

111TH CONGRESS
1ST SESSION

S. 212

To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 12, 2009

Mrs. BOXER (for herself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gulf of the Farallones
5 and Cordell Bank National Marine Sanctuaries Boundary
6 Modification and Protection Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) The Gulf of the Farallones extends approxi-
2 mately 100 miles along the coast of Marin and
3 Sonoma Counties of northern California. It includes
4 approximately one-half of California's nesting
5 seabirds, rich benthic marine life on hard-rock sub-
6 strate, prolific fisheries, and substantial concentra-
7 tions of resident and seasonally migratory marine
8 mammals.

9 (2) Cordell Bank is adjacent to the Gulf of the
10 Farallones and is a submerged island with spectac-
11 ular, unique, and nationally significant marine envi-
12 ronments.

13 (3) These marine environments have national
14 and international significance, exceed the biological
15 productivity of tropical rain forests, and support
16 high levels of biological diversity.

17 (4) These biological communities are easily sus-
18 ceptible to damage from human activities, and must
19 be properly conserved for themselves and to protect
20 the economic viability of their contribution to na-
21 tional and regional economies.

22 (5) The Gulf of Farallones and the Cordell
23 Bank include some of the United States richest fish-
24 ing grounds and support important commercial and
25 recreational fisheries. These fisheries are regulated

1 by State and Federal fishery agencies and are sup-
2 ported and fostered through protection of the waters
3 and habitats of Gulf of the Farallones National Ma-
4 rine Sanctuary and Cordell Bank National Marine
5 Sanctuary.

6 (6) The report of the Commission on Ocean
7 Policy established by section 3 of the Oceans Act of
8 2000 (Public Law 106–256; 33 U.S.C. 857–19) calls
9 for comprehensive protection for the most productive
10 ocean environments and recommends that they be
11 managed as ecosystems.

12 (7) New scientific discoveries by the National
13 Marine Sanctuary Program support comprehensive
14 protection for these marine environments by broad-
15 ening the geographic scope of the existing Gulf of
16 the Farallones National Marine Sanctuary and the
17 Cordell Bank National Marine Sanctuary.

18 (8) Cordell Bank is at the nexus of an ocean
19 upwelling system, which produces the highest bio-
20 mass concentrations on the west coast of the United
21 States.

22 **SEC. 3. POLICY AND PURPOSE.**

23 (a) POLICY.—It is the policy of the United States to
24 protect and preserve living and other resources of the Gulf
25 of the Farallones and Cordell Bank marine environments.

1 (b) PURPOSE.—The purposes of this Act are the fol-
2 lowing:

3 (1) To extend the boundaries of the Gulf of the
4 Farallones National Marine Sanctuary and the
5 Cordell Bank National Marine Sanctuary as de-
6 scribed in section 5.

7 (2) To strengthen the protections that apply in
8 the Sanctuaries.

9 (3) To provide for the education and interpreta-
10 tion for the public of the ecological value and na-
11 tional importance of the Sanctuaries.

12 (4) To manage human uses of the Sanctuaries
13 under this Act and the National Marine Sanctuaries
14 Act (16 U.S.C. 1431 et seq.).

15 (c) EFFECT ON FISHING ACTIVITIES.—Nothing in
16 this Act is intended to alter any existing authorities re-
17 garding the conduct and location of fishing activities in
18 the Sanctuaries.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) CORDELL BANK NMS.—The term “Cordell
22 Bank NMS” means the Cordell Bank National Ma-
23 rine Sanctuary.

1 (2) FARALLONES NMS.—The term “Farallones
2 NMS” means the Gulf of the Farallones National
3 Marine Sanctuary.

4 (3) SANCTUARIES.—The term “Sanctuaries”
5 means the Farallones NMS and the Cordell Bank
6 NMS.

7 (4) SECRETARY.—The term “Secretary” means
8 the Secretary of Commerce.

9 **SEC. 5. NATIONAL MARINE SANCTUARY BOUNDARY AD-**
10 **JUSTMENTS.**

11 (a) GULF OF THE FARALLONES.—

12 (1) BOUNDARY ADJUSTMENT.—The areas de-
13 scribed in paragraph (2) are added to the Farallones
14 NMS described in part 922.80 of title 15, Code of
15 Federal Regulations, as in effect on the date of the
16 enactment of this Act.

17 (2) AREAS INCLUDED.—

18 (A) IN GENERAL.—The areas referred to
19 in paragraph (1) are the following:

20 (i) All submerged lands and waters,
21 including living marine and other resources
22 within and on those lands and waters,
23 from the mean high water line to the
24 boundary described in subparagraph (B).

1 (ii) The submerged lands and waters,
2 including living marine and other resources
3 within those waters, within the approxi-
4 mately two-square-nautical-mile portion of
5 the Cordell Bank NMS (as in effect imme-
6 diately before the enactment of this Act)
7 that is located south of the area that is
8 added to Cordell Bank NMS by subsection
9 (b)(2), which are transferred to the
10 Farallones NMS from the Cordell Bank
11 NMS.

12 (B) BOUNDARY DESCRIBED.—The bound-
13 ary referred to in subparagraph (A)(i) com-
14 mences from the mean high water line (referred
15 to in this subparagraph as the “MHWL”) at
16 39.00000 degrees north in a westward direction
17 approximately 29 nautical miles (referred to in
18 this subparagraph as “nm”) to 39.00000 north,
19 124.33333 west. The boundary then extends in
20 a southeasterly direction to 38.30000 degrees
21 north, 124.00000 degrees west, approximately
22 44 nm westward of Bodega Head. The bound-
23 ary then extends eastward to the most north-
24 eastern corner of the expanded Cordell Bank
25 NMS at 38.30000 north, 123.20000 degrees

1 west, approximately 6 nm miles westward of
2 Bodega Head. The boundary then extends in a
3 southeasterly direction to 38.26390 degrees
4 north, 123.18138 degrees west at the north-
5 western most point of the current Gulf of the
6 Farallones Boundary. The boundary then fol-
7 lows the current northern Gulf of the
8 Farallones NMS boundary in a northeasterly
9 direction to the MHWL near Bodega Head.
10 The boundary then follows the MHWL in a
11 northeasterly direction to the commencement
12 point at the intersection of the MHWL and
13 39.00000 north. Coordinates listed in this sub-
14 paragraph are based on the North American
15 Datum 1983 and the geographic projection.

16 (b) CORDELL BANK.—

17 (1) BOUNDARY ADJUSTMENT.—The area de-
18 scribed in paragraph (2) is added to the existing
19 Cordell Bank NMS described in part 922.80 of title
20 15, Code of Federal Regulations, as in effect on the
21 date of the enactment of this Act.

22 (2) AREA INCLUDED.—

23 (A) IN GENERAL.—The area referred to in
24 paragraph (1) consists of all submerged lands
25 and waters, including living marine and other

1 resources within those waters, within the
2 boundary described in subparagraph (B).

3 (B) BOUNDARY.—The boundary referred
4 to in subparagraph (A) commences at the most
5 northeastern point of the Cordell Bank NMS
6 boundary (as in effect immediately before the
7 enactment of this Act) at 38.26390 degrees
8 north, 123.18138 degrees west and extends
9 northwestward to 38.30000 degrees north,
10 123.20000 degrees west, approximately 6 nau-
11 tical miles (referred to in this subparagraph as
12 “nm”) west of Bodega Head. The boundary
13 then extends westward to 38.30000 degrees
14 north, 124.00000 degrees west, approximately
15 44 nautical miles west of Bodega Head. The
16 boundary then turns southeastward and con-
17 tinues approximately 34 nautical miles to
18 37.76687 degrees north, 123.75142 degrees
19 west, and then approximately 15 nm eastward
20 to 37.76687 north, 123.42694 west at an inter-
21 section with the current Cordell Bank NMS
22 boundary. The boundary then follows the cur-
23 rent Cordell Bank NMS, which is coterminous
24 with the current Gulf of the Farallones bound-
25 ary, in a northeasterly and the northwesterly di-

1 rection to its commencement point at 38.26390
2 degrees north, 123.18138 degrees west. Coordi-
3 nates listed in this subparagraph are based on
4 NAD83 Datum and the geographic projection.

5 (c) INCLUSION IN THE SYSTEM.—The areas included
6 in the Sanctuaries under subsections (a) and (b) shall be
7 managed as part of the National Marine Sanctuary Sys-
8 tem, established by section 301(c) of the National Marine
9 Sanctuaries Act (16 U.S.C. 1431(c)), in accordance with
10 that Act.

11 (d) UPDATED NOAA CHARTS.—The Secretary
12 shall—

13 (1) produce updated National Oceanic and At-
14 mospheric Administration nautical charts for the
15 areas in which the Sanctuaries are located, as modi-
16 fied by subsections (a) and (b); and

17 (2) include on those nautical charts the bound-
18 aries of the Sanctuaries, as so modified.

19 (e) BOUNDARY ADJUSTMENTS.—In producing re-
20 vised nautical charts required by subsection (d) and in de-
21 scribing the boundaries in regulations issued by the Sec-
22 retary, the Secretary may make technical modifications to
23 the boundaries described in this section for clarity and
24 ease of identification, as appropriate.

1 **SEC. 6. PROHIBITION OF OIL AND GAS LEASING AND PER-**
2 **MITTING.**

3 No lease or permit may be issued that authorizes ex-
4 ploration, development, production, or transporting by
5 pipeline of minerals or hydrocarbons within the boundaries
6 of the Sanctuaries, as modified by subsections (a) and (b)
7 of section 5.

8 **SEC. 7. MANAGEMENT PLANS AND REGULATIONS.**

9 (a) **DRAFT PLANS.**—Not later than 24 months after
10 the date of the enactment of this Act, the Secretary shall
11 complete a draft supplemental management plan for each
12 of the Sanctuaries, as modified by subsections (a) and (b)
13 of section 5, that—

14 (1) focuses on management of the areas of the
15 Sanctuaries described in such subsections (a) and
16 (b); and

17 (2) does not weaken the resource protections in
18 effect on the date of the enactment of this Act for
19 the Sanctuaries.

20 (b) **REVISED PLANS.**—

21 (1) **REQUIREMENT TO REVISE.**—The Secretary
22 shall issue a revised management plan for each of
23 the Sanctuaries at the conclusion of the first man-
24 agement review for the Sanctuaries initiated after
25 the date of the enactment of this Act under section
26 304(e) of the National Marine Sanctuaries Act (16

1 U.S.C. 1434(e)) and issue such final regulations as
2 may be necessary to implement such plans.

3 (2) CONTENTS OF PLANS.—Revisions to the
4 management plan for each of the Sanctuaries under
5 this section shall, in addition to matters required
6 under section 304(a)(2) of the National Marine
7 Sanctuaries Act (16 U.S.C. 1434(a)(2))—

8 (A) facilitate all appropriate public and
9 private uses of the national marine sanctuary to
10 which each respective plan applies consistent
11 with the primary objective of sanctuary re-
12 source protection;

13 (B) establish temporal and geographical
14 zoning if necessary to ensure protection of the
15 resources of each of the Sanctuaries;

16 (C) identify priority needs for research—

17 (i) to improve management of the
18 Sanctuaries; or

19 (ii) to diminish threats to the health
20 of the ecosystems in the Sanctuaries;

21 (D) establish a long-term ecological moni-
22 toring program and database, including the de-
23 velopment and implementation of a resource in-
24 formation system to disseminate information on

1 the ecosystem, history, culture, and manage-
2 ment of the Sanctuaries;

3 (E) identify alternative sources of funding
4 needed to fully implement the provisions of each
5 such plan to supplement appropriations made to
6 carry out the National Marine Sanctuaries Act
7 (16 U.S.C. 1431 et seq.);

8 (F) ensure coordination and cooperation
9 between the superintendents of each of the
10 Sanctuaries and other Federal, State, and local
11 authorities with jurisdiction over areas within
12 or adjacent to one of the Sanctuaries to manage
13 issues affecting the Sanctuaries, including sur-
14 face water runoff, stream and river drainages,
15 and navigation;

16 (G) in the case of revisions to such plan
17 for the Farallones NMS, promote cooperation
18 with farmers and ranchers operating in the wa-
19 tersheds adjacent to the Farallones NMS and
20 establish voluntary best management practices
21 programs;

22 (H) promote cooperative and educational
23 programs with fishing vessel operators and
24 crews operating in the waters of the Sanc-
25 tuaries, and, whenever possible, include individ-

1 uals who engage in fishing and their vessels in
2 cooperative research, assessment, and moni-
3 toring programs and educational programs to
4 promote sustainable fisheries, conservation of
5 resources, and navigational safety; and

6 (I) promote education and public aware-
7 ness, among users of the Sanctuaries, about the
8 need for marine resource conservation and safe
9 navigation and marine transportation.

10 (c) APPLICATION OF EXISTING REGULATIONS.—The
11 regulations for Farallones NMS in subpart H of part 922
12 of title 15, Code of Federal Regulations (or any cor-
13 responding similar regulation) or of the Cordell Bank
14 NMS in subpart K of such part 922 (or any corresponding
15 similar regulation), including any regulations issued as a
16 result of a joint management plan review for the Sanc-
17 tuaries conducted pursuant to section 304(e) of the Na-
18 tional Marine Sanctuaries Act (16 U.S.C. 1434(e)), shall
19 apply to the areas added to each Sanctuary, respectively,
20 under subsection (a) or (b) of section 5 until the Secretary
21 modifies such regulations in accordance with subsection
22 (d) of this section.

23 (d) REVISED REGULATIONS.—

1 (1) IN GENERAL.—Not later than 24 months
2 after the date of the enactment of this Act, the Sec-
3 retary shall—

4 (A) carry out an assessment of necessary
5 revisions to the regulations for the Sanctuaries
6 to ensure the protection of the resources of the
7 Sanctuaries in a manner that is consistent with
8 the purposes and policies of the National Ma-
9 rine Sanctuaries Act (16 U.S.C. 1431 et seq.)
10 and the goals and objectives for the areas added
11 to either of the Sanctuaries under subsection
12 (a) or (b) of section 5; and

13 (B) issue final regulations for the Sanc-
14 tuaries that include any revisions identified in
15 the assessment carried out under subparagraph
16 (A).

17 (2) REGULATION OF SPECIFIC ACTIVITIES.—In
18 carrying out the assessment required by paragraph
19 (1)(A), the Secretary shall consider appropriate reg-
20 ulations for—

21 (A) the deposit or release of introduced
22 species into the Sanctuaries; and

23 (B) the alteration of stream and river
24 drainage into the Sanctuaries.

1 (3) CONSIDERATIONS.—In carrying out the as-
2 sessment required by paragraph (1)(A), the Sec-
3 retary shall consider exempting from further regula-
4 tion under the National Marine Sanctuaries Act or
5 this Act discharges that are permitted under a Na-
6 tional Pollution Discharge Elimination System per-
7 mit that is in effect on the date of enactment of this
8 Act, or under a new or renewed National Pollution
9 Discharge Elimination System permit if such per-
10 mit—

11 (A) does not increase pollution in the
12 Sanctuaries; and

13 (B) that originates—

14 (i) in the Russian River Watershed
15 outside the boundaries of the Gulf of the
16 Farallones National Marine Sanctuary; or

17 (ii) from the Bodega Marine Labora-
18 tory.

19 (e) PUBLIC PARTICIPATION.—The Secretary shall
20 provide for the participation of the general public in the
21 review and revision of the management plans for the Sanc-
22 tuaries and relevant regulations under this section.

23 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated to the Sec-
25 retary to carry out this Act—

1 (1) \$3,000,000 for each of fiscal years 2010
2 through 2014, for activities other than construction
3 and acquisition activities; and

4 (2) \$3,500,000 for fiscal year 2010 and such
5 sums as may be necessary for each of fiscal years
6 2011 through 2014 for construction and acquisition
7 activities.

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