

DEPARTMENT OF COMMERCE**NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION****15 CFR Part 922**

[Docket No. 000328088-0088-01]

RIN 0648-XA50

**Boundary Changes in the Flower
Garden Banks National Marine
Sanctuary; Addition of Stetson Bank
and Technical Corrections**

AGENCY: Marine Sanctuaries Division (MSD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is amending the regulations implementing the designation of the Flower Garden Banks National Marine Sanctuary (FGBNMS or Sanctuary) and its Management Plan (MP) to apply to a new area, popularly known as known as Stetson Bank, which was added to the Sanctuary by Section 8 of the National Marine Sanctuaries Act (NMSA). NOAA is also slightly adjusting the boundary of the new area to improve administrative efficiency, correcting an error in a boundary coordinate in the West Flower Garden Bank area of the Sanctuary, and increasing the precision of all boundary coordinates based on new positioning technology.

DATES: This rule is effective January 22, 2001.

ADDRESSES: Questions concerning the regulations for the Flower Garden Banks National Marine Sanctuary may be addressed to G.P. Schmahl, Manager, Flower Garden Banks National Marine Sanctuary, 216 W. 26th Street, Suite 104, Bryan, Texas, 77803.

FOR FURTHER INFORMATION CONTACT: Chris Ostrom, (301)713-3137, Extension 129.

SUPPLEMENTARY INFORMATION:**I. Background**

In response to requests from the sport diving industry and sport scuba divers from all over the United States to provide protection for a popular sport diving spot in the northwestern Gulf of Mexico Congress enacted Section 8 of the NMSA (P.L. 104-283), to include Stetson Bank in the boundaries of the FGBNMS.

The new area included within the Sanctuary boundaries is generally

defined in Section 8 as the area within the 52 meter isobath surrounding Stetson Bank. Section 8 authorizes the Secretary of Commerce to make minor adjustments to the statutory boundary as necessary to protect living coral resources or to simplify administration of the Flower Garden Banks National Marine Sanctuary, and to establish precisely the geographic boundaries of Stetson Bank. Section 8 states that such adjustments shall not significantly enlarge or otherwise alter the size of the new area, and shall not result in the restriction of oil and gas activities otherwise permitted outside of the no activity zone designated by the Minerals Management Service (MMS) of the Department of the Interior (DOI), for Stetson Bank (i.e., outside of the 52 meter isobath) as that zone is depicted on the MMS map entitled "Final Notice of Sale 161, Western Gulf Mexico, Biological Stipulation Map Package."

Section 8 also states that the new area shall be part of the FGBNMS and shall be managed and regulated as though it had been designated by the Secretary of Commerce under the National Marine Sanctuaries Act. Finally, Section 8 states that the regulations applicable to the Sanctuary prior to the incorporation of the new area within the Sanctuary boundary shall be applicable to the new area unless modified by the Secretary, and that the regulations shall apply to the area no later than November 25, 1996.

Section 8 further directed the Secretary of Commerce to prepare a chart depicting the boundaries of the Sanctuary as modified by the addition of the new area. In 1998, high resolution bathymetric data for the area around Stetson Bank was made available by the U.S. Geological Survey (USGS), of the Department of the Interior. The 52 meter isobath surrounding Stetson Bank has been determined using this USGS data. A chart depicting the 52 meter isobath, and the Sanctuary boundary around Stetson Bank, was provided to the House Resources Committee and the Senate Committee on Commerce, Science and Transportation in July of 1999.

A major activity in the area of Stetson Bank is offshore oil and gas leasing, development and production, which is regulated by the MMS of DOI. MMS has developed a grid system that subdivides the sea floor into 3 mile by 3 mile squares, called lease blocks, for the purpose of selling and managing oil and gas leases. For management purposes, the MMS subdivides lease blocks into 64 equal squares, known as "64ths", under a system known as the "1/4 1/4

1/4" system. "64ths" may be used, for example, to delineate no-activity zones around areas protected by biological stipulations imposed by MMS. The 52 meter isobath surrounding Stetson Bank, overlaid with the "64ths" grid system, is shown in Figure 1.

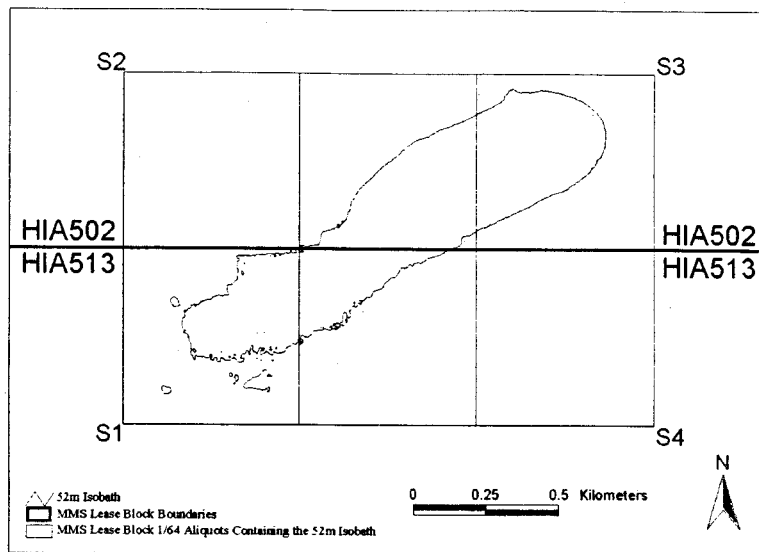
NOAA by this final rule is adjusting the area set forth in Section 8 of the NMSPA to consist of the six "64ths" squares that overlay the 52 meter isobath surrounding Stetson Bank (labeled as points S-1, S-2, S-3 and S-4 in Figure 1). Each of these "64ths" includes an area of 0.364 square kilometers, thus making the total area of the Stetson Bank addition 2.184 square kilometers. The exact coordinates of the boundary of this area are shown in Appendix A.

The use of "64ths" to determine the area and its corresponding boundary is convenient for MMS in managing oil and gas activities near the Sanctuary because the boundary lines of the Sanctuary correspond directly to lines used in MMS's grid system, and the area within the Sanctuary corresponds to a whole number of MMS grid units. The six "64ths" selected to be within the boundary create a rectangular shape which will be easier to distinguish than an irregular shape on the navigational charts produced by the NOS of NOAA. The rectangular shape, and the fact that the rectangle is closely aligned with the latitude and longitude lines on navigation charts, makes it easier for vessel navigators to know whether they are within the Sanctuary boundary.

Since the passage of the NMSPA, which references MMS maps and lease sale stipulations for OCS Lease Sale 161, MMS has conducted OCS Lease Sale 171 which has more accurate maps and lease stipulations for the Stetson Bank area. Therefore, the regulations refer to Lease Sale 171 (instead of Lease Sale 161 as directed in P.L. 104-283) for the geographic description of Stetson Bank and the lease stipulations that apply to Stetson Bank.

In reviewing the coordinates MMS used to delineate the boundaries of the East and West Flower Garden Banks, an error in one of the West Bank coordinates was discovered (at point W-10 in Appendix A). In addition, MMS has provided more accurate coordinate readings for each point in the boundary. This rule corrects and refines the boundaries of the East and West Flower Garden Banks using the more accurate coordinate readings, and sets forth the boundary coordinates for the Stetson Bank area of the Sanctuary.

Figure 1



Points S1, S2, S3, to S4 represent the area including Stetson Bank to be added to the Flower Garden Banks National Marine Sanctuary pursuant to P.L. 104-283.

Area Surrounding Stetson Bank To Be Added To The Flower Garden
Banks National Marine Sanctuary

(NAD 27)

Point	Latitude (N)	Longitude (W)
S-1.....	28 deg. 09'30.06738"	94 deg.18'31.34461"
S-2.....	28 deg.10'09.24374"	94 deg.18'29.57042"
S-3.....	28 deg.10'06.88036"	94 deg.17'23.26201"
S-4.....	28 deg. 09'27.70425"	94 deg.17'25.04315"

(NAD 83)

Point	Latitude (N)	Longitude (W)
S-1.....	28 deg. 09' 31.02671"	94 deg. 18' 31.98164"
S-2.....	28 deg. 10' 10.20196"	94 deg. 18' 30.20776"
S-3.....	28 deg. 10' 07.83821"	94 deg. 17' 23.89688"
S-4.....	28 deg. 09' 28.66320"	94 deg. 17' 25.67770"

II. Miscellaneous Rulemaking Requirements

National Marine Sanctuaries Act

Section 304(a)(4) of the National Marine Sanctuaries Act, 16 U.S.C. 1434(a)(4), provides that the terms of a designation may be modified only by the same procedures by which the original designation was made.

Designations of National Marine Sanctuaries are governed by sections 303 and 304 of the NMSA, 16 U.S.C. 1433, 1434. Section 8 of the NMSPA waives these requirements.

National Environmental Policy Act

NOAA has concluded that this regulatory action will not have a significant effect, individually or

cumulatively, on the human environment. Further, the action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with Section 6.05b.2 of NOAA Administrative Order 216-6. Specifically, this action is not likely to

result in significant impacts as defined in 40 CFR 1508.27.

The Stetson Bank area is already incorporated into the FGBNMS by law; this action is only to adjust the boundary to simplify the administration of the Sanctuary, and to establish precise geographic boundaries of Stetson Bank.

The Stetson Bank area added to the Sanctuary by Section 8 of the NMSPA (*i.e.*, the 52 meter isobath surrounding Stetson Bank) is small, as is the area after the boundary adjustment. The simple rectangular shape of the adjusted boundary fits the MMS grid system for managing oil and gas leasing and production activities, and it is relatively easy for navigators to know when their vessel is within the boundary. All the boundary alternatives considered are very small, thus there is no environmentally significant difference between them.

The new boundary is acceptable to NOAA, MMS, representatives of the sport diving and oil and gas industries that were involved in the Stetson Bank addition to FGBNMS, and was submitted to the House Resources Committee and Senate Commerce Committee several months prior to publication here and has received no negative response prior to publication in the **Federal Register**.

Executive Order 12866: Regulatory Impact

This action has been determined to be not significant for the purpose of Executive Order 12866.

Regulatory Flexibility Act

Because prior notice and opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

Administrative Procedures Act

The Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA, has determined that under 5 U.S.C. 553(b)(B), there is good cause to waive the requirement for prior notice and public comment because public comment would serve no useful purpose and is therefore unnecessary. NOAA has held meetings with the MMS and reached agreement with MMS on the boundary of the Stetson Bank area of the FGBNMS. NOAA has also consulted affected stakeholders such as the oils and gas industry, commercial and sport fishing

industries, and sport diving industry, who also have no objection to the boundary adjustment.

Paperwork Reduction Act

This rule does not contain any collection of information requirements subject to the Paperwork Reduction Act.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: December 15, 2000.

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is amended as follows:

PART 922—[AMENDED]

1. The authority citation for Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart L—Flower Garden Banks National Marine Sanctuary

2. Section 922.120, Boundary, is revised to read as follows:

§ 922.120 Boundary.

The Flower Garden Banks National Marine Sanctuary (the Sanctuary) consists of three separate areas of ocean waters over and surrounding the East and West Flower Garden Banks and Stetson Bank, and the submerged lands thereunder including the Banks, in the northwestern Gulf of Mexico. The area designated at the East Bank is located approximately 120 nautical miles (nmi) south-southwest of Cameron, Louisiana, and encompasses 19.20 nmi². The area designated at the West Bank is located approximately 110 nmi southeast of Galveston, Texas, and encompasses 22.50 nmi². The area designated at Stetson Bank is located approximately 70 nmi southeast of Galveston, Texas, and encompasses 0.64 nmi². The three areas encompass a total of 42.34 nmi² (145.09 square kilometers). The boundary coordinates for each area are listed in appendix A to this subpart.

3. Section 922.121, Definitions, is revised to read as follows:

§ 922.121 Definitions.

In addition to those definitions found at § 922.3, the following definition applies to this subpart:

No-activity zone means the two geographic areas delineated by the Department of the Interior in stipulations for OCS lease sale 112 over and surrounding the East and West Flower Garden Banks, and the geographic area delineated by the Department of the Interior in stipulations for OCS lease sale 171 over and surrounding Stetson Bank, as areas in which activities associated with exploration for, development of, or production of hydrocarbons are prohibited. The precise aliquot part description of these areas around the East and West Flower Garden Banks are provided in appendix B of this subpart; the no-activity zone around Stetson Bank is defined as the 52 meter isobath. These particular aliquot part descriptions for the East and West Flower Garden Banks, and the 52 meter isobath around Stetson Bank, define the geographic scope of the “no-activity zones” for purposes of the regulations in this subpart. The descriptions for the East and West Flower Garden Banks no-activity zones are based on the “ $\frac{1}{4}$ $\frac{1}{4}$ ” system formerly used by the Department of the Interior, a method that delineates a specific portion of a block rather than the actual underlying isobath.

4. Section 922.123, Permit procedures and criteria, is amended by revising paragraph (b) as follows:

§ 922.123 Permit procedures and criteria.

(b) Applications for such permits should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Manager, Flower Garden Banks National Marine Sanctuary, 216 West 26th Street, Suite 104, Bryan, TX 77803.

5. Appendix A to subpart L of part 922, Flower Garden Banks National Marine Sanctuary Boundary Coordinates, is revised to read as follows:

Appendix A to Subpart L of Part 922—Flower Garden Banks National Marine Sanctuary Boundary Coordinates

This appendix contains a second set of boundary coordinates using the geographic positions of the North American Datum of 1983 (NAD 83). FGBNMS coordinates are now provided in both North American Datum of 1927 (NAD 27) and NAD 83.

Point	Latitude (N)	Longitude (W)
East Flower Garden Bank: (NAD 27)		
E-1	27 deg. 52' 53.82718"	93 deg. 37' 41.30310"
E-2	27 deg. 53' 34.83434"	93 deg. 38' 23.35445"
E-3	27 deg. 55' 13.64286"	93 deg. 38' 40.34368"
E-4	27 deg. 57' 30.71927"	93 deg. 38' 33.26982"
E-5	27 deg. 58' 27.66896"	93 deg. 37' 46.12447"
E-6	27 deg. 59' 01.41554"	93 deg. 35' 31.74954"
E-7	27 deg. 59' 00.50888"	93 deg. 35' 09.69198"
E-8	27 deg. 55' 22.38258"	93 deg. 34' 14.79162"
E-9	27 deg. 54' 04.05605"	93 deg. 34' 18.88720"
E-10	27 deg. 53' 26.70972"	93 deg. 35' 05.00978"
E-11	27 deg. 52' 52.06998"	93 deg. 36' 57.23078"
West Flower Garden Bank: (NAD 27)		
W-1	27 deg. 49' 10.16324"	93 deg. 50' 45.27154"
W-2	27 deg. 50' 12.35976"	93 deg. 52' 10.47158"
W-3	27 deg. 51' 12.82777"	93 deg. 52' 51.63488"
W-4	27 deg. 51' 32.41145"	93 deg. 52' 50.66983"
W-5	27 deg. 52' 49.88791"	93 deg. 52' 24.77053"
W-6	27 deg. 55' 00.93450"	93 deg. 49' 43.68090"
W-7	27 deg. 54' 58.33040"	93 deg. 48' 37.54501"
W-8	27 deg. 54' 35.26067"	93 deg. 47' 10.34866"
W-9	27 deg. 54' 14.80334"	93 deg. 46' 49.28963"
W-10	27 deg. 53' 35.63704"	93 deg. 46' 51.25825"
W-11	27 deg. 52' 57.34474"	93 deg. 47' 15.26428"
W-12	27 deg. 50' 40.26361"	93 deg. 47' 22.14179"
W-13	27 deg. 49' 10.89894"	93 deg. 48' 42.72307"
Stetson Bank: (NAD 27)		
S-1	28 deg. 09' 30.06738"	94 deg. 18' 31.34461"
S-2	28 deg. 10' 09.24374"	94 deg. 18' 29.57042"
S-3	28 deg. 10' 06.88036"	94 deg. 17' 23.26201"
S-4	28 deg. 09' 27.70425"	94 deg. 17' 25.04315"
East Flower Garden Bank: (NAD 83)		
E-1	27 deg. 52' 54.84288"	93 deg. 37' 41.84187"
E-2	27 deg. 53' 35.80428"	93 deg. 38' 23.89520"
E-3	27 deg. 55' 14.61048"	93 deg. 38' 40.88638"
E-4	27 deg. 57' 31.68349"	93 deg. 38' 33.81421"
E-5	27 deg. 58' 28.63153"	93 deg. 37' 46.66809"
E-6	27 deg. 59' 02.37658"	93 deg. 35' 32.28918"
E-7	27 deg. 59' 01.46983"	93 deg. 35' 10.23088"
E-8	27 deg. 55' 23.34849"	93 deg. 34' 15.32560"
E-9	27 deg. 54' 05.02387"	93 deg. 34' 19.42020"
E-10	27 deg. 53' 27.67871"	93 deg. 35' 05.54379"
E-11	27 deg. 52' 53.04047"	93 deg. 36' 57.76805"
West Flower Garden Bank: (NAD 83)		
W-1	27 deg. 49' 11.14452"	93 deg. 50' 45.83401"
W-2	27 deg. 50' 13.34001"	93 deg. 52' 11.03791"
W-3	27 deg. 51' 13.80672"	93 deg. 52' 52.20349"
W-4	27 deg. 51' 33.38988"	93 deg. 52' 51.23867"
W-5	27 deg. 52' 50.86415"	93 deg. 52' 25.33954"
W-6	27 deg. 55' 01.90633"	93 deg. 49' 44.24605"
W-7	27 deg. 54' 59.30189"	93 deg. 48' 38.10780"
W-8	27 deg. 54' 36.23221"	93 deg. 47' 10.90806"
W-9	27 deg. 54' 15.77527"	93 deg. 46' 49.84801"
W-10	27 deg. 53' 36.60997"	93 deg. 46' 51.81616"
W-11	27 deg. 52' 58.31880"	93 deg. 47' 15.82251"
W-12	27 deg. 50' 41.24120"	93 deg. 47' 22.69837"
W-13	27 deg. 49' 11.87936"	93 deg. 48' 43.28125"
Stetson Bank: (NAD 83)		
S-1	28 deg. 09' 31.02671"	94 deg. 18' 31.98164"
S-2	28 deg. 10' 10.20196"	94 deg. 18' 30.20776"
S-3	28 deg. 10' 07.83821"	94 deg. 17' 23.89688"

Point	Latitude (N)	Longitude (W)
S-4	28 deg. 09' 28.66320"	94 deg. 17' 25.67770"

6. Appendix B to subpart L of part 922, Coordinates for the Department of the Interior Topographic Lease Stipulations for OCS Lease Sale 171, is revised to read as follows:

**Appendix B to Subpart L of Part 922—
Coordinates for the Department of the
Interior Topographic Lease Stipulations
for OCS Lease Sale 171**

**Aliquot Part Description of Biological
Stipulation Area East Garden Bank**

*Block A-366 Texas Leasing Map No. 7C
(High Island Area East Addition South
Extension)*

SE¹/₄, SW¹/₄; S¹/₂, NE¹/₄, SE¹/₄; SE¹/₄, NW¹/₄,
SE¹/₄; S¹/₂, SE¹/₄.

Block A-376

W¹/₂, NW¹/₄, SW¹/₄; SW¹/₄, SW¹/₄, SW¹/₄.

Block A-374

W¹/₂, NW¹/₄, NW¹/₄; W¹/₂, SW¹/₄, NW¹/₄; SE¹/₄,
SW¹/₄, NW¹/₄; SW¹/₄,
NE¹/₄, SW¹/₄, W¹/₂, SW¹/₄; W¹/₂, SE¹/₄, SW¹/₄;
SE¹/₄, SE¹/₄, SW¹/₄.

Block A-375

E¹/₂; E¹/₂, NW¹/₄; E¹/₂, NW¹/₄, NW¹/₄; SW¹/₄,
NW¹/₄, NW¹/₄; E¹/₂,
SW¹/₄, NW¹/₄; NW¹/₄, SW¹/₄, NW¹/₄; SW¹/₄.

Block A-388

NE¹/₄; E¹/₂, NW¹/₄; E¹/₂, NW¹/₄, NW¹/₄; NE¹/₄,
SW¹/₄, NW¹/₄; E¹/₂,
NE¹/₄, SW¹/₄; NW¹/₄, NE¹/₄, SW¹/₄; NE¹/₄,
NW¹/₄, SW¹/₄; NE¹/₄,
SE¹/₄, SW¹/₄, NE¹/₄; NE¹/₄, NE¹/₄, SE¹/₄; W¹/₂,
NE¹/₄, SE¹/₄; NW¹/₄,

Block A-389

NE¹/₄, NW¹/₄; NW¹/₄, NW¹/₄; SW¹/₄, NW¹/₄;
NE¹/₄, SE¹/₄, NW¹/₄; W¹/₂,
SE¹/₄, NW¹/₄; N¹/₂, NW¹/₄, SW¹/₄.

**Aliquot Part Description of Biological
Stipulation Area West Garden Bank**

*Block A-383 Texas Leasing Map No. 7C
(High Island Area East Addition South
Extension)*

E¹/₂, SE¹/₄, SE¹/₄; SW¹/₄, SE¹/₄, SE¹/₄.

Block A-384

W¹/₂, SW¹/₄, NE¹/₄; SE¹/₄, SW¹/₄, NE¹/₄; S¹/₂,
SE¹/₄, NE¹/₄;
SE¹/₄, NW¹/₄; E¹/₂, SW¹/₄; E¹/₂, NW¹/₄, SW¹/₄,
SW¹/₄, NW¹/₄,
SW¹/₄; SW¹/₄, SW¹/₄; SE¹/₄.

Block A-385

SW¹/₄, SW¹/₄, NW¹/₄; NW¹/₄, SW¹/₄; NW¹/₄,
SW¹/₄, SW¹/₄.

Block A-397

W¹/₂, W¹/₂, NW¹/₄; W¹/₂, NW¹/₄, SW¹/₄; NW¹/₄;
SW¹/₄, SW¹/₄.

Block A-398

Entire block.

Block A-399

E¹/₂, SE¹/₄, NE¹/₄, NW¹/₄; E¹/₂, SE¹/₄, NW¹/₄;
E¹/₂, NE¹/₄, SW¹/₄;
SW¹/₄, NE¹/₄, SW¹/₄; NE¹/₄, SE¹/₄, SW¹/₄.

Block A-401

NE¹/₄, NE¹/₄; N¹/₂, NW¹/₄, NE¹/₄; NE¹/₄, SE¹/₄,
NE¹/₄.

*Block 134 Official Protraction Diagram
NG15-02 (Garden Banks)*

That portion of the block north of a line connecting a point on the east boundary of Block 134, X=1,378,080.00', Y=10,096,183.00', with a point on the west boundary of Block 134, X=1,367,079,385', Y=10,096,183.000', defined under the Universal Transverse Mercator grid system.

*Block 135 Official Protraction Diagram
NG15-02 (Garden Banks)*

That portion of the block northwest of a line connecting the southeast corner of Texas Leasing Map No. 7C, Block A-398, X=1,383,293.840', Y=10,103,281.930', with a point on the west boundary of Official Protraction Diagram NG15-02, Block 135, X=1,378,080.000', Y=10,096,183.000', defined under the Universal Transverse Mercator grid system.

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