

TERMS OF DESIGNATION FOR CORDELL BANK NATIONAL MARINE SANCTUARY¹

Preamble

Under the authority of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.* (the “Act”), Cordell Bank, Bodega Canyon, and their surrounding waters and submerged lands offshore northern California, as described in Article II, are hereby designated as Cordell Bank National Marine Sanctuary (the Sanctuary) for the purpose of protecting and conserving that special, discrete, highly productive marine area and ensuring the continued availability of the conservation, ecological, research, educational, aesthetic, historical, and recreational resources therein.

Article 1. Effect of Designation

The Sanctuary was designated on May 24, 1989 (54 FR 22417). Section 308 of the National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.* (NMSA), authorizes the issuance of such regulations as are necessary to implement the designation, including managing, protecting and conserving the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, and aesthetic resources and qualities of the Sanctuary. Section 1 of Article IV of these Terms of Designation lists activities of the types that are either to be regulated on the effective date of final rulemaking or may have to be regulated at some later date in order to protect Sanctuary resources and qualities. Listing does not necessarily mean that a type of activity will be regulated; however, if a type of activity is not listed it may not be regulated, except on an emergency basis, unless Section 1 of Article IV is amended to include the type of activity by the same procedures by which the original designation was made.

Article II. Description of the Area

The Sanctuary consists of an approximately 971 square nautical mile (sq. nmi) area of marine waters and the submerged lands thereunder encompassed by a northern boundary that begins approximately 6 nmi west of Bodega Head in Sonoma County, California and extends west approximately 38 nmi, coterminous with the boundary of the Gulf of the Farallones National Marine Sanctuary (GFNMS). From that point, the western boundary of the Sanctuary extends south approximately 34 nmi. From that point, the southern boundary of the Sanctuary continues east 15 nmi, where it intersects the GFNMS boundary. The eastern boundary of the Sanctuary is coterminous with the GFNMS boundary, and is a series of straight lines connecting in sequence, back to the beginning point. The precise boundaries are set forth in the regulations.

Article III. Characteristics of the Area That Give It Particular Value

Cordell Bank (Bank) and Bodega Canyon are characterized by a combination of oceanic conditions and undersea topography that provides for a highly productive environment in a discrete, well-defined area. The Sanctuary may contain historical resources of national significance. The Bank consists of a series of steep-sided ridges and narrow pinnacles rising

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from the edge of the continental shelf. The Bank is 300–400 feet (91–122 meters) deep at the base and ascends to within 115 feet (35 meters) of the surface at its shallowest point. Bodega Canyon is about 12 miles (10.8 nmi) long and is over 5,000 feet (1,524 m) deep. The seasonal upwelling of nutrient-rich bottom waters and wide depth ranges in the vicinity have led to a unique association of subtidal and oceanic species. The vigorous biological community flourishing at Cordell Bank and Bodega Canyon includes an exceptional assortment of invertebrates, fishes, marine mammals and seabirds. Predators travel from thousands of miles away to feed in these productive waters.

Article IV. Scope of Regulation

Section 1. Activities Subject to Regulation

The following activities are subject to regulation, including prohibition, as may be necessary to ensure the management, protection, and preservation of the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, and aesthetic resources and qualities of this area:

- a. Depositing or discharging any material or substance;
- b. Removing, taking, or injuring or attempting to remove, take, or injure benthic invertebrates or algae located on the Bank or on or within the line representing the 50 fathom isobath surrounding the Bank;
- c. Exploring for, developing or producing oil, gas or minerals within the Sanctuary;
- d. Anchoring on the Bank or on or within the line representing the 50 fathom contour surrounding the Bank;
- e. Taking, removing, moving, collecting, possessing, injuring or causing the loss of, or attempting to take, remove, move, collect, injure or cause the loss of a cultural or historical resource;
- f. Drilling into, dredging, or otherwise altering the submerged lands of the Sanctuary; or constructing, placing, or abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary;
- g. Taking or possessing any marine mammal, marine reptile, or bird except as permitted under the Marine Mammal Protection Act, Endangered Species Act or Migratory Bird Treaty Act;
- h. Introducing or otherwise releasing from within or into the Sanctuary an introduced species; and
- i. Interfering with an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Act or Sanctuary regulations.

Section 2. Consistency With International Law

The regulations governing activities listed in Section 1 of this Article shall apply to foreign flag vessels and foreign persons only to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

Section 3. Emergency Regulations

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all activities, including those not listed in Section 1 of this Article, are subject to immediate temporary regulation, including prohibition, within the limits of the Act on an emergency basis for a period not to exceed 120 days.

Article V. Relation to Other Regulatory Programs

Section 1. Fishing

The regulation of fishing is not authorized under Article IV. All regulatory programs pertaining to fishing, including Fishery Management Plans promulgated under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (“Magnuson-Stevens Act”), shall remain in effect. All permits, licenses, approvals, and other authorizations issued pursuant to the Magnuson-Stevens Act shall be valid within the Sanctuary. However, all fishing vessels are subject to regulation under Article IV with respect to discharges and anchoring.

Section 2. Defense Activities

The regulation of activities listed in Article IV shall not prohibit any Department of Defense (DOD) activities that are necessary for national defense. All such activities being carried out by DOD within the Sanctuary on the effective date of designation shall be exempt from any prohibitions contained in the Sanctuary regulations. Additional DOD activities initiated after the effective date of designation that are necessary for national defense will be exempted after consultation between the Department of Commerce and DOD. DOD activities not necessary for national defense, such as routine exercises and vessel operations, shall be subject to all prohibitions contained in the Sanctuary regulations.

Section 3. Other Programs

All applicable regulatory programs shall remain in effect, and all permits, licenses, approvals, and other authorizations issued after July 31, 1989, with respect to activities conducted within the original Sanctuary boundary and after the effective date of the expansion of the Sanctuary with respect to activities conducted within the expansion area pursuant to those programs shall be valid unless prohibited by regulations implementing Article IV. In addition, the Secretary may not under any circumstances issue a permit or authorization for exploring for, developing or producing oil, gas, or minerals within the Sanctuary.

Article VI. Alterations to This Designation

The terms of designation, as defined under section 304(a) of the Act, may be modified only by the same procedures by which the original designation is made, including public hearings, consultation with interested Federal, State, and local agencies, review by the appropriate Congressional committees, and approval by the Secretary of Commerce or designee.