

Calendar No. 147111TH CONGRESS
1ST SESSION**S. 212****[Report No. 111-64]**

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

AUGUST 4, 2009

Reported by Mr. ROCKEFELLER, with amendments

[Omit the part struck through and insert the part printed in *italic*]**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,*

1 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

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

15 (2) Cordell Bank is adjacent to the Gulf of the
16 Farallones and is a submerged island with spectac-
17 ular, unique, and nationally significant marine envi-
18 ronments.

19 (3) These marine environments have national
20 and international significance, exceed the biological
21 productivity of tropical rain forests, and support
22 high levels of biological diversity.

23 (4) These biological communities are easily sus-
24 ceptible to damage from human activities, and must
25 be properly conserved for themselves and to protect

1 the economic viability of their contribution to na-
2 tional and regional economies.

3 (5) The Gulf of Farallones and the Cordell
4 Bank include some of the United States richest fish-
5 ing grounds and support important commercial and
6 recreational fisheries. These fisheries are regulated
7 by State and Federal fishery agencies and are sup-
8 ported and fostered through protection of the waters
9 and habitats of Gulf of the Farallones National Ma-
10 rine Sanctuary and Cordell Bank National Marine
11 Sanctuary.

12 (6) The report of the Commission on Ocean
13 Policy established by section 3 of the Oceans Act of
14 2000 (Public Law 106–256; 33 U.S.C. 857–19) calls
15 for comprehensive protection for the most productive
16 ocean environments and recommends that they be
17 managed as ecosystems.

18 (7) New scientific discoveries by the ~~National~~
19 ~~Marine Sanctuary Program~~ *Office of National Ma-*
20 *rine Sanctuaries* support comprehensive protection
21 for these marine environments by broadening the ge-
22 ographic scope of the existing Gulf of the Farallones
23 National Marine Sanctuary and the Cordell Bank
24 National Marine Sanctuary.

1 (8) Cordell Bank is at the nexus of an ocean
2 upwelling system, which produces the highest bio-
3 mass concentrations on the west coast of the United
4 States.

5 **SEC. 3. POLICY AND PURPOSE.**

6 (a) **POLICY.**—It is the policy of the United States to
7 protect and preserve living and other resources of the Gulf
8 of the Farallones and Cordell Bank marine environments.

9 (b) **PURPOSE.**—The purposes of this Act are the fol-
10 lowing:

11 (1) To extend the boundaries of the Gulf of the
12 Farallones National Marine Sanctuary and the
13 Cordell Bank National Marine Sanctuary as de-
14 scribed in section 5.

15 (2) To strengthen the protections that apply in
16 the Sanctuaries.

17 (3) To provide for the education and interpreta-
18 tion for the public of the ecological value and na-
19 tional importance of the Sanctuaries.

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

23 (c) **EFFECT ON FISHING ACTIVITIES.**—Nothing in
24 this Act is intended to alter any existing authorities re-

1 guarding the conduct and location of fishing activities in
2 the Sanctuaries.

3 **SEC. 4. DEFINITIONS.**

4 In this Act:

5 (1) CORDELL BANK NMS.—The term “Cordell
6 Bank NMS” means the Cordell Bank National Ma-
7 rine Sanctuary.

8 (2) FARALLONES NMS.—The term “Farallones
9 NMS” means the Gulf of the Farallones National
10 Marine Sanctuary.

11 (3) SANCTUARIES.—The term “Sanctuaries”
12 means the Farallones NMS and the Cordell Bank
13 NMS.

14 (4) SECRETARY.—The term “Secretary” means
15 the Secretary of Commerce.

16 **SEC. 5. NATIONAL MARINE SANCTUARY BOUNDARY AD-
17 JUSTMENTS.**

18 (a) GULF OF THE FARALLONES.—

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

24 (2) AREAS INCLUDED.—

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

3 (i) All submerged lands and waters,
4 including living marine and other resources
5 within and on those lands and waters,
6 from the mean high water line to the
7 boundary described in subparagraph (B).

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

19 (B) BOUNDARY DESCRIBED.—The bound-
20 ary referred to in subparagraph (A)(i) com-
21 mences from the mean high water line (referred
22 to in this subparagraph as the “MHWL”) at
23 39.00000 degrees north in a westward direction
24 approximately 29 nautical miles (referred to in
25 this subparagraph as “nm”) to 39.00000 north,

1 124.33333 west. The boundary then extends in
2 a southeasterly direction to 38.30000 degrees
3 north, 124.00000 degrees west, approximately
4 44 nm westward of Bodega Head. The bound-
5 ary then extends eastward to the most north-
6 eastern corner of the expanded Cordell Bank
7 NMS at 38.30000 north, 123.20000 degrees
8 west, approximately 6 nm miles westward of
9 Bodega Head. The boundary then extends in a
10 southeasterly direction to 38.26390 degrees
11 north, 123.18138 degrees west at the north-
12 western most point of the current Gulf of the
13 Farallones Boundary. The boundary then fol-
14 lows the current northern Gulf of the
15 Farallones NMS boundary in a northeasterly
16 direction to the MHWL near Bodega Head.
17 The boundary then follows the MHWL in a
18 northeasterly *and northwesterly* direction to the
19 commencement point at the intersection of the
20 MHWL and 39.00000 north. Coordinates listed
21 in this subparagraph are based on the North
22 American Datum 1983 and the geographic pro-
23 jection.

24 (b) CORDELL BANK.—

1 (1) BOUNDARY ADJUSTMENT.—The area de-
2 scribed in paragraph (2) is added to the existing
3 Cordell Bank NMS described in part 922.80 of title
4 15, Code of Federal Regulations, as in effect on the
5 date of the enactment of this Act.

6 (2) AREA INCLUDED.—

7 (A) IN GENERAL.—The area referred to in
8 paragraph (1) consists of all submerged lands
9 and waters, including living marine and other
10 resources within those waters, within the
11 boundary described in subparagraph (B).

12 (B) BOUNDARY.—The boundary referred
13 to in subparagraph (A) commences at the most
14 northeastern point of the Cordell Bank NMS
15 boundary (as in effect immediately before the
16 enactment of this Act) at 38.26390 degrees
17 north, 123.18138 degrees west and extends
18 northwestward to 38.30000 degrees north,
19 123.20000 degrees west, approximately 6 nau-
20 tical miles (referred to in this subparagraph as
21 “nm”) west of Bodega Head. The boundary
22 then extends westward to 38.30000 degrees
23 north, 124.00000 degrees west, approximately
24 44 nautical miles west of Bodega Head. The
25 boundary then turns southeastward and con-

1 continues approximately 34 nautical miles to
2 37.76687 degrees north, 123.75142 degrees
3 west, and then approximately 15 nm eastward
4 to 37.76687 north, 123.42694 west at an inter-
5 section with the current Cordell Bank NMS
6 boundary. The boundary then follows the cur-
7 rent Cordell Bank NMS *boundary*, which is co-
8 terminous with the current Gulf of the
9 Farallones boundary, in a northeasterly and ~~the~~
10 *then* northwesterly direction to its commence-
11 ment point at 38.26390 degrees north,
12 123.18138 degrees west. Coordinates listed in
13 this subparagraph are based on NAD83 Datum
14 and the geographic projection.

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

21 (d) UPDATED NOAA CHARTS.—The Secretary
22 shall—

23 (1) produce updated National Oceanic and At-
24 mospheric Administration nautical charts for the

1 areas in which the Sanctuaries are located, as modi-
2 fied by subsections (a) and (b); and

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

5 (e) BOUNDARY ADJUSTMENTS.—In producing re-
6 vised nautical charts required by subsection (d) and in de-
7 scribing the boundaries in regulations issued by the Sec-
8 retary, the Secretary may make technical modifications to
9 the boundaries described in this section for clarity and
10 ease of identification, as appropriate.

11 **SEC. 6. PROHIBITION OF OIL AND GAS LEASING AND PER-**
12 **MITTING.**

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

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

19 (a) DRAFT PLANS.—Not later than 24 months after
20 the date of the enactment of this Act, the Secretary shall
21 complete a draft supplemental management plan for each
22 of the Sanctuaries, as modified by subsections (a) and (b)
23 of section 5, that—

1 (1) focuses on management of the areas of the
2 Sanctuaries described in such subsections (a) and
3 (b); and

4 (2) does not weaken the resource protections in
5 effect on the date of the enactment of this Act for
6 the Sanctuaries.

7 (b) REVISED PLANS.—

8 (1) REQUIREMENT TO REVISE.—The Secretary
9 shall issue a revised management plan for each of
10 the Sanctuaries at the conclusion of the first man-
11 agement review for the Sanctuaries initiated after
12 the date of the enactment of this Act under section
13 304(e) of the National Marine Sanctuaries Act (16
14 U.S.C. 1434(e)) and issue such final regulations as
15 may be necessary to implement such plans.

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

21 (A) facilitate all appropriate public and
22 private uses of the national marine sanctuary to
23 which each respective plan applies consistent
24 with the primary objective of sanctuary re-
25 source protection;

1 (B) establish temporal and geographical
2 zoning if necessary to ensure protection of the
3 resources of each of the Sanctuaries;

4 (C) identify priority needs for research—

5 (i) to improve management of the
6 Sanctuaries; or

7 (ii) to diminish threats to the health
8 of the ecosystems in the Sanctuaries;

9 (D) establish a long-term ecological moni-
10 toring program and database, including the de-
11 velopment and implementation of a resource in-
12 formation system to disseminate information on
13 the ecosystem, history, culture, and manage-
14 ment of the Sanctuaries;

15 (E) identify alternative sources of funding
16 needed to fully implement the provisions of each
17 such plan to supplement appropriations made to
18 carry out the National Marine Sanctuaries Act
19 (16 U.S.C. 1431 et seq.);

20 (F) ensure coordination and cooperation
21 between the superintendents of each of the
22 Sanctuaries and other Federal, State, and local
23 authorities with jurisdiction over areas within
24 or adjacent to one of the Sanctuaries to manage
25 issues affecting the Sanctuaries, including sur-

1 face water runoff, stream and river drainages,
2 and navigation;

3 (G) in the case of revisions to such plan
4 for the Farallones NMS, promote cooperation
5 with farmers and ranchers operating in the wa-
6 tersheds adjacent to the Farallones NMS and
7 establish voluntary best management practices
8 programs;

9 (H) promote cooperative and educational
10 programs with fishing vessel operators and
11 crews operating in the waters of the Sanc-
12 tuaries, and, whenever possible, include individ-
13 uals who engage in fishing and their vessels in
14 cooperative research, assessment, and moni-
15 toring programs and educational programs to
16 promote sustainable fisheries, conservation of
17 resources, and navigational safety; and

18 (I) promote education and public aware-
19 ness, among users of the Sanctuaries, about the
20 need for marine resource conservation and safe
21 navigation and marine transportation.

22 (c) APPLICATION OF EXISTING REGULATIONS.—The
23 regulations for Farallones NMS in subpart H of part 922
24 of title 15, Code of Federal Regulations (or any cor-
25 responding similar regulation) or of the Cordell Bank

1 NMS in subpart K of such part 922 (or any corresponding
2 similar regulation), including any regulations issued as a
3 result of a joint management plan review for the Sanc-
4 tuaries conducted pursuant to section 304(e) of the Na-
5 tional Marine Sanctuaries Act (16 U.S.C. 1434(e)), shall
6 apply to the areas added to each Sanctuary, respectively,
7 under subsection (a) or (b) of section 5 until the Secretary
8 modifies such regulations in accordance with subsection
9 (d) of this section.

10 (d) REVISED REGULATIONS.—

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

14 (A) carry out an assessment of necessary
15 revisions to the regulations for the Sanctuaries
16 to ensure the protection of the resources of the
17 Sanctuaries in a manner that is consistent with
18 the purposes and policies of the National Ma-
19 rine Sanctuaries Act (16 U.S.C. 1431 et seq.)
20 and the goals and objectives for the areas added
21 to either of the Sanctuaries under subsection
22 (a) or (b) of section 5; and

23 (B) issue final regulations for the Sanc-
24 tuaries that include any revisions identified in

1 the assessment carried out under subparagraph
2 (A).

3 (2) REGULATION OF SPECIFIC ACTIVITIES.—In
4 carrying out the assessment required by paragraph
5 (1)(A), the Secretary shall consider appropriate reg-
6 ulations for—

7 (A) the deposit or release of introduced
8 species into the Sanctuaries; and

9 (B) the alteration of stream and river
10 drainage into the Sanctuaries.

11 (3) CONSIDERATIONS.—In carrying out the as-
12 sessment required by paragraph (1)(A), the Sec-
13 retary shall consider exempting from further regula-
14 tion under the National Marine Sanctuaries Act or
15 this Act discharges that are permitted under a Na-
16 tional Pollution Discharge Elimination System per-
17 mit that is in effect on the date of enactment of this
18 Act, or under a new or renewed National Pollution
19 Discharge Elimination System permit if such per-
20 mit—

21 (A) does not increase pollution in the
22 Sanctuaries; and

23 (B) that originates—

1 (i) in the Russian River Watershed
2 outside the boundaries of the Gulf of the
3 Farallones National Marine Sanctuary; or
4 (ii) from the Bodega Marine Labora-
5 tory.

6 (e) PUBLIC PARTICIPATION.—The Secretary shall
7 provide for the participation of the general public in the
8 review and revision of the management plans for the Sanc-
9 tuaries and relevant regulations under this section.

10 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated to the Sec-
12 retary to carry out this Act—

13 (1) \$3,000,000 for each of fiscal years 2010
14 through 2014, for activities other than construction
15 and acquisition activities; and

16 (2) \$3,500,000 for fiscal year 2010 and such
17 sums as may be necessary for each of fiscal years
18 2011 through 2014 for construction and acquisition
19 activities.

Calendar No. 147

111TH CONGRESS
1ST Session

S. 212

[Report No. 111-64]

A BILL

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August 4, 2009

Reported with amendments