

APPENDIX 1:

SANCTUARY SITE COORDINATES GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

This is an updated listing of the turning points of the Gulf of the Farallones National Marine Sanctuary. This listing is to be used in concert with the 2nd Revision Map of said sanctuary.

An appropriate description of the boundary is as follows: The boundary initializes at the most southerly point of Bodega Head, thence through a series of points in straight line segments commencing with point #1 and ending with point #30, which is a point on the mean high water line at Rocky Point, thence in a

Northwestern direction along the mean high water line to a point where it joins the seaward limit of the Point Reyes National Seashore, continuing to the point where the National Seashore limit line crosses the mean high water line in Tomales Bay, thence along the mean high water line of Tomales Bay and along the mean high water line of Bodega Bay and returning to the point of origin at Bodega Head. The seaward portion of the boundary is expressed by a series of turning points, which are as follows:

Pt. No.	DIGITIZED COORDINATES		PRACTICAL COORDINATES	
	Latitude	Longitude	Latitude	Longitude
01	38°15'50.349"	123°10'48.933"	38°15'50"	123°10'49"
02	38°12'36.338"	123°07'04.846"	38°12'36"	123°07'05"
03	38°09'57.033"	123°05'27.435"	38°09'57"	123°05'27"
04	38°08'26.872"	123°04'52.524"	38°08'27"	123°04'53"
05	38°07'42.125"	123°05'10.714"	38°07'42"	123°05'11"
06	38°06'08.017"	123°05'48.920"	38°06'08"	123°05'49"
07	38°05'26.765"	123°06'09.922"	38°05'27"	123°06'10"
08	38°04'44.587"	123°06'29.251"	38°04'45"	123°06'29"
09	38°03'54.439"	123°06'57.591"	38°03'54"	123°06'58"
10	38°03'07.527"	123°07'37.755"	38°03'08"	123°07'38"
11	37°59'32.425"	123°08'24.905"	37°59'32"	123°08'25"
12	37°59'22.344"	123°14'06.127"	37°59'22"	123°14'06"
13	37°57'31.931"	123°19'19.187"	37°57'32"	123°19'19"
14	37°54'16.943"	123°23'18.456"	37°54'17"	123°23'18"
15	37°50'05.522"	123°25'28.791"	37°50'06"	123°25'29"
16	37°45'33.799"	123°25'32.666"	37°45'34"	123°25'33"
17	37°41'20.351"	123°23'29.811"	37°41'20"	123°23'30"
18	37°38'01.053"	123°19'37.445"	37°38'01"	123°19'37"
19	37°36'04.665"	123°14'30.483"	37°36'05"	123°14'30"
20	37°35'30.191"	123°13'31.060"	37°35'30"	123°13'31"
21	37°33'47.197"	123°11'50.904"	37°33'47"	123°11'51"
22	37°31'12.270"	123°07'39.618"	37°31'12"	123°07'40"
23	37°30'29.706"	123°05'42.221"	37°30'30"	123°05'42"
24	37°29'39.287"	123°00'23.711"	37°29'39"	123°00'24"
25	37°30'34.337"	122°54'18.139"	37°30'34"	122°54'18"
26	37°31'47.784"	122°51'31.592"	37°31'48"	122°51'32"
27	37°34'17.533"	122°48'10.415"	37°34'18"	122°48'10"
28	37°36'58.627"	122°46'05.779"	37°36'59"	122°46'06"
29	37°39'59.303"	122°44'59.838"	37°39'59"	122°45'00"
30	37°52'56.355"	122°37'35.195"	37°52'56"	122°37'35"

APPENDIX 2

RECENT AND ONGOING RESEARCH PROJECTS FUNDED AT THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY SINCE 1982

Research Projects Completed Since 1982

Intertidal and Subtidal Communities
Gordon Chan

Pinnipeds along the Point Reyes Coast
Sarah Allen and Harriet Huber

Assessment of Pinniped/Human Interactions
Sarah Allen

Aquatic Bird Abundance and Trophic Relationships
Gary Page et al.

Farallon Islands Seabird Ecology
David Ainley et al.

Marine Mammal Necropsy
Raymond Dieter

Premature Pupping in Northern Sea Lions
Harriet Huber

Puerto Rican Oil Impact-Invertebrates
Gordon Chan

Puerto Rican Oil Impact-Invertebrates (Molluscs)
University of California, Bodega Marine Laboratory

Puerto Rican Oil Impact-Marine Mammals
Raymond Dieter

**Puerto Rican Oil Impact-Aerial Surveys
of Seabirds and Mammals**
Point Reyes Bird Observatory

White Shark Movements and Feeding Ecology
Peter Klimley

Harbor Seal Telemetry
Sarah Allen

Survey of Historic Shipwreck *San Agustin*
National Park Service

Diet and Distribution of Seabirds
David Ainley

Humpback Whale Distribution and Abundance Year 1
Cascadia Research Collective

Blue Whale Population Survey
Cascadia Research Collective

Radionuclide Concentration in Fish and Mussels
University of California, Davis

Northern Elephant Seal Colony at Point Reyes
Sarah Allen

Harbor Porpoise Survey
Isidore Szczepaniak

Explorations of Cordell Bank
Cordell Bank Expeditions

Resource Description of Cordell Bank
Robert Schmieder

Computer Mapping of Cordell Bank
Robert Schmieder

Ongoing Research

Seabird Mortality from Beached Bird Surveys
Point Reyes Bird Observatory

Humpback Whale Distribution and Abundance Year 2
Cascadia Research Collective

Harbor Porpoise Distribution and Abundance
Cascadia Research Collective

Tomales Bay Productivity Baseline
Tiburon Center for Environmental Studies

APPENDIX 3

AQUATIC BIRDS FOUND WITHIN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Non-breeding Oversummering Individuals

Common Loon
Double-crested Cormorant
Snowy Egret
Black-crowned Night Heron
Brant
Greater Scaup
Lesser Scaup
Surf Scoter
White-winged Scoter
Red-breasted Merganser
Black-bellied Plover
Willet
Whimbrel
Long-billed Curlew
Marbled Godwit
Bonaparte's Gull
Ring-billed Gull
California Gull
Western Gull
Caspian Tern

Primarily Spring and Fall Migrants

Cinnamon Teal
Whimbrel
Short-billed Dowitcher
Red-necked Phalarope
Red Phalarope
Bonaparte's Gull
Caspian Tern

Have Regular and Sizeable Winter Populations

Spring and Fall Migratory Peak

Common Loon
Surf Scoter
White-winged Scoter
Red-breasted Merganser
Semipalmated Plover
Black Turnstone
Western Sandpiper
Forster's Tern
Sanderling

Fall Migratory Peak

Western Grebe
Double-crested Cormorant
Mallard
Killdeer
Willet
Least Sandpiper
Dunlin
Ring-billed Gull
Mew Gull
California Gull
Western Gull

Spring Migratory Peak

Brant

No Migratory Peak

Pied-billed Grebe
Horned Grebe
Eared Grebe
(American White Pelican)
(Brown Pelican)
Snowy Egret
Black-crowned Night Heron
Green-winged Teal
Northern Pintail
Northern Shoveler
American Pigeon
Canvasback
Greater Scaup
Lesser Scaup
Common Goldeneye
Bufflehead
Ruddy Duck
American Coot
Black-bellied Plover
Snowy Plover
American Avocet
Long-billed Curlew
Marbled Godwit
Long-billed Dowitcher
Common Snipe
Herring Gull
Glaucous-winged Gull
(Heermann's Gull)
(Elegant Tern)

SOURCE: Page et al., 1984

APPENDIX 4

MARINE MAMMALS FOUND WITHIN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY AND THEIR STATUS AS RESIDENTS

Common Name	Genus/Species	Status
Pinnipeds:		
California sea lion	<i>(Zalophus californianus)</i>	year-round
Steller sea lion	<i>(Eumetopias jubatus)</i>	year-round
Harbor seal	<i>(Phoca vitulina)</i>	year-round
Northern elephant seal	<i>(Mirounga angustirostris)</i>	year-round
Northern fur seal	<i>(Callorhinus ursinus)</i>	transient
Fissiped:		
California sea otter	<i>(Enhydra lutris nereis)</i>	occasional visitor
Cetaceans:		
Blue whale	<i>(Balaenoptera musculus)</i>	transient
Sei whale	<i>(Balenopectera borealis)</i>	
California gray whale	<i>(Eschrichtius robustus)</i>	transient
Finback whale	<i>(Balaenoptera physalus)</i>	transient
Humpback whale	<i>(Megaptera novaengliae)</i>	transient
Pacific pilot whale	<i>(Globicephala machorhynchus)</i>	transient
Killer whale	<i>(Orcinus orca)</i>	transient
False killer whale	<i>(Pseudorca crassidens)</i>	transient
Sperm whale	<i>(Physeter catodon)</i>	transient
Baird's beaked whale	<i>(Berardius bairdi)</i>	transient
Cuvier's beaked whale	<i>(Ziphius cavirostris)</i>	transient
Common dolphin	<i>(Delphinus delphis)</i>	transient
Risso's dolphin	<i>(Grampus griseus)</i>	transient
Pacific white-sided dolphin	<i>(Lagenorhynchus obliquidens)</i>	transient
Northern right whale dolphin	<i>(Lissodelphis borealis)</i>	transient
Harbor porpoise	<i>(Phocoena phocoena)</i>	year-round
Dall porpoise	<i>(Phocoenoides dalli)</i>	year-round

SOURCE: California Department of Fish and Game 1979.

APPENDIX 5:

MANAGEMENT ROLES AND RESPONSIBILITIES

The following section outlines in more detail the specific responsibilities of each agency participating in the management of the sanctuary:

RESOURCE PROTECTION

Marine and Estuarine Management Division

1. Assigns roles and responsibilities for surveillance and enforcement of sanctuary regulations through inter-agency agreements;
2. Monitors the effectiveness of interagency agreements for surveillance and enforcement of sanctuary regulations and institutes change where required;
3. Develops and negotiates interagency agreements for other aspects of resource protection including environmental contingency planning and visitor use management in the sanctuary;
4. Reviews quarterly and annual summary reports of surveillance and enforcement activities prepared by the California Department of Fish and Game; reviews bi-monthly and semi-annual progress reports prepared by the Sanctuary Manager;
5. Evaluates progress towards management objectives for resource protection with the Sanctuary Manager and Sanctuary Warden and adjusts annual priorities accordingly; and
6. Monitors the effectiveness of existing sanctuary regulations and considers and enacts changes where necessary.

Sanctuary Manager and Staff

1. Makes recommendations to the Marine and Estuarine Management Division for changing priorities and policies for resource protection and indicates how these may affect implementation;
2. Assists in the coordination of surveillance and enforcement activities in the sanctuary by providing liaison between the National Park Service, the California Department of Fish and Game, and the U.S. Coast Guard;
3. Reports regularly to the Marine and Estuarine Management Division on surveillance and enforcement activities, violations and emergencies; as part of this responsibility, recommends in consultation with the California Department of Fish and Game, changes in regulations, and inter-agency agreements (i.e., relating to patrol methods or enforcement procedures) to enhance resource protection;

4. Develops in cooperation with the California Department of Fish and Game and the Marine and Estuarine Management Division an operational plan for resource protection. The operational plan is intended as a working manual that can be referred to on a daily basis for relevant policies concerning significant resources, detailed permitting and enforcement procedures, and emergency response procedures;

5. Provides information for use in training sanctuary wardens and rangers as applicable;
6. Develops and distributes educational material aimed at improved public awareness of and voluntary compliance with sanctuary regulations;
7. Monitors and evaluates the adequacy of emergency response plans and procedures in the sanctuary;
8. Maintains a record of emergency events (e.g., spills) in and around the sanctuary; and
9. Evaluates overall progress towards resource protection objectives of the sanctuary program; prepares a bi-monthly report highlighting activities for the Marine and Estuarine Management Division.

California Department of Fish and Game

The following are responsibilities which the California Department of Fish and Game assumes as the agency enforcing state living marine resource regulations. These are not affected by sanctuary designation but are listed here because they are an important aspect of resource protection in the sanctuary:

1. Responsible for managing living marine resources and enforcement of state laws and regulations throughout state waters within the sanctuary;
2. Is deputized to enforce specific federal laws throughout the sanctuary (e.g., the Marine Mammal Protection Act, the Endangered Species Act, the Fisheries Conservation and Management Act).

The following are additional responsibilities directly related to resource protection in the sanctuary:

3. Prepares and submits to the Marine and Estuarine Management Division quarterly and annual summaries of California Department of Fish and Game enforcement data, including data on the types, nature, and location of surveillance and enforcement cases (relating to both California Department of Fish and Game and sanctuary regulations) in the sanctuary;

4. Is deputized by the Marine and Estuarine Management Division to enforce sanctuary regulations throughout the sanctuary.

Responsibilities assigned to the Sanctuary Warden are as follows:

1. Ensures that activities funded by the Marine and Estuarine Management Division in the sanctuary are consistent with California Department of Fish and Game regulations, policies, and procedures for managing living marine resources;
2. Facilitates California Department of Fish and Game/Marine and Estuarine Management Division information exchange and cooperation towards meeting resource protection goals and objectives for the sanctuary; and
3. Analyzes violations of regulations in the sanctuary based on the quarterly and annual summaries and recommends necessary changes in policy and procedures.

U.S. Coast Guard

The following is a responsibility which the U.S. Coast Guard assumes as a federal enforcement agency. It is not affected by sanctuary designation, but is listed here because it is an important aspect of resource protection in the sanctuary.

1. Holds a broad responsibility for enforcing all federal laws in navigable waters (i.e., throughout the sanctuary) and coordinates activities with the California Department of Fish and Game where state waters and resources are impacted by hazardous spills.

RESEARCH

Marine and Estuarine Management Division

1. Prepares a Sanctuary Research Plan outlining long-term research priorities, administrative guidelines, and administrative procedures for Marine and Estuarine Management Division funded projects.
2. Reviews and approves the list of annual research priorities, the annual research budget, and Requests for Proposals (RFP) for specific projects prepared by the Sanctuary Manager or by other agencies or persons to whom this task may be delegated;
3. Administers interagency agreements for research;
4. Reviews and approves all research proposals for Marine and Estuarine Management Division funded projects;
5. Reviews and approves interim and final research reports submitted by the Sanctuary Manager;

6. Evaluates overall progress towards achieving priorities for research and adjusts long-term directions accordingly;
7. Awards research permits as provided under sanctuary regulations; and
8. Coordinates research activities in the Channel Islands National Marine Sanctuary and the Gulf of the Farallones National Marine Sanctuary.

Sanctuary Manager and Staff

1. Administers Research Program as described in sanctuary management plan;
2. Coordinates with the Marine and Estuarine Management Division to set research budget priorities and coordinate research program development;
3. Reviews and reports on program annually and recommends changes to the Marine and Estuarine Management Division; and
4. Develops as necessary and provides project review of RFPs, proposals, contract amendments and all reports and products. Acts as Contracting Officer's Technical Representative on all contracts.

California Department of Fish and Game

The State Sanctuary Warden's responsibilities include:

1. Coordinates California Department of Fish and Game research projects undertaken within the sanctuary with research funded by the Marine and Estuarine Management Division;
2. Assists the Marine and Estuarine Management Division in reviewing research proposals, interim and final reports, where appropriate;
3. Reviews research permits as required by state laws and regulations; and
4. Provides assistance as appropriate.

INTERPRETATION AND EDUCATION

Marine and Estuarine Management Division

1. Reviews and approves plans for interpretation;
2. Reviews and approves the list of annual priorities for interpretation and the annual budget prepared by the Sanctuary Manager;
3. Reviews and approves final design proposals for all interpretive facilities and publications; and
4. Evaluates progress towards achieving priorities for interpretation and adjusts long-term priorities accordingly.

Sanctuary Manager and Staff

1. Oversees the implementation of the education program in the sanctuary with the assistance of the National Park Service;
2. Prepares and submits for approval an annual list of priorities for interpretation and an annual budget;
3. Prepares and circulates RFPs for interpretive projects as required;
4. Revises design proposals for interpretive materials and facilities for the sanctuary;
5. Supervises the design and production of interpretive materials and facilities for the sanctuary;
6. Coordinates marine interpretive programs for the sanctuary with related programs of the Channel Islands National Park, Golden Gate National Recreation Area and Point Reyes National Seashore;
7. Assists the National Park Service in training interpretive staff in sanctuary marine interpretation;
8. Assigns in consultation with the National Park Service, specific responsibilities and tasks to sanctuary interpretive staff; and
9. Encourages local and regional organizations to participate in sanctuary interpretation.

National Park Service (GGNRA)

1. Assists the Sanctuary Manager in developing an operational plan for marine interpretation in the sanctuary;
2. Reviews and approves with the Marine and Estuarine Management Division design proposals for interpretive materials and facilities for the sanctuary for use in the Golden Gate National Recreational Area (i.e., Cliff House, Marin Headlands);
3. Cooperates with the Sanctuary Manager in reviewing all other design proposals for materials and facilities as appropriate;
4. Cooperates with the Sanctuary Manager in supervising the design and production of materials and facilities for sanctuary interpretation; and
5. Is responsible for training National Park Service interpretive staff in interpretation of the sanctuary.

National Park Service (Point Reyes National Seashore)

1. Assists the Sanctuary Manager in developing an operational plan for marine interpretation in the sanctuary;
2. Cooperates with the Sanctuary Manager in reviewing all other design proposals for materials and facilities as appropriate;

3. Is responsible for training National Park Service interpretive staff in interpretation of the sanctuary.

GENERAL ADMINISTRATION

Marine and Estuarine Management Division

1. Develops, implements, and updates the management plan;
2. Provides funds for overall sanctuary management and administration;
3. Develops an annual budget for sanctuary management, setting out expenditures and operating costs for the various program areas jointly with the Sanctuary Manager;
4. Selects and monitors the performance of the Sanctuary Manager;
5. Determines additional staffing requirements; and
6. Provides for the necessary legal support for administering the sanctuary.

Sanctuary Manager and Staff

1. Reviews the management plan periodically and recommends changes to the Marine and Estuarine Management Division;
2. Assists the Marine and Estuarine Management Division in the development of an annual budget;
3. Prepares bi-monthly reports and semi-annual progress reports in cooperation with the National Park Service highlighting activities and events in all program areas (i.e., resource protection, research interpretation, and administration); and
4. Assigns responsibilities to sanctuary staff.

California Department of Fish and Game

1. Assists in the periodic review of the management plan and recommends changes to the Marine and Estuarine Management Division; and
2. Assists in determining funding requirements for surveillance and enforcement as part of the annual budget.

National Park Service

1. Assists in the periodic review of the management plan and recommends changes to the Marine and Estuarine Management Division;
2. Provides advice in determining funding requirements for resource protection, research, and interpretation as part of the annual budget; and
3. Provides support for general administration.

APPENDIX 6

RELEVANT LAWS AND REGULATIONS PERTAINING TO THE MANAGEMENT OF MARINE RESOURCES WITHIN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY (RESOURCES)

RESOURCE	ACT/REGULATION	AGENCIES
MARINE MAMMALS	Marine Mammals Protection Act (MMPA) (16 USC & 1361)	National Marine Fisheries Service (whales, porpoises, and pinnipeds) U.S. Fish and Wildlife Service (sea otter) Marine Mammal Commission California Department of Fish and Game (cooperative agreement)
	Endangered Species Act	U.S. Fish and Wildlife Service California Department of Fish and Game (cooperative agreement)
SEABIRDS	Federal Migratory Bird Treaty Act	U.S. Fish and Wildlife Service
	Endangered Species Act	U.S. Fish and Wildlife Service
	California Fish and Game Code	California Department of Fish and Game
FISH AND INVERTEBRATES	Magnuson Fishery Conservation and Management Act	Pacific Fishery Management Council
	Fishery Management Plans for anchovy, salmon, and rockfish	National Marine Fisheries Service
	California Fish and Game Code	California Department of Fish and Game
CULTURAL RESOURCES	National Historic Preservation Act	Department of the Interior
		California Historical Resources Commission
		California Public Resources Department

APPENDIX 7

RELEVANT LAWS AND REGULATIONS PERTAINING TO MARINE SPECIAL PROTECTED AREAS WITHIN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

PROTECTED AREA	DESIGNATION	AGENCIES
DUXBURY REEF	Marine Reserve Area of Special Biological Significance	California Department of Fish and Game California Regional Water Quality Control Board
TOMALES BAY	Ecological Reserve	California Department of Fish and Game
FARALLON ISLANDS (nearshore)	Area of Special Biological Significance Game Refuge	California Regional Water Quality Control Board California Department of Fish and Game

NOTE: ASBS and Ecological Reserves adjacent but not within the sanctuary are not included here.

APPENDIX 8

RELEVANT LAWS AND REGULATIONS PERTAINING TO THE MANAGEMENT OF MARINE ACTIVITIES WITHIN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

ACTIVITY	ACT/REGULATION	AGENCIES
OIL AND GAS DEVELOPMENT	Outer Continental Shelf Lands Act	Department of the Interior State Lands Commission
POLLUTANT DISCHARGES	Clean Water Act	Environmental Protection Agency Regional Water Quality Control Board (Section 402)
	Ports and Waterways Safety Act	U.S. Coast Guard
	National Contingency Plan	U.S. Coast Guard and EPA
	State Oil Spill Contingency Plan	California Department of Fish and Game
DREDGE AND FILL	Clean Water Act (Section 404) Rivers and Harbors Act (Section 10)	U.S. Corps of Engineers
FISHING	California Fish and Game Code	California Department of Fish and Game
	Magnuson Fishery Conservation and Management Act	Pacific Fishing Management Council National Marine Fisheries Service California Department of Fish and Game (cooperative agreement)
NAVIGATION	Ports and Waterways Safety Act	U.S. Coast Guard
COASTAL DEVELOPMENT	Coastal Zone Management Act (Section 307)	California Coastal Commission
	California Coastal Act	California Coastal Commission
	Marin County Local Coastal Program	Marin County
	Sonoma County Coastal Zoning Ordinance	Sonoma County

APPENDIX 9

DESIGNATION DOCUMENT — DESIGNATION OF THE POINT REYES/FARALLON ISLANDS MARINE SANCTUARY (NOW THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY)

PREAMBLE

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, P.L. 92-532 (the Act), the waters along the Coast of California north and south of Point Reyes Headlands, between Bodega Head and Rocky Point and surrounding the Farallon Islands, are hereby designated a Marine Sanctuary for the purposes of preserving and protecting this unique and fragile ecological community.

ARTICLE 1. Effect of Designation

Within the area designated as The Point Reyes/Farallon Islands Marine Sanctuary (the Sanctuary) described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of the Designation lists those activities which may require regulation, but the listing of any activity does not by itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through regulation, and additional activities may be regulated only by amending Article 4.

ARTICLE 2. Description of the Area

The Sanctuary consists of an area of the waters adjacent to the Coast of California of approximately 948 square nautical miles (nmi), extending seaward to a distance of 6 nmi from the mainland and 12 nmi from the Farallon Islands and Noonday Rock, and including the intervening waters. The precise boundaries are defined by regulation.

ARTICLE 3. Characteristics of the Area that Give it Particular Value

The Sanctuary includes a rich and diverse marine ecosystem and a wide variety of marine habitat, including habitat for 20 species of marine mammals. Rookeries for over half of California's nesting marine bird and nesting

areas for at least 12 of 16 known U.S. nesting marine bird species are found within the boundaries. Abundant fish and shellfish are harvested in the Sanctuary.

ARTICLE 4. Scope of Regulation

Section 1. Activities Subject to Regulation

In order to protect the distinctive values of the Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of its marine features and the ecological, recreational, and aesthetic value of the area:

- (A) Hydrocarbon operations.
- (B) Discharging or depositing any substance.
- (C) Dredging or alteration of, or construction on, the seabed.
- (D) Navigation of vessels except fishing vessels or vessels travelling within a vessel traffic separation scheme or port access route designated by the Coast Guard outside the area 2 nmi from the Farallon Islands, Bolinas Lagoon or any Area of Special Biological Significance, other than that surrounding the Farallon Islands, established by the State of California prior to designation.
- (E) Disturbing marine mammals and birds by overflights below 1000 feet.
- (F) Removing or otherwise harming cultural historical resources.

Section 2. Consistency with International Law

The regulations governing the activities listed in Section 1 of this Article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law, including treaties and international agreements to which the United States is signatory.

Section 3. Emergency Regulations

Where essential to prevent immediate, serious, and irreversible damage to the

ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this Article will be proposed in accordance with the procedures specified in Article 6.

ARTICLE 5. Relation to Other Regulatory Programs

Section 1. Fishing and Waterfowl Hunting

The regulation of fishing, including fishing for shellfish and invertebrates, and waterfowl hunting, is not authorized under Article 4. However, fishing vessels may be regulated with respect to discharges in accordance with Article 4, paragraph (b) and mariculture activities involving alteration or construction of the seabed can be regulated in accordance with Article 4 paragraph (c). All regulatory programs pertaining to fishing, and to waterfowl hunting, including regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Fishery Conservation and Management Act of 1976, 16 U.S.C. § 1801 et seq., will remain in effect, and all permits, licenses, and other authorizations issued pursuant thereto will be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. Fishing as used in this article and in Article 4 includes mariculture.

Section 2. Defense Activities

The regulation of activities listed in Article 4 shall not prohibit any Department of Defense activity that is essential for national defense or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practicable.

DESIGNATION DOCUMENT (Cont.)

Section 3. Other Programs

All applicable regulatory programs will remain in effect, and all permits, licenses, and other authorizations issued pursuant thereto will be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. The Sanctuary regulations will set forth any necessary certification procedures.

ARTICLE 6. Alterations to this Designation

This Designation may be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the Pacific Regional Fishery Management Council, and approval by the President of the United States.

Accordingly, Part 936 is proposed as follows:

PART 936 - THE POINT REYES/ FARALLON ISLANDS MARINE SANCTUARY REGULATIONS

- 936.1 Authority
- 936.2 Purpose
- 936.3 Boundaries
- 936.4 Definitions
- 936.5 Allowed Activities
- 936.6 Prohibited Activities
- 936.7 Penalties for Commission of Prohibited Acts
- 936.8 Permit Procedures and Criteria
- 936.9 Certification of Other Permits
- 937.10 Appeals of Administrative Action

§ 936.1 AUTHORITY

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of Section 302(a) of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434 (the Act). The following regulations are issued pursuant to the authorities of Sections 302(f), 302(g), and 303 of the Act.

§ 936.2 PURPOSE

The purpose of designating the Sanctuary is to protect and preserve the extraordinary ecosystem, including marine birds, mammals, and other natural resources, of the waters surrounding the Farallon Islands and Point Reyes, and to ensure the continued availability of the area as a research and recreational resource.

§ 936.3 BOUNDARIES

The Sanctuary consists of an area of the waters adjacent to the coast of California north and south of the Point Reyes Headlands, between Bodega Head and Rocky Point and the Farallon Islands (including Noonday Rock), and includes approximately 948 square nautical miles (nmi²). The coordinates are listed in Appendix 1.

The shoreward boundary follows the mean high tide line and the seaward limit of Point Reyes National Seashore. Between Bodega Head and Point Reyes Headlands, the Sanctuary extends seaward 3 nmi beyond State waters. The Sanctuary also includes the waters within 12 nmi of the Farallon Islands, and between the Islands and the mainland from Point Reyes Headlands to Rocky Point. The Sanctuary includes Bodega Bay, but not Bodega Harbor.

§ 936.4 DEFINITIONS

(A) "Administrator" means to the Administrator of the National Oceanic and Atmospheric Administration.

(B) "Areas of Special Biological Significance" (ASBS) means to those areas established by the State of California prior to the designation of the sanctuary except that for purposes of these regulations, the area established around the Farallon Islands shall not be included.

(C) "Assistant Administrator" means to the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(D) "Person" means any private individual, partnership, corporation, or other entity; or any officer, employee,

agent, department, agency, or instrumentality of the Federal Government or any State or local unit of government.

(E) "Vessel" means watercraft of any description capable of being used as a means of transportation on the waters of the Sanctuary.

§ 936.5 ALLOWED ACTIVITIES

All activities except those specifically prohibited by § 936.6 may be carried on in the Sanctuary subject to all prohibitions, restrictions, and conditions imposed by any other authority. Recreational use of the area is encouraged.

§ 936.6 PROHIBITED ACTIVITIES

(A) Except as may be necessary for national defense, in accordance with Article 5, § 2 of the Designation, or as may be necessary to respond to an emergency threatening life, property or the environment, the following activities are prohibited within the Sanctuary unless permitted by the Assistant Administrator in accordance with Sections 936.8 or 936.9. All prohibitions shall be applied consistently with international law.

(1) Hydrocarbon operations.

Hydrocarbon exploration, development, and production are prohibited except that pipelines related to operations outside the Sanctuary may be placed at a distance greater than 2 nmi from the Farallon Islands, Bolinas Lagoon, and Areas of Special Biological Significance where certified to have no significant effect on sanctuary resources in accordance with § 936.9.

(2) Discharge of substances.

No person shall deposit or discharge any materials or substances of any kind except:

(A) Fish or parts and chumming materials (bait).

(B) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the sanctuary generated by:

- (i) marine sanitation devices;

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- (ii) routine vessel maintenance, e.g., deck wash down;
- (iii) engine exhaust; or
- (iv) meals on board vessels.

(C) Dredge material disposed of at the interim dumpsite now established approximately 10 nmi south of the southeast Farallon Island and municipal sewage provided such discharges are certified in accordance with Section 936.9.

(3) Alteration of or construction on the seabed.

Except in connection with the laying of pipelines or construction of an outfall if certified in accordance with Section 936.9, no person shall:

- (A) Construct any structure other than a navigation aid,
- (B) Drill through the seabed, and
- (C) Dredge or otherwise alter the seabed in any way other than by anchoring vessels or bottom trawling from a commercial fishing vessel, except for routine maintenance and navigation, ecological maintenance, mariculture, and the construction of docks and piers in Tomales Bay.

(4) Operations of vessels.

Except to transport persons or supplies to or from islands or mainland areas adjacent to sanctuary waters, within an area extending 2 nautical miles from the Farallon Islands, Bolinas Lagoon, or any Area of Special Biological Significance, no person shall operate any vessel engaged in the trade of carrying cargo, including but not limited to tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations. In no event shall this section be construed to limit access for fishing, recreational or research vessels.

(5) Disturbing marine mammals and birds.

No person shall disturb seabirds or marine mammals by flying motorized aircraft at less than 1,000 feet over the waters within one nautical mile of the Farallon Islands, Bolinas Lagoon, or any Area of Special Biological Significance except to transport persons or supplies to or from the Islands or for enforcement purposes.

(6) Removing or damaging historical or cultural resources.

No person shall remove or damage any historical or cultural resource.

(A) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to these prohibitions. The exemption of additional activities having significant impacts shall be determined in consultation between the Assistant Administrator and the Department of Defense.

(B) The prohibitions in this section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions, and other international agreements to which the United States is signatory.

§ 936.7 PENALTIES FOR COMMISSION OF PROHIBITED ACTS.

(A) Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 against any person subject to the jurisdiction of the United States for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation. Procedures are outlined in Subpart D of Part 922 (15 CFR Part 922) of this chapter. Subpart D is applicable to any instance of a violation of these regulations.

§ 936.8 PERMIT PROCEDURES AND CRITERIA.

(A) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct any activity in the Sanctuary, prohibited under Section 936.6, if such an activity is (1) research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(B) Permit applications shall be addressed to the Assistant Administrator for Ocean Services and Coastal Zone Management, Attn: Office of Coastal Zone Management, MEMD, National Oceanic and Atmospheric Administration, 1826 Connecticut Avenue, N.W., Washington, D.C. 20235. An application shall provide sufficient information to enable the Assistant Administrator to make the determination called for in paragraph (C) following and shall include a description of all activities proposed, the equipment, methods, and personnel (particularly describing relevant experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(C) In considering whether to grant a permit, the Assistant Administrator shall evaluate (1) the general professional and financial responsibility of the applicant, (2) the appropriateness of the methods envisioned to the purpose(s) of the activity, (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary, (4) the end value of the activity, and (5) other matters as deemed appropriate.

(D) In considering any application submitted pursuant to this section, the Assistant Administrator may seek and consider the views of any person or entity, within or outside the Federal Government, and may hold a public hearing, as deemed appropriate.

(E) The Assistant Administrator may, at his or her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject to such condition(s) as deemed appropriate. The Assistant Administrator or a designated representative may observe any permitted activity and/or require the submission of one or more reports of the status or progress of such activity. Any information obtained will be made available to the public.

(F) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this section, in whole

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or in part, temporarily or indefinitely if the permit holder (the Holder) has violated the terms of the permit or applicable regulations. Any such action will be provided in writing to the Holder, and will include the reason(s) for the action taken. The Holder may appeal the action as provided for in § 936.10.

§ 936.9 CERTIFICATION OF OTHER PERMITS.

(A) All permits, licenses, and other authorizations issued pursuant to any other authority are hereby certified and shall remain valid if they do not authorize any activity prohibited by § 936.6. Any interested person may request that the Assistant Administrator offer an opinion on whether an activity is prohibited by these regulations.

(B) A permit, license, or other authorization allowing the discharge of municipal sewage, the laying of any pipeline outside 2 nmi from the Farallon Islands, Bolinas Lagoon and Areas of Special Biological Significance, or the disposal of dredge material at the interim dumpsite now established approximately 10 nmi south of the Southeast Farallon Island prior to the selection of a permanent dumpsite shall be valid if certified by the Assistant Administrator as consistent with the purpose of the Sanctuary and having no significant effect on sanctuary resources. Such certification may impose terms and conditions as deemed appropriate to ensure consistency.

(C) In considering whether to make the certifications called for in this section, the Assistant Administrator may seek and consider the views of any other person or entity, within or outside the Federal Government, and may hold a public hearing as deemed appropriate.

(D) Any certification called for in this section shall be presumed unless the Assistant Administrator acts to deny or condition certification within 60 days from the date that the Assistant Administrator receives notice of the proposed permit and the necessary supporting data.

(E) The Assistant Administrator may amend, suspend, or revoke any certification made under this section whenever continued operation would violate any terms or conditions of the certification. Any such action shall be forwarded in writing to both the holder of the certified permit and the issuing agency and shall set forth reason(s) for the action taken.

(F) Either the holder or the issuing agency may appeal any action conditioning, denying, amending, suspending, or revoking any certification in accordance with the procedure provided for in § 936.10.

§ 936.10 APPEALS OF ADMINISTRATIVE ACTION

(A) Any interested person (the Appellant) may appeal the granting, denial or conditioning of any permit under § 936.8 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed, and the reason(s) therefore, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(B) Upon receipt of an appeal authorized by this section, the Administrator will notify the permit applicant, if other than the Appellant, and may request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Administrator will decide the appeal in accordance with the criteria defined in § 936.8(C) as appropriate, based upon information relative to the application on file at OCZM and any additional information, the summary record kept of any hearing, and the Hearing Officer's recommended decision, if any, as provided in paragraph (C) and such other considerations as deemed appropriate. The Administrator will notify all interested persons of the decision, and the reason(s) for the decision, in writing, within 30 days of receipt of sufficient information, unless additional time is needed for a hearing.

(C) If a hearing is requested or if the Administrator determines one is appropriate, the Administrator may grant an informal hearing before a designated Hearing Officer after first giving notice of the time, place, and subject matter of the hearing in the Federal Register. Such hearing must normally be held no later than 30 days following publication of the notice in the Federal Register unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the Applicant (if different), and other interested persons (at the discretion of the Hearing Officer) may appear personally or by counsel at the hearing, and submit material and present arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Administrator.

(D) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify interested persons of the decision, and the reason(s) for the decision, in writing, within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's action will constitute final action for the agency for the purposes of the Administrative Procedures Act.

(E) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Administrator for good cause upon written request from the Appellant or Applicant stating the reason(s) for the extension.