

108TH CONGRESS  
2D SESSION

# H. R. 5352

To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2004

Ms. WOOLSEY introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary.

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 The Congress finds the following:

9 (1) The Gulf of the Farallones extends approxi-  
10 mately 100 miles along the coast of Marin and

1 Sonoma counties of northern California. It includes  
2 approximately one-half of California's nesting  
3 seabirds, rich benthic marine life on hard-rock sub-  
4 strate, prolific fisheries, and substantial concentra-  
5 tions of resident and seasonally migratory marine  
6 mammals.

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

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

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

20 (5) The Gulf of Farallones and Cordell Bank  
21 include some of the Nation's richest fishing grounds,  
22 supporting important commercial and recreational  
23 fisheries. These fisheries are regulated by State and  
24 Federal fishery agencies and are supported and fos-  
25 tered through protection of the waters and habitats

1 of Gulf of the Farallones National Marine Sanctuary  
2 and Cordell Bank National Marine Sanctuary.

3 (6) The report of the Commission on Ocean  
4 Policy established by Public Law 106–256 calls for  
5 comprehensive protection for the most productive  
6 ocean environments and recommends that they be  
7 managed as ecosystems.

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

14 (8) Cordell Bank is at the nexus of an ocean  
15 upwelling system, which produces the highest bio-  
16 mass concentrations on the west coast of the United  
17 States.

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

19 (a) **POLICY.**—It is the policy of the United States in  
20 this Act to protect and preserve living and other resources  
21 of the Gulf of the Farallones and Cordell Bank marine  
22 environments.

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

1           (1) To extend the boundaries of the Gulf of the  
2 Farallones National Marine Sanctuary and the  
3 Cordell Bank National Marine Sanctuary to the  
4 areas described in section 5.

5           (2) To strengthen the protections that apply in  
6 the Sanctuaries.

7           (3) To educate and interpret for the public re-  
8 garding those marine environments.

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

12       (c) EFFECT ON FISHING ACTIVITIES.—Nothing in  
13 this Act is intended to alter any existing authorities re-  
14 garding the conduct of fishing activities in the Sanc-  
15 tuaries.

16 **SEC. 4. DEFINITIONS.**

17       In this Act:

18           (1) AQUACULTURE.—The term “aquaculture”  
19 means the propagation or rearing of aquatic orga-  
20 nisms in controlled or selected aquatic environments  
21 for any commercial, recreational, or public purpose.

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

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

4           (4) SANCTUARIES.—The term “Sanctuaries”  
5 means the Gulf of the Farallones National Marine  
6 Sanctuary and the Cordell Bank National Marine  
7 Sanctuary, as expanded by section 5.

8           (5) SECRETARY.—The term “Secretary” means  
9 the Secretary of Commerce.

10          (6) MEAN HIGHER HIGH WATER MARK.—The  
11 term “Mean Higher High Water Mark” means the  
12 arithmetic average of the elevations of the higher of  
13 two high waters of a tidal day over a period of time  
14 as determined by the National Oceanic and Atmos-  
15 pheric Administration.

16          (7) PERSON.—The term “Person” means any  
17 private or public individual, corporation, partnership,  
18 trust, institution, association, or any other public or  
19 private entity, whether foreign or domestic, or any  
20 officer, employee, agent, department, agency, or in-  
21 strumentality of the Federal Government, of any  
22 State, tribal or local unit of government, or of any  
23 foreign government.

1 **SEC. 5. NATIONAL MARINE SANCTUARY BOUNDARY AD-**  
2 **JUSTMENTS.**

3 (a) GULF OF THE FARALLONES.—

4 (1) BOUNDARY ADJUSTMENT.—The area de-  
5 scribed in paragraph (2) is added to the existing  
6 Gulf of the Farallones National Marine Sanctuary  
7 described in part 922.80 of title 15, Code of Federal  
8 Regulations.

9 (2) AREA INCLUDED.—

10 (A) IN GENERAL.—The area referred to in  
11 paragraph (1) consists of all submerged lands  
12 and waters, including living marine and other  
13 resources within and on those lands and waters,  
14 from the mean higher high water mark to the  
15 boundaries described in subparagraph (B).

16 (B) BOUNDARIES.—The boundaries re-  
17 ferred to in paragraph (1) are the following:

18 (i) A boundary forming one polygon  
19 added under paragraph (1), that—

20 (I) begins at Bodega Head's  
21 Southernmost Point located at 38 de-  
22 grees 17 minutes 36 seconds north  
23 latitude, 123 degrees 3 minutes 29  
24 seconds west longitude;

25 (II) then connects in succession  
26 the points at the coordinates—

1 (aa) 38 degrees 15 minutes  
2 46 seconds north latitude, 123  
3 degrees 10 minutes 45 seconds  
4 west longitude;

5 (bb) 38 degrees 17 minutes  
6 37 seconds north latitude, 123  
7 degrees 12 minutes 8 seconds  
8 west longitude;

9 (cc) 38 degrees 16 minutes  
10 28 seconds north latitude, 123  
11 degrees 52 minutes 42 seconds  
12 west longitude; and

13 (dd) 38 degrees 45 minutes  
14 23 seconds north latitude, 123  
15 degrees 54 minutes 22 seconds  
16 west longitude; and

17 (III) then runs eastward to 38  
18 degrees 46 minutes 6 seconds north  
19 latitude, 123 degrees 31 minutes 53  
20 seconds west longitude.

21 (ii) A boundary forming another pol-  
22 ygon added under paragraph (1), that—

23 (I) begins approximately 107.55  
24 km south of the described in clause  
25 (i)(III) at 37 degrees 48 minutes 2

1 seconds north latitude, 123 degrees  
2 28 minutes 22 seconds west longitude;  
3 and

4 (II) then connects in succession  
5 the points at the coordinates—

6 (aa) 37 degrees 48 minutes  
7 7 seconds north latitude, 123 de-  
8 grees 25 minutes 31 seconds  
9 west longitude;

10 (bb) 37 degrees 46 minutes  
11 2 seconds north latitude, 123 de-  
12 grees 25 minutes 35 seconds  
13 west longitude;

14 (cc) 37 degrees 46 minutes  
15 49 seconds north latitude, 123  
16 degrees 26 minutes 47 seconds  
17 west longitude; and

18 (dd) 37 degrees 47 minutes  
19 00 seconds north latitude, 123  
20 degrees 27 minutes 16 seconds  
21 west longitude.

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 paragraph (1)—

11 (i) begins approximately 55 km to the  
12 west of Bodega Head at 38 degrees 16  
13 minutes 49 seconds north latitude, 123 de-  
14 grees 41 minutes 20 seconds west lon-  
15 gitude; and

16 (ii) then connects in succession the  
17 points at the coordinates—

18 (I) 38 degrees 17 minutes 41  
19 seconds north latitude, 123 degrees  
20 12 minutes 11 seconds west longitude;

21 (II) 38 degrees 15 minutes 53  
22 seconds north latitude, 123 degrees  
23 10 minutes 46 seconds west longitude;

- 1 (III) 38 degrees 15 minutes 51  
2 seconds north latitude, 123 degrees  
3 10 minutes 52 seconds west longitude;
- 4 (IV) 38 degrees 7 minutes 56  
5 seconds north latitude, 123 degrees  
6 38 minutes 33 seconds west longitude;
- 7 (V) 38 degrees 6 minutes 45 sec-  
8 onds north latitude, 123 degrees 38  
9 minutes 00 seconds west longitude;
- 10 (VI) 38 degrees 4 minutes 58  
11 seconds north latitude, 123 degrees  
12 37 minutes 14 seconds west longitude;
- 13 (VII) 38 degrees 4 minutes 28  
14 seconds north latitude, 123 degrees  
15 37 minutes 17 seconds west longitude;
- 16 (VIII) 38 degrees 3 minutes 42  
17 seconds north latitude, 123 degrees  
18 36 minutes 55 seconds west longitude;
- 19 (IX) 38 degrees 3 minutes 11  
20 seconds north latitude, 123 degrees  
21 36 minutes 19 seconds west longitude;
- 22 (X) 38 degrees 2 minutes 46 sec-  
23 onds north latitude, 123 degrees 36  
24 minutes 21 seconds west longitude;

1 (XI) 38 degrees 2 minutes 2 sec-  
2 onds north latitude, 123 degrees 35  
3 minutes 56 seconds west longitude;

4 (XII) 38 degrees 1 minute 27  
5 seconds north latitude, 123 degrees  
6 35 minutes 55 seconds west longitude;

7 (XIII) 38 degrees 1 minute 22  
8 seconds north latitude, 123 degrees  
9 36 minutes 55 seconds west longitude;

10 (XIV) 38 degrees 1 minute 11  
11 seconds north latitude, 123 degrees  
12 37 minutes 28 seconds west longitude;

13 (XV) 38 degrees 00 minutes 49  
14 seconds north latitude, 123 degrees  
15 37 minutes 29 seconds west longitude;

16 (XVI) 37 degrees 59 minutes 54  
17 seconds north latitude, 123 degrees  
18 38 minutes 47 seconds west longitude;

19 (XVII) 37 degrees 59 minutes 12  
20 seconds north latitude, 123 degrees  
21 35 minutes 59 seconds west longitude;

22 (XVIII) 37 degrees 58 minutes  
23 39 seconds north latitude, 123 de-  
24 grees 35 minutes 14 seconds west lon-  
25 gitude;

- 1 (XIX) 37 degrees 58 minutes 00  
2 seconds north latitude, 123 degrees  
3 34 minutes 42 seconds west longitude;
- 4 (XX) 37 degrees 57 minutes 19  
5 seconds north latitude, 123 degrees  
6 33 minutes 43 seconds west longitude;
- 7 (XXI) 37 degrees 56 minutes 56  
8 seconds north latitude, 123 degrees  
9 32 minutes 51 seconds west longitude;
- 10 (XXII) 37 degrees 56 minutes 18  
11 seconds north latitude, 123 degrees  
12 32 minutes 49 seconds west longitude;
- 13 (XXIII) 37 degrees 55 minutes  
14 22 seconds north latitude, 123 de-  
15 grees 32 minutes 36 seconds west lon-  
16 gitude;
- 17 (XXIV) 37 degrees 54 minutes  
18 26 seconds north latitude, 123 de-  
19 grees 32 minutes 26 seconds west lon-  
20 gitude;
- 21 (XXV) 37 degrees 53 minutes 7  
22 seconds north latitude, 123 degrees  
23 31 minutes 46 seconds west longitude;
- 24 (XXVI) 37 degrees 52 minutes  
25 34 seconds north latitude, 123 de-

1                   grees 31 minutes 18 seconds west lon-  
2                   gitude;

3                   (XXVII) 37 degrees 51 minutes  
4                   42 seconds north latitude, 123 de-  
5                   grees 31 minutes 19 seconds west lon-  
6                   gitude;

7                   (XXVIII) 37 degrees 50 minutes  
8                   59 seconds north latitude, 123 de-  
9                   grees 31 minutes 2 seconds west lon-  
10                  gitude;

11                  (XXIX) 37 degrees 48 minutes  
12                  49 seconds north latitude, 123 de-  
13                  grees 28 minutes 44 seconds west lon-  
14                  gitude;

15                  (XXX) 37 degrees 48 minutes 3  
16                  seconds north latitude, 123 degrees  
17                  28 minutes 23 seconds west longitude;

18                  (XXXI) 37 degrees 48 minutes 2  
19                  seconds north latitude, 123 degrees  
20                  28 minutes 22 seconds west longitude;  
21                  and

22                  (XXXII) 37 degrees 47 minutes  
23                  43 seconds north latitude, 123 de-  
24                  grees 39 minutes 54 seconds west lon-  
25                  gitude.

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

7 (d) UPDATED NOAA CHARTS.—The Secretary of  
8 Commerce shall—

9 (1) produce updated National Oceanic and At-  
10 mospheric Administration charts for the areas in  
11 which are located the Farallones NMS and Cordell  
12 Bank NMS; and

13 (2) include on those charts the boundaries of  
14 such national marine sanctuaries, as revised by this  
15 Act.

16 **SEC. 6. PROHIBITION OF CERTAIN USES.**

17 (a) MINERAL AND HYDROCARBON LEASING, EXPLO-  
18 RATION, DEVELOPMENT, AND PRODUCTION.—No leasing,  
19 exploration, development, production, or transporting by  
20 pipeline of minerals or hydrocarbons shall be permitted  
21 within the Sanctuaries.

22 (b) AQUACULTURE.—

23 (1) PROHIBITION.—It is unlawful for any per-  
24 son to conduct aquaculture in any area of the Sanc-  
25 tuaries.

1           (2) EXISTING BIVALVE FARMING ALLOWED.—

2           The prohibition in paragraph (1) shall not apply to  
3           persons conducting farming operations of bivalve  
4           species that are in existence on the date of enact-  
5           ment of this Act.

6           (3) REGULATIONS.—The Secretary shall issue  
7           regulations that specify the operations referred to in  
8           paragraph (2).

9           (c) DISCHARGE OF MATERIALS AND SUBSTANCES.—

10           (1) PROHIBITIONS.—No person shall—

11                   (A) deposit or discharge any material or  
12                   substance of any kind within the Sanctuaries,  
13                   except those referred to in paragraph (4);

14                   (B) deposit or discharge any material or  
15                   substance of any kind that enters or injures any  
16                   sanctuary resource (as that term is defined in  
17                   the National Marine Sanctuaries Act), except  
18                   those referred to in paragraph (4); or

19                   (C) deposit or discharge any invasive spe-  
20                   cies from a vessel in the Sanctuaries.

21           (2) CHANGES IN SALINITY.—No person shall  
22           cause a change of salinity in the Sanctuaries that is  
23           injurious to the marine ecosystem of the Sanc-  
24           tuaries.

1           (3) LIMITATION ON APPLICABILITY.—Para-  
2 graph (1) does not apply with respect to any dis-  
3 charge—

4           (A) of fish, fish parts, and chumming ma-  
5 terials resulting from, and while conducting  
6 otherwise lawful, fishing activity;

7           (B) of food consumed onboard a vessel;

8           (C) of biodegradable effluents incidental to  
9 vessel use and generated by an operable Type  
10 I or II marine sanitation device as classified by  
11 the United States Coast Guard, that is ap-  
12 proved in accordance with section 1322 of title  
13 33 provided the vessel operator secures all ma-  
14 rine sanitation devices in a manner that pre-  
15 vents discharge of untreated sewage from a  
16 Type I or Type II Coast Guard-approved sani-  
17 tation devices. This exception does not apply  
18 within State waters or from a cruise ship within  
19 the boundaries of either sanctuary;

20           (D) of biodegradable material resulting  
21 from deck wash down and vessel engine cooling  
22 water (excluding ballast water and oily wastes  
23 from bilge pumping), from a vessel;

24           (E) from vessel engine exhaust; or

1           (F) that is permitted under a National  
2           Pollution Discharge Elimination System permit  
3           that is in effect on the date of enactment of  
4           this Act, or under a new or renewed National  
5           Pollution Discharge Elimination System permit  
6           that does not increase pollution in the Sanc-  
7           tuaries.

8           (d) CONSULTATION REQUIREMENT FOR CHANGES IN  
9           WATER FLOW.—Any Federal, State or local government  
10          agency that is responsible for alteration of water flow re-  
11          gimes that may affect the Sanctuaries must consult with  
12          the Secretary prior to initiating such change in order to  
13          ensure sanctuary resources are not injured.

14          (e) SECRETARIAL AUTHORITY NOT LIMITED.—In  
15          addition to the prohibitions listed in paragraph (1) of this  
16          subsection, the Secretary may restrict or otherwise regu-  
17          late other types of discharges or changes in water flow  
18          into or that may enter the Sanctuaries.

19          (f) PENALTIES AND ENFORCEMENT.—A violation of  
20          this section shall be treated as a violation of section 306  
21          of the Marine Protection, Research, and Sanctuaries Act  
22          of 1972 (16 U.S.C. 1436).

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

24          (a) INTERIM PLAN.—The Secretary shall complete an  
25          interim supplemental management plan for each of the

1 Sanctuaries by not later than 30 months after the date  
2 of enactment of this Act, that focuses on management in  
3 the areas added under this Act. These supplemental plans  
4 shall not weaken existing resource protections.

5 (b) REVISED PLANS.—The Secretary shall issue a re-  
6 vised comprehensive management plan for each of the  
7 Sanctuaries during the next management review process  
8 required by section 304 of the National Marine Sanc-  
9 tuaries Act (16 U.S.C. 1434(e)) for the Sanctuaries, and  
10 issue such final regulations as may be necessary.

11 (c) APPLICATION OF EXISTING REGULATIONS.—The  
12 regulations for the Gulf of the Farallones National Marine  
13 Sanctuary (15 C.F.R. 922, subpart H) and the Cordell  
14 Bank National Marine Sanctuary (15 C.F.R. 922, subpart  
15 K) shall apply to the areas added to the Sanctuaries under  
16 section 5 until the Secretary modifies such regulations in  
17 accordance with this section.

18 (d) PROCEDURES.—In developing the revisions under  
19 this section, the Secretary shall follow the procedures spec-  
20 ified in sections 303 and 304 of the Marine Protection,  
21 Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433  
22 and 1434), except those procedures requiring the delinea-  
23 tion of national marine sanctuary boundaries and develop-  
24 ment of a resource assessment report.

1 (e) CONTENTS OF PLANS.—Revisions to each com-  
2 prehensive management plan under this section shall, in  
3 addition to matters required under section 304(a)(2) of  
4 the Marine Protection, Research and Sanctuaries Act of  
5 1972 (16 U.S.C. 1434(A)(2))—

6 (1) facilitate all public and private uses of each  
7 of the Sanctuaries consistent with the primary objec-  
8 tive of sanctuary resource protection;

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

12 (3) identify priority needs for research which  
13 will—

14 (A) improve management of each of the  
15 Sanctuaries;

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

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

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

1           (5) identify alternative sources of funding need-  
2           ed to fully implement the plan’s provisions and sup-  
3           plement appropriations under section 313 of the Ma-  
4           rine Protection, Research, and Sanctuaries Act of  
5           1972 (16 U.S.C. 1444);

6           (6) ensure coordination and cooperation be-  
7           tween Sanctuary managers and other Federal, State,  
8           and local authorities with jurisdiction within or adja-  
9           cent to the Sanctuaries;

10          (7) in the case of revisions to the plan for the  
11          Farallones NMS, promote cooperation with farmers  
12          and ranchers operating in the watersheds adjacent  
13          to the Gulf of the Farallones NMS and establish vol-  
14          untary best practices programs for farming and  
15          ranching;

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 of the education,  
22          among users of the Sanctuaries, about conservation  
23          and navigational safety and the conservation of  
24          those resources; and

1           (9) promote education, among users of the  
2 Sanctuaries, about conservation and navigation safe-  
3 ty.

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

8 **SEC. 8. FEASIBILITY OF A NEW SANCTUARY DESIGNATION.**

9           (a) REVIEW AND RECOMMENDATION.—As part of the  
10 first review, following the date of enactment of this Act,  
11 of the Gulf of the Farallones National Marine Sanctuary  
12 Management Plan pursuant to section 304(e) of the Na-  
13 tional Marine Sanctuaries Act (16 U.S.C. 1434(e)), the  
14 Secretary shall—

15           (1) conduct a review of the operations of the  
16 Farallones NMS; and

17           (2) following not less than one public hearing  
18 held in the area added to the Farallones NMS by  
19 this Act and the receipt of public comment, deter-  
20 mine whether that area shall be designated as a new  
21 and separate National Marine Sanctuary.

22           (b) CONSIDERATIONS FOR DETERMINATION.—In  
23 making the determination under subsection (a)(2), the  
24 Secretary shall consider responsiveness to local needs, the

1 effectiveness of conservation, education and volunteer pro-  
2 grams, and organizational efficiency.

3 (c) IMPLEMENTATION OF DETERMINATION.—If the  
4 Secretary determines under subsection (b) to designate a  
5 new national marine sanctuary, the Secretary shall imple-  
6 ment measures to assure a smooth and effective transition  
7 to a separate national marine sanctuary.

○