

Calendar No. 1098

110TH CONGRESS
2D SESSION**H. R. 1187****[Report No. 110–516]**

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 13), 2008

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

OCTOBER 1 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. INOUE, with amendments

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

AN ACT

To expand the boundaries of the Gulf of the Farallones
National Marine Sanctuary and the Cordell Bank Na-
tional 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 The 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 Cordell Bank
4 include some of the Nation's richest fishing grounds,
5 supporting important commercial and recreational
6 fisheries. These fisheries are regulated by State and
7 Federal fishery agencies and are supported and fos-
8 tered through protection of the waters and habitats
9 of Gulf of the Farallones National Marine Sanctuary
10 and Cordell Bank National Marine Sanctuary.

11 (6) The report of the Commission on Ocean
12 Policy established by Public Law 106–256 calls for
13 comprehensive protection for the most productive
14 ocean environments and recommends that they be
15 managed as ecosystems.

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

22 (8) Cordell Bank is at the nexus of an ocean
23 upwelling system, which produces the highest bio-
24 mass concentrations on the west coast of the United
25 States.

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

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

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

8 (1) To extend the boundaries of the Gulf of the
9 Farallones National Marine Sanctuary and the
10 Cordell Bank National Marine Sanctuary to the
11 areas described in section 5.

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

14 (3) To educate and interpret for the public the
15 ecological value and national importance of those
16 marine environments.

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

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

24 **SEC. 4. DEFINITIONS.**

25 In this Act:

1 ~~(1)~~ MARICULTURE.—The term “mariculture”
 2 means the propagation or rearing of aquatic orga-
 3 nisms in controlled or selected aquatic environments
 4 for any commercial, recreational, or public purpose.

5 ~~(2)~~ (1) CORDELL BANK NMS.—The term
 6 “Cordell Bank NMS” means the Cordell Bank Na-
 7 tional Marine Sanctuary.

8 ~~(3)~~ (2) FARALLONES NMS.—The term
 9 “Farallones NMS” means the Gulf of the Farallones
 10 National Marine Sanctuary.

11 ~~(4)~~ (3) SANCTUARIES.—The term “Sanc-
 12 tuaries” means the Gulf of the Farallones National
 13 Marine Sanctuary and the Cordell Bank National
 14 Marine Sanctuary, as expanded by section 5.

15 ~~(5)~~ (4) SECRETARY.—The term “Secretary”
 16 means the Secretary of Commerce.

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

19 (a) GULF OF THE FARALLONES.—

20 (1) BOUNDARY ADJUSTMENT.—The areas de-
 21 scribed in paragraph (2) are added to the existing
 22 Gulf of the Farallones National Marine Sanctuary
 23 described in part 922.80 of title 15, Code of Federal
 24 Regulations.

25 (2) AREAS INCLUDED.—

1 (A) IN GENERAL.—The areas referred to
2 in paragraph (1) consist of 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.

19 (B) BOUNDARY DESCRIBED.—The bound-
20 ary referred to in subparagraph (A)(i) com-
21 mences from the mean high water line
22 (MHWL) at 39.00000 degrees north in a west-
23 ward direction approximately 29 nautical miles
24 (nm) to 39.00000 north, 124.33333 west. The
25 boundary then extends in a southeasterly direc-

1 tion to 38.30000 degrees north, 124.00000 de-
 2 grees west, approximately 44 nm westward of
 3 Bodega Head. The boundary then extends east-
 4 ward to the most northeastern corner of the ex-
 5 panded Cordell Bank NMS at 38.30000 north,
 6 123.20000 degrees west, approximately 6 nm
 7 miles westward of Bodega Head. The boundary
 8 then extends in a southeasterly direction to
 9 ~~38.26500~~ 38.26390 degrees north, ~~123.18166~~
 10 123.18138 degrees west at the northwestern
 11 most point of the current Gulf of the Farallones
 12 Boundary. The boundary then follows the cur-
 13 rent northern Gulf of the Farallones NMS
 14 boundary in a northeasterly direction to the
 15 MHWL near Bodega Head. The boundary then
 16 follows the MHWL in a northeasterly direction
 17 to the commencement point at the intersection
 18 of the MHWL and 39.00000 north. Coordinates
 19 listed in this subparagraph are based on the
 20 North American Datum 1983 and the geo-
 21 graphic projection.

22 (b) CORDELL BANK.—

23 (1) BOUNDARY ADJUSTMENT.—The area de-
 24 scribed in paragraph (2) is added to the existing
 25 Cordell Bank National Marine Sanctuary described

1 in part 922.80 of title 15, Code of Federal Regula-
2 tions.

3 (2) AREA INCLUDED.—

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

9 (B) BOUNDARY.—The boundary referred
10 to in subparagraph (A) commences at the most
11 northeastern point of the current Cordell Bank
12 NMS boundary at ~~38.26500~~ 38.26390 degrees
13 north, ~~123.18166~~ 123.18138 degrees west and
14 extends northwestward to 38.30000 degrees
15 north, 123.20000 degrees west, approximately 6
16 nautical miles (nm) west of Bodega Head. The
17 boundary then extends westward to 38.30000
18 degrees north, 124.00000 degrees west, ap-
19 proximately 44 nautical miles west of Bodega
20 Head. The boundary then turns southeastward
21 and continues approximately 34 nautical miles
22 to 37.76687 degrees north, 123.75142 degrees
23 west, and then approximately 15 nm eastward
24 to 37.76687 north, 123.42694 west at an inter-
25 section with the current Cordell Bank NMS

boundary. The boundary then follows the current Cordell Bank NMS, which is coterminous with the current Gulf of the Farallones boundary, in a northeasterly and the northwesterly direction to its commencement point at ~~38.26500~~ *38.26390* degrees north, ~~123.18166~~ *123.18138* degrees west. Coordinates listed in this subparagraph are based on NAD83 Datum and the geographic projection.

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

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

(1) produce updated National Oceanic and Atmospheric Administration nautical charts for the areas in which the Sanctuaries are located; and

(2) include on those nautical charts the boundaries of the Sanctuaries, as revised by this Act.

(e) BOUNDARY ADJUSTMENTS.—In producing revised nautical charts as directed by subsection (d) and in describing the boundaries in regulations issued by the Sec-

1 retary, the Secretary may make technical modifications to
2 the boundaries described in this section for clarity and
3 ease of identification, as appropriate.

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

6 No lease or permit may be issued that authorizes ex-
7 ploration, development, production, or transporting by
8 pipeline of minerals or hydrocarbons within the Sanc-
9 tuaries.

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

11 (a) INTERIM PLAN.—The Secretary shall complete an
12 interim supplemental management plan for the Sanc-
13 tuaries by not later than 24 months after the date of en-
14 actment of this Act, that focuses on management in the
15 areas added to the Sanctuaries under this Act. The Sec-
16 retary shall ensure that the supplemental plan does not
17 weaken existing resource protections.

18 (b) REVISED PLANS.—The Secretary shall issue a re-
19 vised comprehensive management plan for the Sanctuaries
20 during the first management review initiated after the
21 date of the enactment of this Act under section 304(e)
22 of the National Marine Sanctuaries Act (16 U.S.C.
23 1434(e)) for the Sanctuaries, and issue such final regula-
24 tions as may be necessary.

1 (c) APPLICATION OF EXISTING REGULATIONS.—The
2 regulations for the Gulf of the Farallones National Marine
3 Sanctuary (15 C.F.R. 922, subpart H) and the Cordell
4 Bank National Marine Sanctuary (15 C.F.R. 922, subpart
5 K), including any changes made as a result of a joint man-
6 agement plan review for the Sanctuaries conducted pursu-
7 ant to section 304(e) of the National Marine Sanctuaries
8 Act (16 U.S.C. 1434(e)), shall apply to the areas added
9 to each Sanctuary, respectively, under section 5 until the
10 Secretary modifies such regulations in accordance with
11 subsection (d) of this section.

12 (d) REVISED REGULATIONS.—

13 (1) IN GENERAL.—The Secretary shall carry
14 out an assessment of necessary revisions to the regu-
15 lations for the Sanctuaries in a manner that ensures
16 the protection of the resources of the Sanctuaries
17 consistent with the purposes and policies of the Na-
18 tional Marine Sanctuaries Act and the goals and ob-
19 jectives for the new areas added to each sanctuary
20 under section 5 of this Act. The assessment and any
21 corresponding regulatory changes shall be complete
22 within 24 months of the date of enactment of this
23 Act.

24 (2) REGULATION OF SPECIFIC ACTIVITIES.—In
25 revising the regulations for the Sanctuaries pursuant

1 to this subsection, the Secretary shall consider ap-
2 propriate regulations for the following activities:

3 (A) The deposit or release of introduced
4 species.

5 (B) The alteration of stream and river
6 drainage into the Sanctuaries.

7 ~~(C) Mariculture operations in the Sanc-~~
8 ~~tuaries.~~

9 (3) CONSIDERATIONS.—In revising the regula-
10 tions for the Sanctuaries pursuant to this sub-
11 section, the Secretary shall consider exempting from
12 further regulation under the National Marine Sanc-
13 tuaries Act and this Act discharges that are per-
14 mitted under a National Pollution Discharge Elimi-
15 nation System permit in effect on the date of enact-
16 ment of this Act, or under a new or renewed Na-
17 tional Pollution Discharge Elimination System per-
18 mit that does not increase pollution in the Sanc-
19 tuaries and that originates—

20 (A) in the Russian River Watershed out-
21 side the boundaries of the Gulf of the
22 Farallones National Marine Sanctuary; or

23 (B) from the Bodega Marine Laboratory.

24 (e) CONTENTS OF PLANS.—Revisions to each com-
25 prehensive management plan under this section shall, in

1 addition to matters required under section 304(a)(2) of
2 the Marine Protection, Research, and Sanctuaries Act of
3 1972 (16 U.S.C. 1434(A)(2))—

4 (1) facilitate all appropriate public and private
5 uses of the national marine sanctuary to which each
6 respective plan applies consistent with the primary
7 objective of sanctuary resource protection;

8 (2) establish temporal and geographical zoning
9 if necessary to ensure protection of sanctuary re-
10 sources;

11 (3) identify priority needs for research that
12 will—

13 (A) improve management of the Sanc-
14 tuaries;

15 (B) diminish threats to the health of the
16 ecosystems in the Sanctuaries; or

17 (C) fulfill both of subparagraphs (A) and
18 (B);

19 (4) establish a long-term ecological monitoring
20 program and database, including the development
21 and implementation of a resource information sys-
22 tem to disseminate information on the Sanctuaries'
23 ecosystem, history, culture, and management;

24 (5) identify alternative sources of funding need-
25 ed to fully implement the plan's provisions and sup-

1 plement appropriations under section 313 of the Ma-
2 rine Protection, Research, and Sanctuaries Act of
3 1972 (16 U.S.C. 1444);

4 (6) ensure coordination and cooperation be-
5 tween sanctuary superintendents and other Federal,
6 State, and local authorities with jurisdiction over
7 areas within or adjacent to the Sanctuaries to deal
8 with issues affecting the Sanctuaries, including sur-
9 face water run-off, stream and river drainages, and
10 navigation;

11 (7) in the case of revisions to the plan for the
12 Farallones NMS, promote cooperation with farmers
13 and ranchers operating in the watersheds adjacent
14 to the Farallones NMS and establish voluntary best
15 management practices programs;

16 (8) promote cooperative and educational pro-
17 grams with fishing vessel operators and crews oper-
18 ating in the waters of the Sanctuaries, and, when-
19 ever possible, include individuals who engage in fish-
20 ing and their vessels in cooperative research, assess-
21 ment, and monitoring programs and educational
22 programs to promote sustainable fisheries, conserva-
23 tion of resources, and navigational safety; and

24 (9) promote education and public awareness,
25 among users of the Sanctuaries, about the need for

1 marine resource conservation and safe navigation
2 and marine transportation.

3 (f) PUBLIC PARTICIPATION.—The Secretary shall
4 provide for participation by the general public in the revi-
5 sion of the comprehensive management plans and relevant
6 regulations under this section.

7 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to the Sec-
9 retary—

10 (1) ~~\$3,000,000 to carry out this Act for each~~
11 ~~of fiscal years 2009 through 2013, other than for~~
12 ~~construction and acquisition projects; and~~

13 (2) ~~\$3,500,000 for fiscal year 2009 and such~~
14 ~~sums as may be necessary for each of fiscal years~~
15 ~~2010 through 2013 for construction and acquisition~~
16 ~~projects related to the Sanctuaries.~~

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AN ACT

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

OCTOBER 1 (legislative day, SEPTEMBER 17), 2008

Reported with amendments