

Calendar No. 328112TH CONGRESS
2^D SESSION**S. 179****[Report No. 112-149]**

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 25 (legislative day, JANUARY 5), 2011

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

FEBRUARY 27, 2012

Reported by Mr. ROCKEFELLER without amendment

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 support comprehensive
20 protection for these marine environments by broad-
21 ening the geographic scope of the existing Gulf of
22 the Farallones National Marine Sanctuary and the
23 Cordell Bank National Marine Sanctuary.

24 (8) Cordell Bank is at the nexus of an ocean
25 upwelling system, which produces the highest bio-

1 mass concentrations on the west coast of the United
2 States.

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

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

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

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

13 (2) To strengthen the protections that apply in
14 the Sanctuaries.

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

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

21 (c) **EFFECT ON FISHING ACTIVITIES.**—Nothing in
22 this Act is intended to alter any existing authorities re-
23 garding the conduct and location of fishing activities in
24 the Sanctuaries.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

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

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

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

12 (4) SECRETARY.—The term “Secretary” means
13 the Secretary of Commerce.

14 **SEC. 5. NATIONAL MARINE SANCTUARY BOUNDARY AD-**
15 **JUSTMENTS.**

16 (a) GULF OF THE FARALLONES.—

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

22 (2) AREAS INCLUDED.—

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

25 (i) All submerged lands and waters,
26 including living marine and other resources

1 within and on those lands and waters,
2 from the mean high water line to the
3 boundary described in subparagraph (B).

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

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

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

19 (b) CORDELL BANK.—

20 (1) BOUNDARY ADJUSTMENT.—The area de-
21 scribed in paragraph (2) is added to the existing
22 Cordell Bank NMS described in part 922.111 of
23 title 15, Code of Federal Regulations, as in effect on
24 the date of the enactment of this Act.

25 (2) AREA INCLUDED.—

1 (A) IN GENERAL.—The area referred to in
2 paragraph (1) consists of all submerged lands
3 and waters, including living marine and other
4 resources within those waters, within the
5 boundary described in subparagraph (B).

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

1 rent Cordell Bank NMS, which is coterminous
2 with the current Gulf of the Farallones bound-
3 ary, in a northeasterly and the northwesterly di-
4 rection to its commencement point at 38.26390
5 degrees north, 123.18138 degrees west. Coordi-
6 nates listed in this subparagraph are based on
7 NAD83 Datum and the geographic projection.

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

14 (d) UPDATED NOAA CHARTS.—The Secretary
15 shall—

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

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

22 (e) BOUNDARY ADJUSTMENTS.—In producing re-
23 vised nautical charts required by subsection (d) and in de-
24 scribing the boundaries in regulations issued by the Sec-
25 retary, the Secretary may make technical modifications to

1 the boundaries described in this section for clarity and
2 ease of identification, as appropriate.

3 **SEC. 6. PROHIBITION OF OIL AND GAS LEASING AND PER-**
4 **MITTING.**

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

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

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

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

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

22 (b) REVISED PLANS.—

23 (1) REQUIREMENT TO REVISE.—The Secretary
24 shall issue a revised management plan for each of
25 the Sanctuaries at the conclusion of the first man-

1 agement review for the Sanctuaries initiated after
2 the date of the enactment of this Act under section
3 304(e) of the National Marine Sanctuaries Act (16
4 U.S.C. 1434(e)) and issue such final regulations as
5 may be necessary to implement such plans.

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

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

16 (B) establish temporal and geographical
17 zoning if necessary to ensure protection of the
18 resources of each of the Sanctuaries;

19 (C) identify priority needs for research—

20 (i) to improve management of the
21 Sanctuaries; or

22 (ii) to diminish threats to the health
23 of the ecosystems in the Sanctuaries;

24 (D) establish a long-term ecological moni-
25 toring program and database, including the de-

1 velopment and implementation of a resource in-
2 formation system to disseminate information on
3 the ecosystem, history, culture, and manage-
4 ment of the Sanctuaries;

5 (E) identify alternative sources of funding
6 needed to fully implement the provisions of each
7 such plan to supplement appropriations made to
8 carry out the National Marine Sanctuaries Act
9 (16 U.S.C. 1431 et seq.);

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

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

24 (H) promote cooperative and educational
25 programs with fishing vessel operators and

1 crews operating in the waters of the Sanc-
2 tuaries, and, whenever possible, include individ-
3 uals who engage in fishing and their vessels in
4 cooperative research, assessment, and moni-
5 toring programs and educational programs to
6 promote sustainable fisheries, conservation of
7 resources, and navigational safety; and

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

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

25 (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 2012
2 through 2016, for activities other than construction
3 and acquisition activities; and

4 (2) \$3,500,000 for fiscal year 2012 and such
5 sums as may be necessary for each of fiscal years
6 2013 through 2016, for construction and acquisition
7 activities.

Calendar No. 328

112TH CONGRESS
2^D SESSION

S. 179

[Report No. 112-149]

A BILL

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FEBRUARY 27, 2012

Reported without amendment