in a fishing net or gear, this fact must be reported to the IMARPE and to the General Directorate of Captaincy and Coast Guard of The Peruvian Navy of the Ministry of Defence, to adopt the corresponding measures, within the scope of its competences.

Article 5.- The General Directorates of Policy and Regulatory Analysis in Fisheries and Aquaculture, Supervision, Supervision and Sanction of the Vice-Ministerial Office of Fisheries and Aquaculture of the Ministry of Production, Regional Governments, the General Directorate of Captaincy and Coast Guard of the Peruvian Navy of the Ministry of Defence, as well as the Ministry of Foreign Trade and Tourism, within the scope of their respective competences, carry out the corresponding dissemination actions and ensure compliance with the provisions of this Ministerial Resolution.

Article 6.- The publication of this Ministerial Resolution and its Annex in the official newspaper El Peruano and in the institutional website of the Ministry of Production (www.gob.pe/produce).

Register, communicate and publish.

ANNEX

Major Cetaceans

1. Antarctic minke whale (*Balaenoptera bonaerensis*)
2. Whale sei (*Balaenoptera borealis*)
3. Bryde Whale (*Balaenoptera edeni*)
4. Blue whale (*Balaenoptera musculus*)
5. Fin whale (*Balaenoptera physalus*)
6. Humpback Whale (*Balaenoptera novaeangliae*)
7. Southern Right Whale (*Balaenoptera australis*)
8. Sperm whale or sperm whale (*Balaenoptera macrocephalus*)

Minor Cetaceans

9. Dark Dolphin or Marine Pig (*Lagernorhynchus obscurus*)
10. Tonino or Spiny Marsopa (*Phocoena spinipinnis*)
11. Bufeo (*Tursiops truncatus*)
12. Common long-nosed dolphin (*Delphinus capensis*)
13. Common short-nosed dolphin (*Delphinus delphis*)
14. Pygmy sperm whale (*Kogia breviceps*)
15. Dwarf sperm whale (*Kogia sima*)
16. Zifio de Cuvier (*Ziphius cavirostris*)
17. Gray Zifio (*Mesoplodon grayi*)
18. Peruvian Zifio (*Mesoplodon peruvianus*)
19. Screw dolphin (*Stenella longirostris*)
20. Pantropical spotted dolphin (*Stenella attenuata*)
21. Dolphin listing (*Stenella coeruleoalba*)
22. Rough tooth dolphin (*Steno bredanensis*)
23. Southern smooth dolphin (*Lissodelphis peronii*)
24. Gray dolphin (*Grampus griseus*)
25. Melon head dolphin (*Peponocephala electra*)
26. Pygmy Killer Whale (*Feresa attenuata*)
27. Killer whale (*Orcinus orca*)
28. Killer whale (*Pseudorca crassidens*)
29. Short-finned pilot dolphin (*Globicephala macrorhynchus*)
30. Long-finned pilot dolphin (*Globicephala melas*)