

Comparison of Oil and Gas Restrictions in the Gulf of the Farallones and Monterey Bay National Marine Sanctuaries

[The following are excerpts, *for informational purposes only*, from the Gulf of the Farallones and Monterey Bay National Marine Sanctuary Designation Documents and regulations, and the Oceans Act of 1992. Please refer to the full text of these documents for complete information.]

I. Sanctuary Designation Document

1. Gulf of the Farallones NMS Designation Document – Article 4, *Scope of Regulations*, Section 1. *Activities Subject to Regulation* include “hydrocarbon operations”
2. Monterey Bay NMS Designation Document
 - Article IV, *Scope of Regulations*, Section 1. *Activities Subject to Regulation* include “Exploring for, developing or producing oil, gas or minerals (e.g., clay, stone, sand, metalliferous ores, gravel, non-metalliferous ores or any other solid material or other matter of commercial value) within the Sanctuary”
 - Article V, *Effect on Leases, Permits, Licenses and Rights*. “...In no event may the Secretary [of Commerce] or designee issue a permit authorizing, or otherwise approve: (1) The exploration for, development of or production of oil, gas or minerals within the Sanctuary . . . Any purported authorizations issued by other authorities after the effective date of Sanctuary designation for any of these activities within the Sanctuary shall be invalid.”

II. Sanctuary Regulations

1. Gulf of the Farallones NMS – 15 C.F.R. 922.82 *Prohibited or otherwise regulated activities*.
 - (a) Except as may be necessary for national defense...or to respond to an emergency threatening life, property or the environment, or except as may be permitted by the [Sanctuary Program] Director in accordance with [these regulations], the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within the Sanctuary:
 - (1) Exploring for, developing and producing oil or gas except that pipelines related to hydrocarbon operations outside the Sanctuary may be placed at a distance greater than 2NMS 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 [these regulations].

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(3) Except in connection with the laying of pipelines or construction of an outfall if certified in accordance with [these regulations]:

- (i) Constructing any structure other than a navigational aid,
- (ii) Drilling through the seabed, and
- (iii) Dredging or otherwise altering 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.

2. Monterey Bay NMS- Section 922.132 *Prohibited or Otherwise Regulated Activities*.

(a) Except as specified in paragraphs (b) through (f) of this section, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted:

(1) Exploring for, developing or producing oil, gas or minerals within the Sanctuary.

.....

(4) Drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the seabed of the Sanctuary, except as an incidental result of:

- (i) Anchoring vessels;
- (ii) Aquaculture, kelp harvesting or traditional fishing operations;
- (iii) Installation of navigation aids;
- (iv) Harbor maintenance in the areas necessarily associated with Federal Projects in existence on January 1, 1993, including dredging of entrance channels and repair, replacement or rehabilitation of breakwaters and jetties; or
- (v) Construction, repair, replacement or rehabilitation of docks or piers.

(f) Notwithstanding paragraphs (d) and (e) of this section [that allow for issuance of permits or authorizations], in no event may the [Sanctuary Program] Director issue a National Marine Sanctuary permit under Section 922.48 and Section 922.133 or a Special Use permit under section 310 of the Act authorizing, or otherwise approve: the exploration for, development or production of oil, gas or minerals within the Sanctuary...

III. Legislation – The Oceans Act of 1992 (Public Law 102-587, Nov. 4, 1992), among other things, reauthorized and amended the National Marine Sanctuaries Act. Other provisions of the Oceans Act addressed specific National Marine Sanctuaries.

1. Monterey Bay NMS –Section 2203 of the Oceans Act of 1992, *Monterey Bay National Marine Sanctuary*, provides, in pertinent part:

(a) ISSUANCE OF DESIGNATION NOTICE. -- Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)), the designation of the Monterey Bay National Marine Sanctuary (hereafter in this section the "Sanctuary"), as described in the notice of designation submitted to the Congress on September 15, 1992, shall take effect on September 18, 1992.

(b) OIL AND GAS ACTIVITIES PROHIBITED. -- Notwithstanding any other provision of law, no leasing, exploration, development, or production of oil or gas shall be permitted within the Sanctuary as provided by section 944.5 of the National Environmental Impact Statement and Management Plan for the Monterey Bay National Marine Sanctuary, published by the Department of Commerce in June 1992.

By these provisions, Congress expedited the effective date of the Sanctuary to September 13, 1992; and statutorily prohibited oil and gas activities within the Sanctuary.