

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Subtitle A

Federal Flood Insurance Prohibition for Undeveloped Coastal Barriers; Proposed Identification

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed action—proposed substantive and procedural standards for the designation of undeveloped coastal barriers; proposed "Definitions and Delineation Criteria" and proposed designations.

SUMMARY: Under the provisions of Section 1321 of the National Flood Insurance Act of 1968, as added by Part 4, section 341, of the Omnibus Budget Reconciliation Act of August 13, 1981, the Secretary of the Interior is required to designate undeveloped coastal barriers. These designations will eliminate new National Flood Insurance coverage on or after October 1, 1983, for any new construction or substantial improvements of structures located on these undeveloped coastal barriers.

This proposed rule makes available *substantive* and *procedural* standards for the designation of undeveloped coastal barriers. This document explains the procedural standards being followed for the proposed designations and provides the substantive standards being utilized for such designations. Consistent with these proposed standards, a listing of proposed designations is also provided and proposed maps depicting these areas made available. Public review and comment is solicited on each of these elements including the maps specifically depicting the proposed designations.

As with the previous draft definitions and draft maps provided on January 15 and May 21, 1982, for public review and comment—47 FR 2381, 47 FR 22231—this release provides both the proposed definitions and the proposed designations at the same time. This process has been adopted to provide the public with a meaningful comment period on both proposals. It is exceedingly difficult to understand the impact of these definitions without also seeing how they would be applied on the ground. By incorporating both steps together, the public will have a more realistic opportunity to comment on the Department's proposed course of action. Finally, to place this entire process in context, the procedures that the Department intends to follow in meeting its designation responsibilities have also been included and comments requested.

DATE: Comments should be received no later than November 13, 1982.

ADDRESS: Mr. Ric Davidge, Chairman; Coastal Barriers Task Force; United States Department of the Interior, Room 3148, Main Interior Building, 18th & C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lanzone, Manager, Coastal Barriers Task Force; United States Department of the Interior, Room 3149, Main Interior Building, 18th & C Street NW., Washington, D.C. 20240. (202) 343-4905.

SUPPLEMENTARY INFORMATION: (1) This proposed action has been determined to be in the nature of a rulemaking. Accordingly, the document is drafted in the nature of a proposed rulemaking (and referred to as a proposed rulemaking) consistent with the Departmental Manual provisions relating to rulemaking, 316 DM 1-10, requirements and the Administrative Procedure Act. It has also been determined, however, that designation of undeveloped coastal barriers pursuant to the Reconciliation Act is a one-time action by the Department of the Interior and that, accordingly, the codification of this process or the results thereof in the Code of Federal Regulations is not anticipated. It is for this reason that notice of this proposed action, and the opportunity for public review and comment, has not been provided as a proposed Code of Federal Regulations document.

(2) *Prior releases.* This proposal is the culmination of an intensive one year effort to develop a proposed action to implement the flood insurance provisions of the Reconciliation Act. It parallels the independent submission to the Congress of these proposed designations as well as a report on the "findings and conclusions" of the study upon which the proposed designations are based, as required by the Reconciliation Act. This effort has been chronicled by information provided to the public through *Federal Register* announcements. These releases should be reviewed for supplementary and background information. See, Notice of Intent to issue proposed rule, 46 FR 56346, December 1, 1981; Proposed rule; amendment, 46 FR 60022, December 8, 1981; Notice of Availability of Draft Document, 47 FR 2382, January 15, 1982; Notice of Availability of Draft Environmental Impact Statement and Additional Draft Maps, 47 FR 22231, May 21, 1982; Update of Notice of Intent to issue proposed rule, published in this issue of the *Federal Register*.

(3) *Delegation of Secretarial Authority.* The Secretary of the Interior

has delegated to the Assistant Secretary for Fish and Wildlife and Parks his authority to direct and coordinate the implementation of the undeveloped coastal barrier provisions of the Reconciliation Act. This responsibility is being managed through the Coastal Barrier Task Force.

(4) *Environmental Effects.* As indicated previously, a Draft Environmental Impact Statement (DEIS) was issued on May 21, 1982, with regard to the proposed designation of undeveloped coastal barriers in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321, *et seq.*). The designations proposed herein are within the range of alternatives considered by that DEIS and generally consistent with the preferred alternative provided therein. Based upon the DEIS, and the range of comments received on it, it has been determined that this action will constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969. A Final Environmental Impact Statement will be prepared preceding the final designation of undeveloped coastal barriers. A copy of the DEIS as issued on May 21, 1982, 47 FR 22071, may be obtained through the Addresses section of this preamble.

(5) *Statement of Effects.* The Department of the Interior has determined that this document is not a major rule under E.O. 12291, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A copy of the combined document supporting these determinations may be obtained through the Addresses section of this preamble.

(a) The practical effect of the rule will be to transfer the risks of flood damage in the designated areas from the Federal government back to the private sector, i.e., the landowner, developer or insurance industry, in essence returning to the conditions that existed prior to the enactment of the NFIA in 1968.

It is important to reiterate that designation pursuant to the Act does not preclude development of coastal property: designation will affect, i.e. prevent, only the sale of new Federal flood insurance for new construction of or substantial improvements to structures in those specific areas after October 1, 1983. Lending institutions will be able to finance construction on the designated barriers. Other Federal programs in the designated areas remain constant. For example, despite the fact

that flood insurance will be denied in designated areas, the Federal government can continue to offer disaster relief assistance in those areas in the event of a major storm or hurricane. This assistance, however, is typically in the form of a loan which must be repaid, unlike an insurance claim paid under the NFIP.

Homeowners' insurance coverage, available through private insurers, which has traditionally covered liability for fire, theft and wind damage but not flood damage, should continue to be available on undeveloped coastal barriers. Other forms of insurance contracts, such as insurance for crop loss, marine cargo, and personal liability, should not be affected by this rule. In addition, the private insurance industry will be provided a market and may begin to provide coverage for flood damage. Finally, a landowner's liability may be decreased to the extent that the casualty loss provisions of the Internal Revenue Code would apply in the event of a storm loss.

There are 285 square miles of fastland on undeveloped coastal barriers along the Atlantic and Gulf Coasts. For the purposes of analysis, it has been assumed that if development in this area continued without any change or interruption, e.g., as if the Act had not been passed, it would be proportional to that which has taken place on the developable V-zone land since Federal flood insurance became available.

Given the parameters of the specific analytic assumptions outlined in the Determination of Effects, including a 10% discount rate (as prescribed in OMB Circular A-94), 1982 dollars and a gross annual growth rate of structures of about 24%, the annualized discounted value of the foregone development is approximately:

- \$15 million in 5 years.
- \$19 million in 10 years.
- \$31 million in 15 years.
- \$50 million in 20 years.

Therefore, because the gross annual economic effects under a "worst-case" analysis will not exceed \$100 million and because coastal barriers have historically been developed with or without Federal flood insurance, indicating that development opportunities should not be dramatically precluded by this rule, it is determined that this is not a major rule.

(b) 79 of the 1138 counties within the 18 Atlantic and Gulf Coast states will be affected by the proposed rule. This represents 6.9% of the Atlantic and Gulf Coast total counties, and is based on the draft delineations released for public review and comment on January 15, 1982. Of the 159 maps released at that

time, 72 were commented on by the public.

The potential economic growth of some of the local communities containing designated undeveloped coastal barriers may be reduced under the proposed rule if the designated coastal barrier provides a significant percentage of the overall tax base of the community. The amount of employment, market stimulation and tax revenue foregone will be greatest in areas where property values are high, development pressure is great, and a major portion of the designated land is stable and suitable for development. These conditions apply primarily to units along the coasts of North Carolina, South Carolina, Florida's Gulf Coast and Texas. The impacts of foregone development will be much lower in places where local and state regulations severely constrain development, and/or where most remaining undeveloped coastal barriers are unsuitable for development. On or both of these conditions apply to most of the coastal barriers in the New England States, New York, New Jersey, Georgia, and Louisiana.

The proposed rule may result in foregone employment and stimulation of local markets due to a decrease in construction activity and the economic development of the coastal barriers themselves. Some of these foregone economic benefits will be counterbalanced by increased employment in developed and developing coastal barriers not proposed for designation. Additionally, the continued maintenance of aquatic habitat would reduce development-related losses for the fish and shellfish industries, which depend on the perpetuation of natural coastal barrier ecosystems for sustaining productivity. Further, the occurrence of a catastrophic storm could readily obliterate economic benefits associated with development and cause the barrier to become a significant drain upon the community's resources for many years.

Limited short-term stimulation of local construction industries and related markets should result as developers accelerate construction schedules to have structures started by October 1, 1983, the cut-off date for purchasing Federal flood insurance on the designated undeveloped coastal barriers. Following that date, the significance and duration of any decline in economic growth will depend on the nature and timing of private sector actions to provide flood insurance and development financing.

Further, as stated in greater detail in the economic analysis, development has

occurred in coastal areas for many years longer than Federal flood insurance has been available. Other Federal programs that may affect development remain constant in these areas under this Act. Small business loans, for instance, are not affected by the statutory language of the Act. Nor does the statute affect an individual's right to develop in those areas designated as undeveloped coastal barriers. It only restricts the sale of Federal flood insurance in the designated areas. This rule will, in effect, return to conditions that existed prior to 1968 by transferring most of the risk of flood damage associated with coastal development to the private sector.

Therefore, it is determined that this rule will not have a significant economic effect on a substantial number of small entities.

(6) *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

(7) *Authorship Statement.* This document has been prepared by the Coastal Barriers Task Force within the Department of the Interior. The Chairman of the Task Force is Mr. Ric Davidge, Office of the Assistant Secretary for Fish and Wildlife and Parks.

(8) *Maps.* This proposal provides a listing of proposed designations by State, unit name, and unit number and refers to a more precise description of these proposed designations as depicted on a series of maps available through the U.S. Geological Survey. The reference to these maps is necessitated by the sheer bulk of these maps and by the difficulty of printing them through the *Federal Register* in a readable format. The proposed "Definition and Delineation Criteria" are the substantive standards for these proposed designations. They have been included as an Appendix to this document. Maps may be obtained through the U.S. Geological survey as provided by the attached order blank. A copy the proposed "Definition and Delineation Criteria" will also be included with each order. It has been determined by the Department of the Interior that these proposed maps will be reasonably available in the manner provided herein.

(9) *Identification of Issues.* By and large, the Reconciliation Act mandate for the Secretary of the Interior to designate undeveloped coastal barriers is clear and direct. To be designated, an area must be both a "coastal barrier" and "undeveloped" as further provided in the Appendix. There are, however,

several issues that merit attention because they are not immediately obvious but are important to this process.

The first issue concerns the date that should be used to establish the development status of coastal barriers. This issue was subject to extensive discussion in the Department's original Notice of Intent to issue a proposed rule, as published on December 1, 1981, 46 FR 58346. At that time it was determined—and the public was notified—that the *proposed* designations would be based upon a March 15, 1982 status on-the-ground date. This conclusion has not changed. Unlike the earlier notice, however, the Department no longer proposes to consider other dates with regard to the *final* designation and specifically encourages comment on this issue.

The second issue concerns notice and public participation. As indicated above, the events leading to this proposed action have been extensively publicized. In addition to the *Federal Register* releases, the Department has written to the Governors of the affected States and to concerned Members of Congress about this process at each major step and has also provided detailed draft information for their consideration on two specific occasions.

Intergovernmental review was requested pursuant to letters from the Secretary of the Interior dated December 9 or 10, 1981, and once again at the end of June of 1982. These intergovernmental review letters also encouraged public participation and all comments that were received as a result of these intergovernmental coordination efforts have been carefully considered. Once again at this stage, notice and an opportunity for meaningful public participation have been carefully considered and provided.

The third issue concerns the relationship of this proposed action to the Coastal Zone Management Act (CZMA). Section 307(c)(1) of that Act requires that Federal actions be consistent with approved Coastal Zone Management Plans. This provision is as follows:

Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

The issue centers upon the relationship between the requirements of the Reconciliation Act to designate undeveloped coastal barriers and the consistency provisions of the Coastal Zone Management Act. Throughout the

majority of the extensive opportunity for participation, as indicated above, the various States had not expressed a concern about this issue. Very recent comments would suggest, however, that this may now be an issue with some States or local jurisdictions. Accordingly, the Department is now preparing individual letters to be provided to each State with an approved CZMA plan concerning this factor. A minimum of ninety days will be provided for State review before final Federal action will take place by this Department.

The fourth issue concerns "phased development". As with the January 15, 1982 draft definitions, the phased development concept remains in this proposal. The rationale of this concept was discussed in detail—as a part of a larger discussion concerning the meaning of the term "undeveloped" in the Reconciliation Act—in a hearing on February 3, 1982, before the Senate Committee on Environment and Public Works, Subcommittee on Environmental Pollution, with regard to the Department's January 15, 1982 draft definitions. At that time, the Chairman of the Coastal Barriers Task Force testified as follows:

Further elaboration of the concept of "undeveloped" has been of threshold concern to us. Initially, there was a question of whether permits, approved development plans, or other legal indicators of an intent to develop should be considered as constituting "structures" or "man's activities" within the meaning of the statute. Neither the specific language of P.L. 97-35, nor its legislative history, support reliance on any development that is not visible on the ground. The existence of a legal right to develop is simply not addressed in the Act. Accordingly, for purposes of these draft definitions and draft maps we have concluded that Congress, in enacting the Reconciliation Act, did not intend us to consider such documentary evidences of future development. In lieu, Congress provided a delay in the date for terminating the availability of Federal flood insurance until October 1, 1983, as a means of dealing with ongoing projects. A developer with the legal right to develop can do so before that date and still be eligible for Federal flood insurance coverage.

In the context of the statutory definition, the use of the term "structure" clearly refers to a building with walls and a roof. In general, we have used a density threshold of more than one structure per five acres of fastland to categorize a coastal barrier as developed. This standard is cited in the legislative history and has been used in previous Interior Department delineations. From experience we know that the number of structures and the associated levels of human activity at densities greater than this threshold tend to interfere with the natural processes which build and maintain coastal barriers.

In addition, however, the legislative history of this provision also contemplated that the actual existence of "infrastructure"—a concept we have defined to mean access to each lot or building site plus the reasonable availability of some combination of utilities and services—would serve in lieu of the actual existence of structures themselves.

As a basic rule, the application of the "structure" and "infrastructure" concepts have been applied to each discrete segment of a coastal barrier unit. In our draft definitions, discrete segments have been defined as areas that are set off by natural breaks or by intervening areas that are otherwise protected or clearly developed.

There is one exception to this concept, applicable to large single ownerships that are in the process of being developed under a phased development plan. We have not created a new discrete segment at the edge of a clearly developed area in those cases where: (1) Initial construction has been completed on at least the first phase of such a large project involving 100 or more building sites being developed by one entity; and (2) phasing of development has been publicly documented from the outset of the project. Instead, the remaining portion of that single ownership has been considered an integral part of the development.

There are three reasons for this approach. First, it was the practice in a previous delineation of undeveloped coastal barriers. Second, it is not inconsistent with the statute and follows the intent of Congress to provide a transition period for development. Finally, because the edge of a developed area typically represents a break in ownership and a break in the linkage between developed and undeveloped areas, the use of the edge of clearly developed areas to determine discrete segments is a pragmatic and practicable approach. In the phased development situation this is no true; there is no break in ownership at the edge of an area that has been developed. Rather, there is a large remaining portion of that ownership that has been planned for development on a phased timetable.

The phased development concept is not based upon permits or legal rights that these projects may or may not have, but merely on the size of the project and the expectation from its outset, well prior to passage of the Reconciliation Act, that the entire project could be completed as planned. As a practical matter, this criterion applies to just three coastal barriers involving only about 2,000 acres, compared to the more than 700,000 acres encompassed by our draft maps.

This explanation remains applicable to the proposed definitions. It is true, however, that with the proposed designations the number of areas impacted by this concept has expanded to 10 areas and that the Department remains concerned about the application of this concept in a fair and evenhanded manner. The actual on-the-ground relationship between phases substantially completed and phases planned may be a key element.

Measures to ensure the actual existence of this interrelationship on-the-ground remain under consideration. Once again, specific comments are invited on this difficult issue.

The fifth issue concerns coastal barriers located within "embayments". Both the proposed definitions and the proposed designations now recognize coastal barriers located within embayment areas that are directly subject to wind, wave, and tidal energy of oceanic origin to be within the purview of the Reconciliation Act. Ten new units have been proposed for designation based upon this criteria.

Based upon the January 15, 1982 draft definitions, representatives of five Northeastern states and others have recommended quite a few areas located in embayments be designated as coastal barriers. The State of Massachusetts has also addressed the issue of embayments directly.

These concerns have been carefully considered. The proposed definitions and proposed designations are based upon the Department's finding that exposure to significant levels of wave energy originating in the Atlantic Ocean or Gulf of Mexico should be the principal criterion for determining whether an area should be considered a coastal barrier rather than its location in relation to embayments.

Sections of coastline referred to as bays or sounds based on historic usage do not necessarily fit the classic perception, let alone the technical use, of these terms. Many were named by the first European explorers, individuals with diverse backgrounds and traditions, based on their initial impressions and incomplete information rather than on technical criteria and as part of an orderly process. Hence, little reliance can be placed on names of coastal features to distinguish embayments from the true coastline. Some open coastline areas are called bays and some very restricted areas are given other names. While the scientific/technical definitions of these terms are fairly precise, their applications would still result in major segments of coast containing features almost universally recognized as coastal barriers which are subject to significant sea energies being considered as bays.

Under the present proposal, coastal barriers are presently being delineated, consistent with the OBRA definition, only if they are subject to sea (i.e., wave, energy originating in the Atlantic Ocean or the Gulf of Mexico. This requirement precludes the inclusion of barriers in closed bays. The entrances to " * * * large embayments * * *" such as Chesapeake Bay * * *" referenced in

the proposed definitions document are small in relation to the total extent of these vast bodies of water. Hence, virtually all the wave energy responsible for creating and/or maintaining any coastal barrier-like features in these large embayments is probably generated internally. It was for this reason that coastal barriers in these large, closed embayments were excluded in the draft definitions document released in January. This is consistent with the legislative history on this point. There has been no change in this practice; coastal barrier-like areas within embayments not subject to direct sea energy have not been proposed for inclusion.

Conversely, coastal barrier-like features that are the product of wave energies originating at sea have been proposed for inclusion even if they are located in a bay. The embayed coast of Maine is a good example. In this situation, sea energy has ready access to and usually dominates these bays through their comparatively large, open entrances. Such wave energy can often penetrate a considerable distance into such bays if not obstructed by numerous islands or a change in orientation of the bay. In fact, as the recent State of Massachusetts comments point out, there may even be an increase in sea energy. Sea energy may be concentrated on a smaller area when constricted by the narrowing bay.

The difficult question, however, concerns how far into such open bays sea energy of sufficient magnitude to create and maintain coastal barriers extends. As with the basic definition of coastal barriers themselves, this question can only be answered with on-site evidence. A linear mound of unconsolidated sediment indicates a significant level of sea energy impinges on that site. The nature of the aquatic system seaward of the coastal barrier-like feature also provides some indication of whether significant sea energy is reaching the barrier feature. Deep, open water probably facilitates penetration of sea energy. On the other hand, emergent vegetation seaward of the fastland portion of the barrier clearly indicates that little, if any, sea energy reaches the fastland. Subtidal shoaling and tidal flats would not preclude the penetration of waves generated at sea, particularly under storm conditions. The configuration of the bay, including the islands in it, and its orientation with respect to prevailing and storm winds also influence the magnitude and distance that sea energy penetrates the bay. For instance, an abrupt narrowing or change in direction

of a bay may be sufficient to exclude most, if not all, sea energy.

In addressing the embayments issue for this proposal, physical location of a coastal barrier has not been the key criterion. Instead, a significant level of sea energy impinging on an area, including one located in an open bay, has been the primary consideration. This still precludes the inclusion of barriers located in large, closed embayments where wave energy is, for the most part, generated internally, e.g., Chesapeake Bay. Areas located in open bays that otherwise qualify as coastal barriers have been proposed to be designated. Such an approach is also consistent with the Congressional intent that areas proposed for designation as undeveloped coastal barriers be subject to wave energy from the Atlantic Ocean or Gulf of Mexico.

The final issue concerns the "delineation of a rearward, or landward, line on the proposed designations. The establishment of a rearward boundary for each undeveloped coastal barrier unit is discussed in detail in the "Definitions and Delineation Criteria". It is also a subject of some concern in the Report being provided separately to the Congress. The issue is whether these rearward lines properly include all "associated aquatic habitat" as directed by the Reconciliation Act. Numerous comments have been received concerning the "associated aquatic habitat" requirement. Specific comment on this issue is encouraged.

(10) *Public Participation.* The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule to the individual and location identified in the Addresses section of this preamble and below. Comments must be received on or before November 13, 1982.

(11) *Identification of Subjects.* An identification of subjects is not necessary because this proposed document is not designed to be codified in the Code of Federal Regulations. Under the Reconciliation Act, the designation of undeveloped coastal barriers is a one-time action that will be completed with final designation.

It is proposed that the Department of the Interior will designate undeveloped coastal barriers as provided by Section 1321 of the National Flood Insurance Act of 1968 consistent with the following procedural and substantive standards. Consistent with these standards it is also proposed that the hereinafter listed

series of areas, as precisely depicted on the maps referred to herein, shall be designated as undeveloped coastal barriers. Because this action of designating undeveloped coastal barriers under the Reconciliation Act is a one-time process, it is not proposed to codify this proposed course of action in the Code of Federal Regulations.

Part I—Process of Designation—Procedural Standards

Part II—Proposed "Definitions and Delineation Criteria", substantive standards, Appendix A

Part III—Proposed Designations—Listing and Availability of Specific Maps, Appendix B.

(Sec. 1321 of the National Flood Insurance Act of 1968, as added by Part 4, section 341, of the Omnibus Budget Reconciliation Act of August 13, 1981)

Part I—Process of Designation—Procedural Standards

The Department of the Interior has determined that the designation of undeveloped coastal barriers as required by the Reconciliation Act is in the nature of a rulemaking (but not an adjudication) consistent with the Administrative Procedure Act and 318 DM 1-10 of the Departmental Manual as approved on June 30, 1982. Accordingly, the procedural standards discussed by that Departmental Manual release, as further articulated by this proposal, will be implemented as follows:

(1) Final designation of undeveloped coastal barriers is being preceded by notice and an opportunity for public comment on a proposed action through this publication in the Federal Register. This includes both proposed designations and the substantive standards that are being applied in developing such proposed designations. A general listing of the proposed designations has been included; specially printed U.S. Geological Survey maps delineating these proposed designations in specific detail are being made available for purchase as further provided herein. Notice and opportunity to comment is being provided pursuant to this release for a period of 90 days.

(2) Notice of this proposed action through publication in the Federal Register will be supplemented by an extensive mailing to all persons that have expressed an interest to the Department on the coastal barrier issue. Submission of the proposed designations to the Congress and publication in the Federal Register will be accompanied by a large scale distribution to all those on the Department's coastal barrier mailing list—all affected State and local governmental entities as well as any one

that has expressed an interest in the issue—of this document. A notice will also be provided in local newspapers of general circulation that cover the areas proposed for designation consistent with 318 DM 6.4E(2). State and Congressional assistance will also be encouraged to notify affected persons. Once again, these actions are being undertaken at this time with this release.

In addition, as with the January 15 release, both the proposed definitions and the proposed maps are being sent to a number of classes of recipients with special interest in this issue. The Secretary of the Interior has suggested that these recipients seek the widest possible distribution of these documents. The classes of recipients of these materials include:

- Senators and Members of Congress from the 16 affected States
- U.S. Fish and Wildlife Service
 - Washington Office
 - Regional Offices
 - National Coastal Ecosystems Team
- National Park Service
 - Washington Office
 - Regional Offices
- Federal Emergency Management Agency
 - Washington Office
 - Regional Offices
- Other Federal Agency Washington Offices
 - Department of Commerce
 - U.S. Army Corps of Engineers
 - Office of Management and Budget
 - Department of Transportation
 - Department of Housing and Urban Development
- State and local Governmental Entities
 - Governors of the 16 affected States
 - A-95 Clearinghouses of the 16 affected States
 - Affected Local Governments
 - Affected Regional governmental entities

To facilitate public review, the Department has established a system whereby anyone interested may learn where the closest set of proposed maps can be examined. This can be accomplished by calling the U.S. Geological Survey, Eastern National Cartographic Information Center (ENCIC), at (703) 860-6336 or FTS: 928-6336 between the hours of 8:00 a.m. and 4:00 p.m. EDST/EST. Callers must indicate the State and County in which the units of concern are located as well as where they are located. PLEASE NOTE: Maps cannot be ordered by calling this telephone number.

(3) The Department will review the public comments received and consider them.

(4) Final designation will be made pursuant to notice of a final rulemaking in the Federal Register and as provided above.

(5) Notwithstanding any other provision of Departmental practice, following final designation landowners and other persons having an interest in areas that have been subject to a final designation will be provided the opportunity to petition for a change in that designation within the Department. That petition will apply to the factual basis for the designation in question as reflected in the individual memorandum prepared to establish the final designation of that area, as well as the unit file. This petition will be limited to factual issues raised by the petitioner during the comment period on the proposed action.

Such a petition will be conducted in writing and must be initiated within 45 days of the Department's notice of final designation pursuant to a letter to the Secretary of the Interior outlining the factual error(s) relied upon for the requested change in designation. The Office of the Assistant Secretary for Fish and Wildlife and Parks will be responsible for review of each petition and for submission of an analysis of the petition and a recommended decision to the Secretary. This petition process shall be the sole and exclusive review procedure provided by the Department of the Interior.

(6) The date upon which the Department will establish the development status of coastal barrier areas is proposed to be March 15, 1982, consistent with the Department's original notice of intent to issue proposed rule, as published on December 1, 1981, 46 FR 58346.

Part II—Proposed "Definitions and Delineation Criteria", Substantive Standards, Appendix A.

The Department proposes to designate undeveloped coastal barriers consistent with "Definitions and Delineation Criteria" similar to those released in draft on January 15, 1982 for 90 days public review and comment. A proposed version of those criteria have now been completed for public review and comment through November 13, 1982. As with the January 15 Draft release, these proposed criteria have been applied to specific on-the-ground situations to establish proposed designations. It is only in this manner that the impact of the proposed definitions can be evaluated in any meaningful way by the

public. A copy of the "Definitions and Delineation Criteria" document is attached hereto as Appendix A. Additional copies may be obtained as provided in the Addresses section of this preamble and below. In addition, a copy of this proposed document will be provided with every map order received, as also explained below.

Part III—Proposed Designations— Listing and Availability of Specific Maps, Appendix B.

A listing by State and unit name and number of all proposed designations of undeveloped coastal barriers is attached hereto as Appendix B. These proposed designations are based upon the application of the "Definitions and Delineation Criteria" to actual on-the-ground situations. These proposed designations are further and specifically delineated on a series of maps being published by the U.S. Geological Survey, entitled and identified as provided by Appendix B. Information on ordering these maps from the U.S. Geological Survey is included below.

All units herein proposed for designation, or portions thereof, have, with only 10 exceptions been previously included in either the January 15, 1982, or May 21, 1982, draft maps. Proposed maps being provided for public review for the first time, the 10 exceptions referred to above, all concern areas that are located within embayment areas that are directly subject to wind, wave and tidal energy of oceanic origin. These types of areas had not previously been considered. The basis for the proposed inclusion of embayment type areas is found in the "Definitions and Delineation Criteria".

Where applicable, unit names and numbers have not been changed from the draft maps provided on January 15, 1982 or May 21, 1982. A proposed definitions document will be provided with each map order.

Ordering and Comments:

Proposed undeveloped coastal barrier maps can be purchased from the U.S. Geological Survey at the address indicated below. To cover reproduction and handling costs, a fee of \$3.25 will be charged per map for each 36 in. x 42 in. paper ozalid copy. Requests for copies must be made using the following ORDER FORM (or a copy thereof) and must be prepaid by check or money order (NO cash or stamps) made payable to: THE UNITED STATES GEOLOGICAL SURVEY. The ORDER FORM and check or money order should be sent to: Eastern National Cartographic Information Center (ENCIC), U.S. Geological Survey, 536 National Center, Reston, Virginia 22092.

Once again, each proposed map order will include a copy of the proposed definitions.

Requests for additional copies of the proposed definitions document should be made in writing as provided in the Addresses section of this preamble and below.

Comments on the proposed designations and maps; the proposed definitions; or, the procedural standards proposed herein should be addressed to: Mr. Ric Davidge, Chairman, Coastal Barriers Task Force, United States Department of the Interior, Washington, D.C. 20240.

Maps may be inspected at and hand-delivered comments may be taken to: Office of the Assistant Secretary for Fish and Wildlife and Parks, Main Interior Building, 18th and C Streets NW., Room 3148, Washington, D.C. 20240. Copies of the proposed definitions will also be available for distribution at this location.

Dated: August 11, 1982.

G. Ray Arnett,
Assistant Secretary for Fish and Wildlife and
Parks.

Appendix A. Undeveloped Coastal Barriers: Definitions and Delineation Criteria

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Inlets.
Juncture with mainland.
Inclusion of tombolos.
Boundary Lines.
Definition and Delineation of "Undeveloped" Coastal Barriers.
Any portion thereof.
Few man-made structures.
Structures and activities do not impede.
Definition of Areas Held for Conservation Purposes ("Otherwise Protected").

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Undeveloped Coastal Barriers: Definitions and Delineation Criteria

Introduction

Section 341(d)(1) of the Omnibus Budget Reconciliation Act of 1981 (OBRA—Pub. L. 97-35; 95 Stat. 419) established a new Section 1321 of the National Flood Insurance Act of 1968 (NFIA). Section 1321(a) provides that no new Federal flood insurance coverage shall be provided on or after October 1, 1983, for any new construction or substantial improvements of structures located on undeveloped coastal barriers which shall be designated by the Secretary of the Interior. The designation of undeveloped coastal barriers by the Secretary shall be based on the definition provided in Section 1321(b) of NFIA which states:

"For purposes of this section—

(1) The term "coastal barrier" means—

(A) A depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) which—

(i) Consists of unconsolidated sedimentary materials,

(ii) Is subject to wave, tidal, and wind energies, and

(iii) Protects landward aquatic habitats from direct wave attack; and

(B) All associated aquatic habitats including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters;

(2) A coastal barrier or any portion thereof shall be treated as an undeveloped coastal barrier for purposes of subsection (a) only if there are few manmade structures on the barrier or portion thereof and these structures and man's activities on the barrier do not significantly impede geomorphic and ecological processes; and

(3) A coastal barrier which is included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in section 170(h)(3) of the Internal Revenue Code of 1954, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes shall not be designated as an undeveloped coastal barrier for purposes of subsection (a)."

This definition of an undeveloped coastal barrier was not a new creation of the drafters of Section 1321 of NFIA. Rather, it incorporates portions of, and is otherwise adapted from, the definition in the proposed Coastal Barrier Resources Act (CBRA—see S. 1018 or H.R. 3252 as introduced in the 97th Congress) which was itself a product of earlier consideration of this issue by the Congress and the Department of the Interior. H.R. 3252 was introduced in the House on April 27, 1981, by Congressman Thomas B. Evans, Jr. of Delaware, one of the co-sponsors of what is now Section 1321 of NFIA. The companion bill in the Senate, S. 1018, which was introduced by Senator John H. Chafee of Rhode Island on April 28, 1981, contains definitions identical to those in H.R. 3252. The relationship between Section 1321 of NFIA and S. 1018 was described by Senator Chafee on the floor of the Senate during debate on the OBRA Conference Report (*Congressional Record*, July 31, 1981, page S9000).

Once again, the legislative history of the OBRA provision and the pending Coastal Barrier Resources Act (S. 1018, H.R. 3252) demonstrate that the definition in Section 1321(b) of NFIA was derived by the Congress based on work by the Department of the Interior in a series of efforts beginning in 1977 to delineate coastal barriers. These efforts were in response to several past executive and legislative initiatives. The relationship of the definition in OBRA to this previous work is cited in its legislative history including:

- The report on the House-passed Budget Reconciliation bill (House Report 97-158, Volume I, page 100);
- The conference action on OBRA (House Report 97-208, Book Two, July 29, 1981, page 712), and
- In floor remarks by one of the House conferees for the OBRA bill who was also a coauthor of Section 341(d)(1) and (2) (*Congressional Record*, July 31, 1981, page H5792).

When the House-Senate Conference Committee took up the Budget Reconciliation bill in July 1981 to resolve differences between the two versions, the Senate version did not contain a provision concerning undeveloped coastal barriers (House Report 97-208, Book Two, July 29, 1981, page 711; and *Congressional Record*, July 31, 1981, page S9043). Hence, there is little legislative history in the Senate about the derivation and evolution of the definitions of undeveloped coastal barriers with regard to the OBRA legislation. However, the role of previous work by the Department of the Interior to define and delineate coastal barriers was recognized in the Conference Report by Senate as well as House managers as pertinent to the task of designating undeveloped coastal barriers required under Section 341(d)(1) and (2) of OBRA (House Report 97-208, Book Two, July 29, 1981, page 712).

The managers' statement, however, resulted in some confusion about the intent of the Conferees. Concern was expressed on the floor of the Senate prior to enactment of OBRA as to whether coastal barriers previously identified and mapped by the Department of the Interior as undeveloped were to be a principal basis for the Secretary's designation of undeveloped coastal barriers (*Congressional Record*, July 31, 1981, page S9043). The same question was asked on the floor of the House (*Congressional Record*, July 31, 1981, page H5793). Both Senate and House Conferees responded to these questions by reiterating or referring to the report of the managers of the bill in the Conference Report on OBRA which states " * * * the Conferees expect the

Secretary to review carefully the definition contained in section 1321 in preparing the report of findings and proposed designation of areas covered in this section." (House Report 97-208, Book Two, July 29, 1981, page 712). Consequently, the areas to be designated by the Secretary of the Interior need not be identical to those identified previously.

On January 15, 1982, a draft version of these Undeveloped Coastal Barrier Definitions and Delineation Criteria was made available for public review and comment. A large number of comments were received and have been considered in the preparation of this document.

The purpose of this document is to present a complete and concise statement of definitions and delineation criteria to be used for designating undeveloped coastal barriers in specific situations, as required by Section 1321(a) of NFIA. These definitions and criteria are based on the definitions provided by Section 1321(b) of NFIA and are supported by a review of the definitions used previously by the Department of the Interior as well as the Conference Report and the remainder of the legislative history of this provision.

Date for Establishing Development Status. A key issue concerns the point in time when these definitions and delineation criteria will be applied to coastal barrier areas. The Reconciliation Act was silent on this issue. It is clear, however, that a specific date must be chosen to serve this purpose. In the Department's Notice of Intent to Issue a Rule published in the *Federal Register* on December 1, 1981, 46 Fed. Reg. 58346, a March 15, 1982 date was chosen to establish on-the-ground development status for proposed designations. This date will continue to be applicable for final designations. Accordingly, March 15, 1982, is the date utilized to apply these "Definitions and Delineation Criteria" to actual coastal barrier situations to determine the status of development for designation purposes.

While the legislation defines undeveloped coastal barriers, the following points of clarification and amplification will enable accurate and consistent identification and delineation of undeveloped coastal barriers in specific situations. This discussion will also assure that delineation criteria are communicated clearly and in detail.

Definition of Coastal Barriers

In general, the term "coastal barrier" describes a class of low coastal landforms which are typically long and narrow and generally parallel the coast. They are surrounded, or nearly so, by open water.

wetlands or other aquatic habitat which separate them from the mainland. Often, substantial portions are sufficiently above normal high tides that dunes and terrestrial vegetation are common. These barriers consist of sand and, less often, other kinds of unconsolidated sediments. The barriers are fronted on the seaward side by a beach and on the mainland side by a wide variety of protected aquatic habitats. These aquatic habitats range from virtually nothing but open water, to scattered discontinuous bands of marsh along the bayside of the barrier, to large marshes dissected by numerous channels, to continuous marsh extending from the barrier to the mainland.

Coastal barriers can, often do, change position in response to storms, sea level rise, currents and numerous other factors. On the Atlantic and Gulf of Mexico coasts, the barriers are generally receding up the incline of the Coastal Plain toward the mainland in response to a progressive rise in sea level. Connections between islands, and between islands and the mainland, are continually being formed and severed during storms. These dynamic resources are at once adapted to and, to some extent, dependent on this natural process for their perpetuation.

There is sufficient variability among coastal barriers, however, that the more detailed description presented in this document must be used in specific situations to identify coastal barriers, or portions thereof, for purposes of this Act.

Distribution of coastal barriers. Coastal barriers are widely distributed along the Atlantic Ocean and the Gulf of Mexico coasts, in locations generally shown in Figure 1. In accordance with the legislative intent of OBRA's sponsors, who were also conferees from the House Banking Committee, only coastal barriers occurring on the Atlantic and Gulf of Mexico coasts are included (*Congressional Record*, July 31, 1981, pages H5792-H5793). While undeveloped coastal barriers may also occur along the West Coast, in Alaska, in Hawaii, in the Great Lakes, and in U.S. Territories, as well as in large embayments on the Atlantic and Gulf of Mexico Coasts (such as Chesapeake and Tampa Bays), these barriers have not been included within the scope of the present definition.

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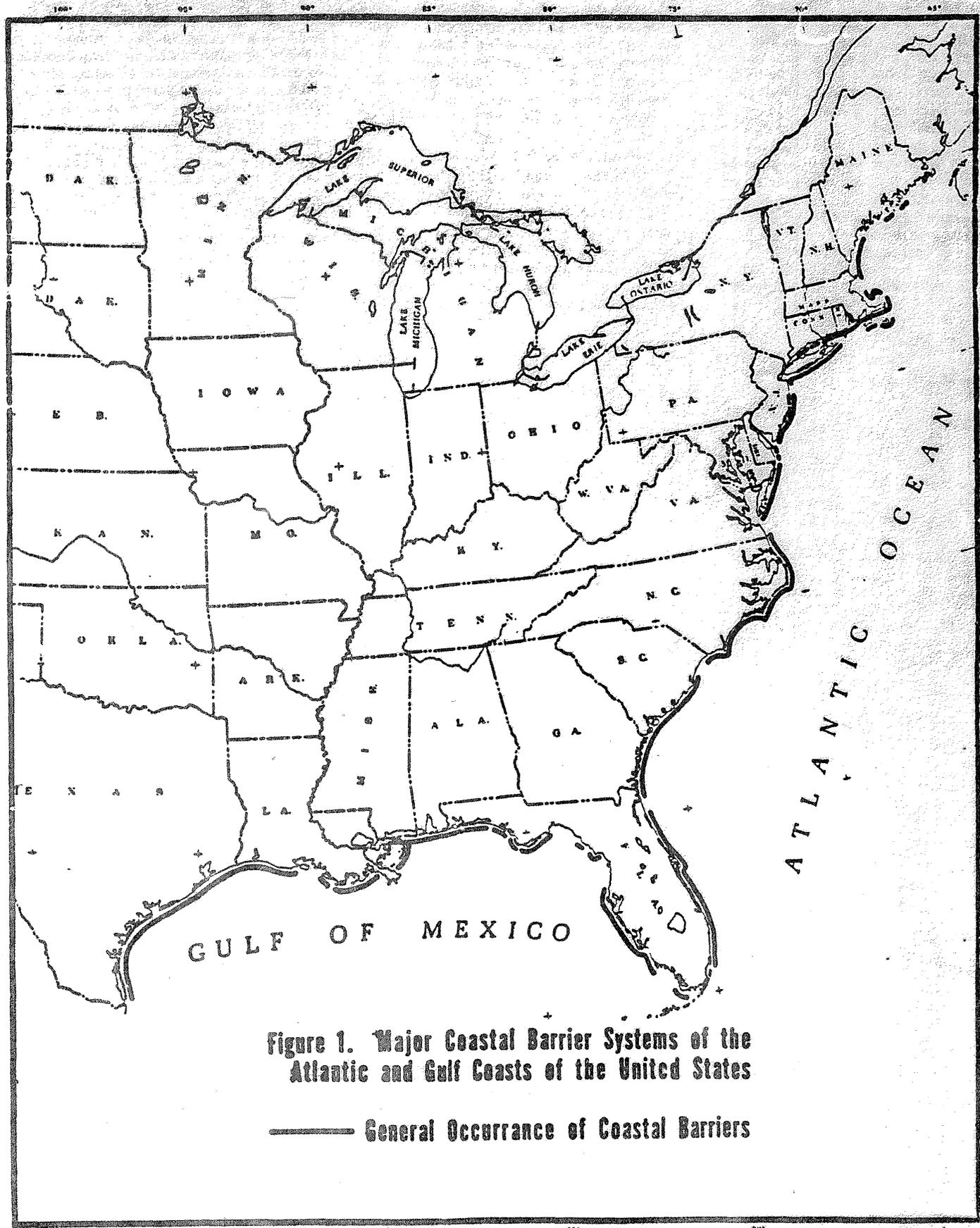


Figure 1. Major Coastal Barrier Systems of the Atlantic and Gulf Coasts of the United States

— General Occurrence of Coastal Barriers

Types of coastal barriers. Coastal barriers may be described generally, as in the statutory definition, with respect to their relationship to the mainland as bay barriers, tombolos, barrier spits, and barrier islands. The "mainland" includes the continental landmass as well as large islands such as Long Island, New York, and Martha's Vineyard, Massachusetts, which are surrounded by a large expanse of open water and subject to waves of oceanic origin on all sides (i.e., they do not protect any landward aquatic habitat).

Section 1321(b)(1)(A) of NPLA lists four examples of coastal barriers which are illustrative of the Reconciliation Act classification of coastal barriers. The four coastal barriers referred to in the statutory definition—bay barriers, tombolos, barrier

spits and barrier islands—are further described as follows:

A. *Bay barriers* are those coastal barriers that have grown entirely across the mouth of a bay and thus are connected to headlands at both ends (see Figure 2a). These features occur from New York north, most notably in Rhode Island and along the south shore of Martha's Vineyard, Massachusetts. This type of coastal barrier usually encloses aquatic ecosystems referred to locally as salt ponds.

B. *Tombolos* are sand or gravel beach features, i.e., coastal barriers, which connect or tie one or more tombolo (i.e., offshore) islands to each other and to the mainland (see Figure 2b). Coastal barriers of this type generally occur only in New York and New England within the geographic area covered by these definitions.

C. *Barrier spits* are those coastal barriers which extend into open water and are attached to the mainland at only one end (see Figure 2c). They can develop into bay barriers if they grow completely across a bay. On the other hand, bay barriers can become barrier spits if a permanent inlet (i.e., one open for longer than a year) is created.

D. *Barrier islands* are those coastal barriers completely detached from the mainland (see Figure 2d). They are the major feature of the coastline from New York to Texas. Barrier spits may become barrier islands if their connection to the mainland is severed by creation of a permanent inlet.

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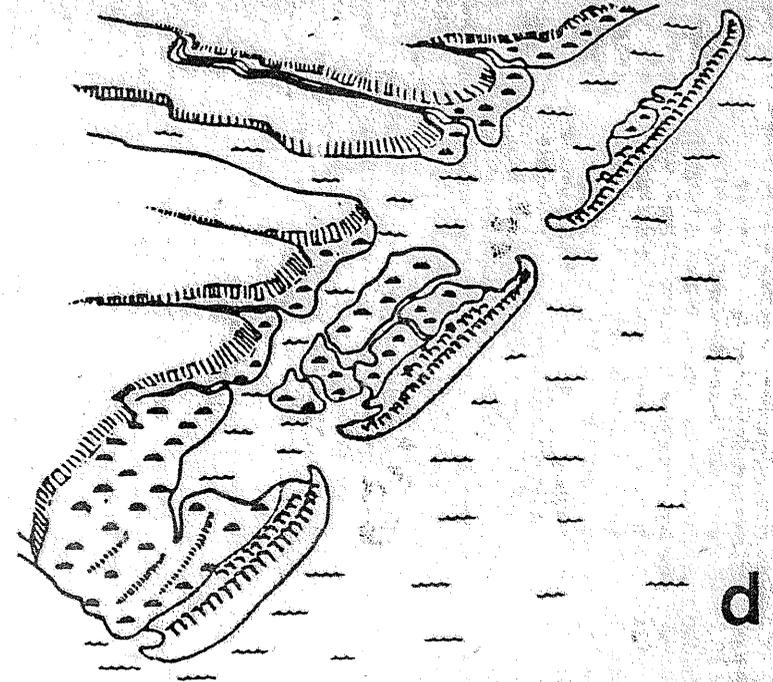
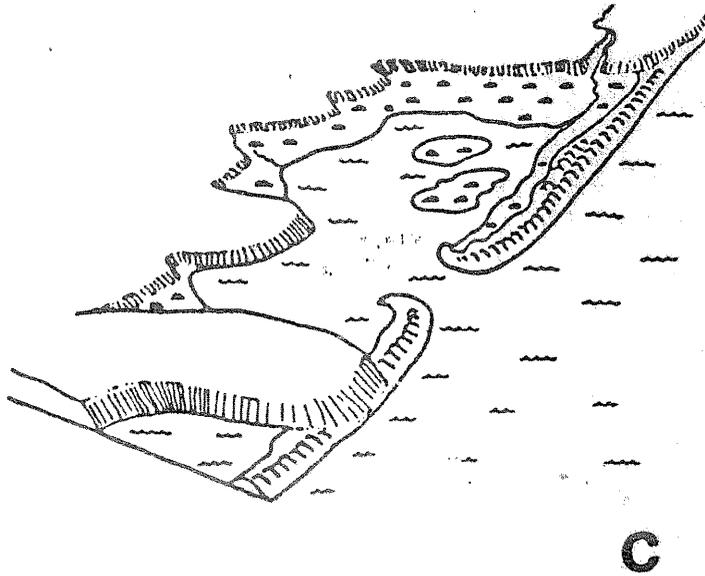
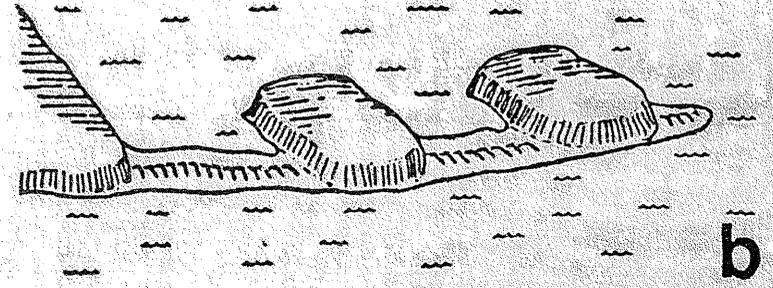
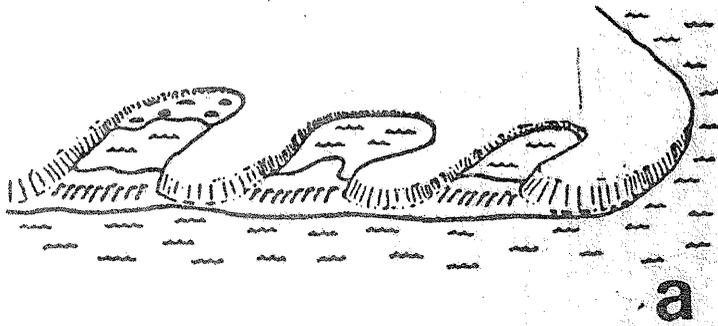


Figure 2. Four Examples of Coastal Barriers along the Atlantic and Gulf Coasts of the United States Listed in the Reconciliation Act: a. Bay Barriers; b. Tombolos; c. Barrier Spits; d. Barrier Islands.

There is substantial variation in physiographic characteristics among coastal barriers. The nature and range of such variations are described and illustrated in the Appendix to the Department of the Interior's DEIS with regard to the proposed designation of undeveloped coastal barriers released on May 21, 1982. That document or its appendix do not, however, supercede these definitions and delineation criteria.

The four examples of coastal barriers mentioned by the Reconciliation Act and described in this section illustrate the three fundamental characteristics of a coastal barrier cited in Section 1321(b)(1)(A) of NIFA. If a landform on the Atlantic or Gulf coasts exhibits each of these statutory characteristics, it is a coastal barrier for purposes of this Act. These characteristics are that the landform:

- Is a depositional geologic feature which consists of unconsolidated sedimentary materials;
- Is subject to wave, tidal and wind energies, and
- protects landward aquatic habitats from direct wave attack.

Each of these aspects of the definition is discussed further in the following sections.

Composition of coastal barriers. The terms "depositional", "sedimentary materials" and "unconsolidated" used in Sections 1321(b)(1)(A) and 1321(b)(1)(A)(i) of the NIFA are standard geological expressions. A "depositional" feature is one resulting from the accumulation of material in a given place as the result of transport by wind or water. In a coastal barrier the material being transported consists largely of sand. The

sedimentary materials may, however, consist of finer particles (silt or clay) or coarser particles (pebbles, cobbles, or boulders). Additionally, biological components, such as shells, teeth, skeletons, and woody or vegetative matter may constitute substantial parts of the coastal barrier.

The word "unconsolidated", referring to sedimentary materials, means the sediments remain loosely aggregated and have not been cemented or compacted into solid rock. In tropical and semi-tropical regions, however, local surface deposits of beach rock (gravel and/or beach sand cemented together by calcium carbonate left when seawater evaporates) may occur within the framework of unconsolidated sedimentary material on a coastal barrier. In addition, some coastal barriers consisting of unconsolidated material occur on an extensive and continuous platform of coquina, coral, granite or other consolidated material which is located near sea level. Provided the mean elevation of the upper surface of this consolidated core is at or below mean sea level, the area is still considered a coastal barrier since all coastal processes, with the possible exception of inlet formation, still function.

Most coastal barriers consist of sedimentary materials which were deposited very recently in geologic terms (i.e., in the Holocene Epoch). While many coastal barriers do consist entirely of Holocene sediment accumulations, some such as the Sea Islands of Georgia and South Carolina consist at least in part of sedimentary materials deposited during earlier geologic periods. Age of sedimentary materials is not,

however, one of the criteria cited in the statutory definition of coastal barriers.

Wave, tidal and wind energy and other factors which shape coastal barriers. Wind, waves, and tides are the immediate forces which maintain and modify coastal barriers. The action of wind, wave (directly and by creating littoral, onshore-offshore or other currents), and tidal energy on unconsolidated sedimentary materials manifest themselves as a continuous linear or curvilinear beach ridge or berm above mean tide levels along the seaward side of the coastal barrier. The existence of these features demonstrates that the unconsolidated sedimentary material is subject to wave, tidal and wind energy as contemplated by Section 1321(b)(1)(A)(ii) of NIFA. All coastal barriers must exhibit this linearity along the beach. However, the shape of the entire coastal barrier can vary dramatically.

Typically, there are more or less continuous mounds of sediment (i.e., dunes) on top of or behind such linear features. Seaward of the coastal barrier's beach, submerged (i.e., offshore) bars are commonly associated with these linear features. Together with the beach, berm, and dunes, these submerged bars constitute the sand-sharing system of the coastal barrier. Frequently, the open waters of lagoons or estuaries are located landward of coastal barriers. A cross-sectional diagram of a typical coastal barrier indicating the general relationship of these and other components of coastal barriers is presented in Figure 3. Several of the many variations in this basic coastal barrier profile are also presented in the Appendix to the DEIS.

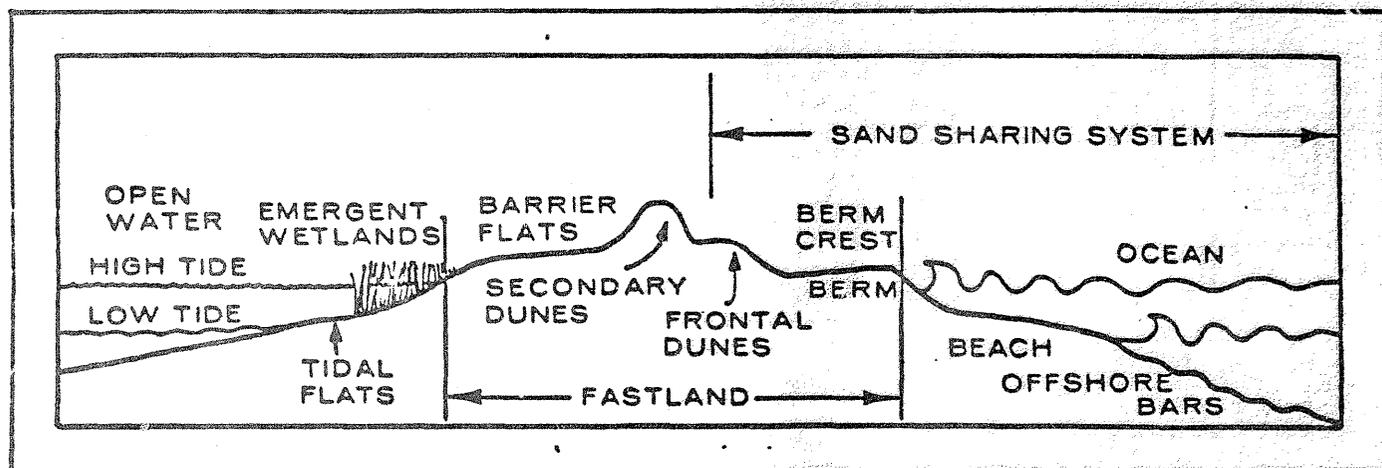


Figure 3. Basic Components of a Coastal Barrier.

Some coastal landforms such as tidal flats by themselves or shorelines where mangroves and other emergent wetland vegetation occur along an open coast are not considered coastal barriers. Although unconsolidated sediments may be present, sufficient wind, wave, and tidal energy is not present to create the linear sedimentary features indicative of coastal barriers. The presence of a linear beach line is readily observable on large scale aerial photography and enables precise delineation of areas

subject to sufficient wave, wind and tide energies.

Barriers located within large, closed embayments are generally not considered coastal barriers. However, those located within open embayments or portions thereof, subject to direct impact from waves of oceanic origin such as barriers located in the open embayments typical of the Northeast are considered coastal barriers. Unlike coastal barrier features located in closed embayments such as Chesapeake Bay,

coastal barriers in open, often smaller, embayments are primarily the product of sea energies of oceanic origin rather than energies generated internally within the bay itself.

During the last few millenia of geologic time, the rising sea level has been the major determinant controlling the location and configuration of coastal barriers. The rate of sea level rise has been slow enough to allow immigration (rather than submergence) of most coastal barriers. Generally, this migration has

been in a landward direction. The current rate and direction of such migration depends on the type of coastal barrier, its orientation to prevailing winds, the local storm climate, tidal range, the nature and amount of available sediment, the slope and composition of the surface over which the coastal barrier is migrating, as well as other factors. The complex interaction of these forces and factors operating at different intensities and over different time scales is responsible for the great diversity of coastal barriers existing today. This also results in the great heterogeneity of wetland and other aquatic environments protected by or otherwise associated with coastal barriers.

Protection of landward aquatic habitats from direct wave attack. In the presence of sufficient wind, wave, and tidal energy, available unconsolidated sedimentary materials are deposited as linear or curvilinear features in response to basic physical processes. However, under Section 1321(b)(1)(A)(iii) of NFIA, such features are not coastal barriers unless they also protect landward aquatic habitats from direct wave attack. Protection of landward aquatic habitats from direct wave attack is one of the most important functions of coastal barriers. This attribute is also the key feature distinguishing a coastal barrier from a beach situated on a mainland shore. Even though such mainland beaches may consist of unconsolidated sedimentary materials subject to sufficient wind, wave, and tidal energy to create linear features, they do not protect landward aquatic habitats from direct wave action.

In addition, a coastal barrier is recognized as much by the presence of protected landward aquatic habitat as either of the other two criteria cited in the statutory definition. If a landward aquatic habitat meets the criteria listed below, it is considered protected from direct wave attack by the intervening fastlands. If that fastland consists of unconsolidated sedimentary materials and has a linear beach feature, then the whole system is a coastal barrier as defined in OBRA. As a class, areas that satisfy these three criteria are inherently unstable and susceptible to flooding. In addition, the existence of landward aquatic habitats increases the difficulty of egress from coastal barriers during storm conditions, unlike mainland beaches which do not have such continuous landward aquatic habitats behind them.

Protected landward aquatic habitat exists is recognizable if it satisfies the following conditions:

- It forms a continuous band behind the entire fastland portion of the coastal barrier, whether developed or undeveloped;
- It is protected from direct wave impact, during normal weather as well as during storms, only by the intervening fastland as indicated by the presence of a linear/curvilinear mound of sediment along the seaward side of that fastland; and
- It has flora (e.g., emergent vegetation, seagrasses, etc.) and fauna indicative of a sheltered, low energy environment (as opposed, for instance, to flora and fauna adapted to the high energy environment of the beach).

Associated aquatic habitats. Section 1321(b)(1)(B) of NFIA indicates that all associated aquatic habitats (i.e. those near the fastland* portion of coastal barriers) are considered part of the barrier. In addition, this aspect of the definition is discussed on page 99 of the House Committee report on the Budget Reconciliation bill (House Report 97-158, Volume I). Associated aquatic habitats include adjacent wetlands (including tidal flats and marshes) as well as lagoons, estuaries, coves, bays, and "salt ponds" (i.e. "open waters" landward of or "behind" the fastland portion of the coastal barrier). Inlets and some nearshore waters seaward of the coastal barrier are also included in this term. Associated aquatic habitats, particularly those landward of the barrier, can include fresh or brackish waters as well as waters with nearly the same salinity as the adjacent ocean waters. As with landward aquatic habitats, these associated aquatic habitats need not have evolved as part of the coastal barrier system.

The statutory definition is consistent with the fact that all such associated aquatic habitats along with the fastland component are inseparable parts of a single system, the coastal barrier system. The statutory definition includes the entire coastal barrier system and the area the coastal barrier, or portions thereof, might occupy over the near term (i.e., generally at least 10 years) within the area to be delineated as an undeveloped coastal barrier.

Delineation of Coastal Barriers

Once a coastal barrier has been identified based on the statutory definition as elaborated on in the preceding section, boundaries are delineated based on the criteria outlined in this and the following sections. To reiterate, the basic concept underlying these delineation criteria is that undeveloped coastal barriers extend from "beach to bay". In other words, the coastal barrier must consist of a number of components—a distinct linear beach feature, fastland composed of unconsolidated sedimentary materials and associated aquatic habitats landward and seaward of that fastland.

A. *On the landward side*, the boundary encompasses the fastland core of the coastal barrier itself as well as proximal associated aquatic habitats consisting of wetlands (including tidal flats), shoals, islands, channels, and relatively small areas of open water landward of the fastland portion of the coastal barrier. This additional landward aquatic habitat must be reasonably associated with the fastland portion of the coastal barrier. Consistent with the purpose of OBRA, i.e., to reduce Federal flood insurance subsidies, this landward boundary includes all developable fastland. Arguably, it may not include all aquatic habitat which is ecologically "associated" with the fastland portion of the coastal barrier. This conservative approach for delineating landward boundaries is based on the observation that the degree of protection

afforded (and, therefore, the degree of "association" with) landward aquatic habitat diminishes rapidly with distance behind the fastland portion of the barrier.

In general, the landward boundary of coastal barriers follows some natural or cultural feature within the aquatic system behind the coastal barrier. To facilitate delineation and avoid confusion, such features should be recognizable on available maps or aerial photographs as well as on the ground.

Three basic types of aquatic environments, or combinations thereof, occur landward of coastal barriers. Each requires a somewhat different application of the general "landward boundary delineation" rule. These three types of aquatic environments and the specific applications of the "landward boundary delineation" rule are as follows:

(1) *A large expanse of open water exists between the coastal barrier and the mainland.*

The landward boundary is drawn in the open water landward of any wetlands, including tidal flats, indicated on the latest available maps or aerial photographs. If a discernible natural channel, a man-made channel, or a political boundary exists in the open water behind, in close proximity to, and more or less parallel with the coastal barrier, such features may be used to delineate its landward boundary. Generally, if more than one of these features exists, the one closest to the fastland portion of the coastal barrier is used.

Salt ponds as well as coves and other partially enclosed bodies of open water, typically found northward from New York, are considered as special cases for purposes of delineating landward boundaries in open water. For salt ponds without a permanent inlet, the existence and nature of the aquatic system is dependent on and controlled by the fastland portion of the coastal barrier. Hence, for small salt ponds (i.e., those less than about 50 acres), the entire aquatic system (including open water and associated wetlands) is considered, ecologically and geologically, an integral part of the coastal barrier. The line where the aquatic system meets the upland forms the boundary of the unit. The basis for delineating boundaries where bay barriers or spits join the mainland is discussed later in Item D.

For larger salt ponds, the influence of water washing across and temporary breaching of (i.e., creation of a temporary inlet through) the fastland portion of the coastal barrier is usually a less significant factor in defining the nature of the salt pond aquatic system. Hence, the landward boundary of the coastal barrier is drawn as a straight line or along discernible channels through the open water behind the fastland portion of the coastal barrier and across any contiguous wetlands adjoining the points where the coastal barrier feature joins the adjacent headlands.

For coves or other partially enclosed bodies of water with permanent inlets or openings to offshore water, including bay barriers where a permanent breachway has been created, the boundary runs through the open water behind the fastland portion of the coastal barrier. If present, this boundary should follow discernible channels or

* That portion of a coastal barrier between the mean high tide line on the ocean side and the upper limit of tidal wetland vegetation (or, if such vegetation is not present, the mean high tide line) at the rear of the coastal barrier.

political boundaries closest to the fastland portion of the coastal barrier. In the absence of such features, the boundary is arbitrarily located in the open water behind the fastland portion of the barrier and any contiguous marshes and tidal flats.

Another special case arises where isolated offshore barrier islands, especially those that are not elongated and parallel to the general coastline, occur within a large expanse of open water (i.e., when there are no distinct inlets adjacent to the island). Under these circumstances, the boundary is located in the open water on the three sides nearest the mainland to encompass associated aquatic habitats which typically consist of tidal flats.

(2) *Continuous wetlands with well-defined, continuous natural or man-made channels are present between the coastal barrier and the mainland.*

The landward boundary follows the discernible, continuous channel, either natural or manmade, closest to the fastland portion of the coastal barrier. For natural channels, the landward boundary generally follows the deepest portion of the channel. For man-made channels, the landward boundary of the coastal barrier unit is adjacent to the side of the channel closest to the fastland component of the coastal barrier.

(3) *Continuous wetlands without a well-defined, continuous natural or man-made channel are present between the coastal barrier and the mainland.*

To the extent they are discernible, the landward boundary follows the natural or man-made channels closest to the fastland portion of the coastal barrier as in (2) above. For those portions of the aquatic system where discernible channels do not exist, the landward boundary is a straight line through intervening wetlands connecting the upper ends of the channels that do exist.

A variation of this "continuous wetland" situation occurs in New York and New England where streams entering the sea are often flanked by barrier spits. The embayments behind the barriers tend to be filled with salt marshes and tidal flats except for the main stream channel and, sometimes, tributary channels. In this case, there are no discernible channels through these wetlands that can be used to completely delineate the coastal barrier. Under these circumstances and because such wetlands are inseparably related to the coastal barrier, the landward boundary of small embayments encompasses the entire landward aquatic system (i.e., is the line where the wetland and upland meet). For larger embayments, the boundary follows the natural or man-made channels and/or political boundaries closest to the fastland portion of the barrier spits. Straight lines are used to connect these political boundaries or the ends of the channels with the point where the wetlands join the mainland. This wetland-upland interface is followed to the fastland portion of the barrier spits.

B. *On the ocean (i.e., seaward) side, the boundary is sufficiently seaward of low water to encompass the entire sand-sharing system of the coastal barrier (see Figure 6, page 10).*

C. *Where the end of a coastal barrier unit is at an inlet, the boundary is drawn through the deepest portion of the existing inlet channel.*

D. *At the juncture of certain coastal barriers (i.e., bay barriers, tombolos, and barrier spits) with the mainland, the boundary approximates with straight lines the juncture of the fastland portion of the coastal barrier and the mainland. This juncture is usually recognized fairly readily on maps and aerial photographs as well as on the ground as a physical change in the topography or the nature of the land surface. In most instances, the composition and texture of the soil also changes at this juncture.*

E. *Both an unconsolidated tombolo (i.e., offshore) island(s) and the tombolo(s) which ties it (them) to the mainland or to each other represent a coastal barrier unit.*

F. *The exterior or outside edge of boundary lines drawn on the maps represent the boundary of the unit. Hence, boundaries are drawn immediately adjacent to cultural features (roads, railroads, man-made channels, political boundaries, etc.), not on them.*

Definition and Delineation of Undeveloped Coastal Barriers

A coastal barrier, or any portion thereof, is treated as an undeveloped coastal barrier in accordance with Section 1321(b)(2) of NFIA upon a determination that the area is not an "otherwise protected" coastal barrier consistent with the definition of that phrase provided later. In addition, each of three key elements discussed in this section—"Any portion thereof * * *", "Few man-made structures * * *", and "These structures and man's activities * * *" do not significantly impede * * *"—must be satisfied. For designation purposes, the development status of coastal barriers with respect to these three elements is to be determined as of March 15, 1982. Changes on coastal barriers related to these elements after that date will not affect the determination of whether the coastal barrier is considered developed under present provisions of Section 1321(a) of NFIA.

"Any portion thereof * * *" The statutory definition does not require an entire coastal barrier be included. Portions of a coastal barrier are also subject to being designated as undeveloped coastal barriers according to the provisions of the Omnibus Budget Reconciliation Act (OBRA) and its legislative history (House Report 97-158, Volume I, page 100). Previous delineation of undeveloped coastal barriers by the Department of the Interior used a minimum ocean-facing shoreline length of one-quarter (0.25) mile for

a portion of the coastal barrier extending from the beach to the aquatic system behind the unit. This minimum shoreline length criterion was specifically mentioned in the legislative history of OBRA (*Congressional Record*, July 31, 1981, page H5793). The one-quarter mile minimum size is reasonable because undeveloped coastal barrier segments smaller than that are likely to be significantly affected by adjacent development and human activities.

In essence, the "any portion thereof" concept is structured around several fundamental ideas. Most basic is the concept that each unit must contain an undeveloped area extending from the beach to the bay or other landward aquatic habitat. That is, the unit must include each of the three elements required by the Reconciliation Act definition of a coastal barrier—it must have a beach area that is subject to wind, wave and tide energies; it must have a fastland portion consisting of unconsolidated sediment; and, these elements must protect a landward aquatic habitat area. Second, the undeveloped portion must, at a minimum, consist of at least a quarter-mile of shoreline. This minimum is established from the break-in-development on the fastland portion of the barrier with two exceptions. Large intrusive development is a basis for moving the break-in-development line away from that adverse influence and phased development projects also effect the starting point for evaluation of "portions thereof". Finally, beginning with the break-in-development, each "portion thereof" must meet the structures and man's activities criteria discussed later in this section.

Under two specified circumstances, undeveloped portions of coastal barriers without the requisite one-quarter mile of ocean-facing shoreline surrounded by ("within") an otherwise protected area are included. Both cases involve situations where the adjacent area would be considered undeveloped if it were not protected from development and adverse human activity. For this special circumstance to apply, there must be an undeveloped portion of the coastal barrier extending from the ocean to the landward aquatic habitat.

In the first case, an undeveloped coastal barrier area with less than one-quarter mile of ocean shoreline or no ocean shoreline is included if the area contains at least 25 acres of undeveloped fastland contiguous with the fastland portion of an otherwise protected portion of the coastal barrier which has the necessary one-quarter mile or more of ocean shoreline. In the second case, an area or areas of undeveloped coastal barrier each containing less than 25 acres of fastland, but surrounded by an otherwise protected portion of the coastal barrier is included if some other portion of that coastal barrier is determined to be undeveloped based on the criteria outlined previously. Figure 4 illustrates both circumstances where the "one-quarter mile" rule may be modified.

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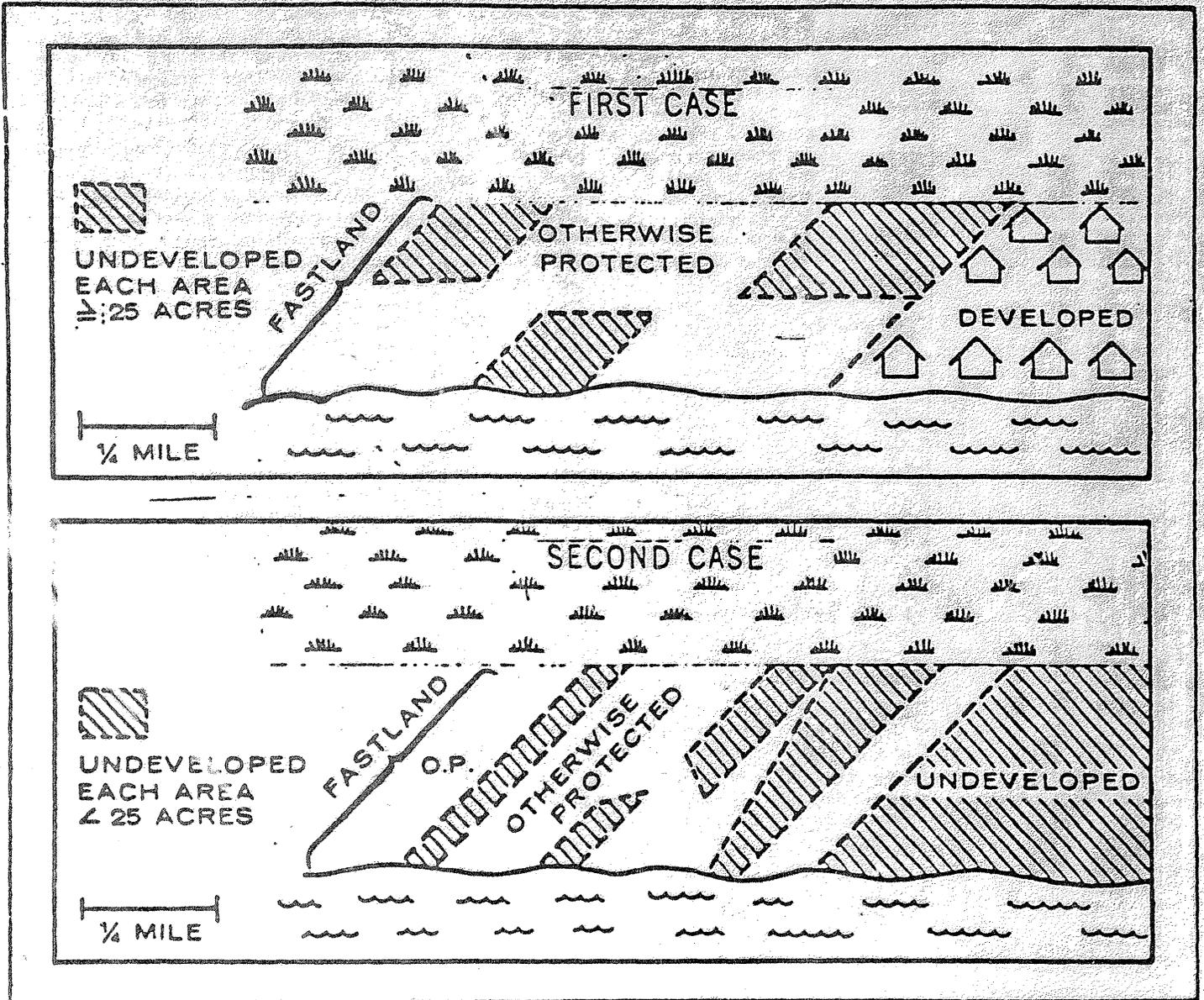


Figure 4. Circumstances Where Areas Without A Quarter Mile of Shoreline May Be Included

The location of boundary lines between an undeveloped portion of a coastal barrier and a contiguous otherwise protected or developed portion depends on the nature of the contiguous area. In general, side boundaries of portions of coastal barriers should be more or less perpendicular to the ocean shoreline. For an otherwise protected area, however, the side boundary is the property line of the protected area. For developed areas, the side boundary is placed immediately adjacent to the cluster of structures or the area with a full complement of infrastructure indicating the end of the

developed portion of the coastal barrier. Such a "break-in-development" is usually quite evident even if a few scattered structures are located on the undeveloped side of the boundary line.

Once the location of the "break-in-development" is established, there are several circumstances where the general "perpendicular boundary" rule is modified. It is desirable that the boundary follow known property lines which, in many cases, may not be perpendicular to the shoreline. In addition, the boundary may not be perpendicular where an undeveloped portion of the coastal

barrier is contiguous to an otherwise protected area which does not extend across the entire coastal barrier. In a few instances, small clusters of structures located on the landward side or in the center of the fastland portion of the barrier may be excluded. Again, the result is fastland which is essentially undeveloped extending from the ocean shoreline to the landward aquatic habitat across the coastal barrier. These modifications of the general "perpendicular boundary" rule are diagrammed in Figure 5.

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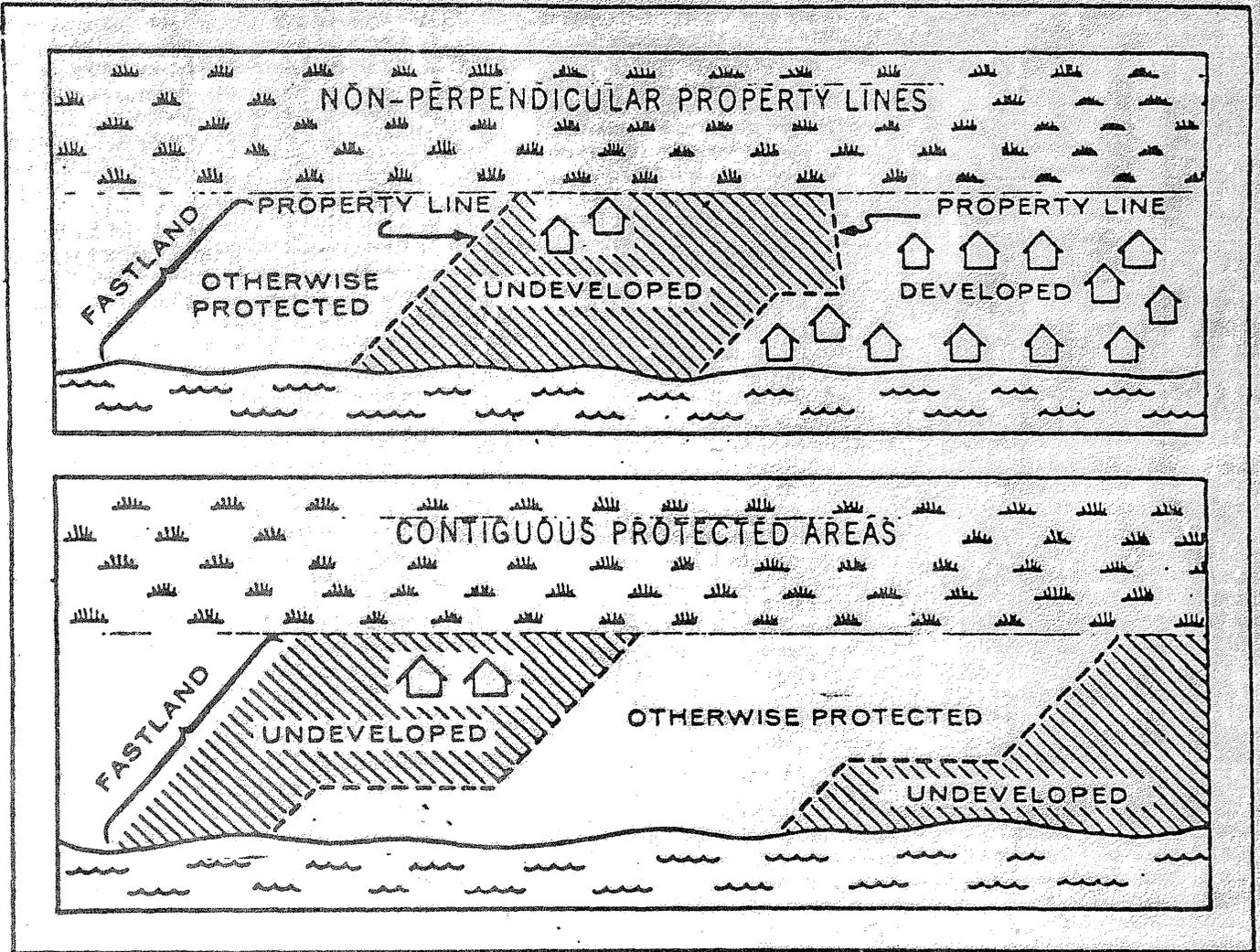


Figure 5. Situations Where Boundary Lines Across A Coastal Barrier May Not Be Perpendicular

*"Few man-made structures * * ** Within all or part of an undeveloped coastal barrier, few man-made structures may be present. In previous delineation of undeveloped coastal barriers by the Department of the Interior, structures were defined as walled and roofed buildings. For purposes of the statute, the term "manmade structure" is based on the definition presently provided by the Federal Insurance Administration in 44 CFR § 59.1 and as further described herein. This is consistent with the House Committee's understanding of what constitutes a structure as noted on page 99 of House Report 97-158 (Volume I). As applied here, the term "Manmade structure" means:

A walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site as well as a mobile home on a foundation.

It is important to note that this definition of "manmade structure" is not one of the criteria used to determine eligibility for Federal flood insurance coverage. Flood insurance eligibility is a question between the property owner, the insurance agent and the Federal Insurance Administration as prescribed in the National Flood Insurance Act of 1968, as amended (including new section 1321). Eligibility is not affected by the definition of a manmade structure used to delineate undeveloped coastal barriers.

This definition of a manmade structure does not require that the structure be completed, but it does require that the walls and roof be in place. For instance, finishing work in a building with walls and roof in place may still remain to be done or an existing building with walls and roof in place may be undergoing alteration or repair.

Facilities such as docks, groins, utility poles, an pipelines are not counted as structures, but may be considered with regard to infrastructure or in assessing the impacts of man's activities on the coastal barrier (House Report 97-158, Volume I, June 19, 1981, page 100) as will be discussed later.

A density threshold of roughly one structure per five acres of fastland is used for categorizing a coastal barrier as developed. This threshold is cited by the House Committee in their report on the Omnibus Budget Reconciliation Act (House Report 97-158, Volume I, page 100) and was used in previous Department of the Interior delineations. It is based on scientific considerations and empirical observations. At densities greater than this threshold, the number of structures and the associated levels of human activity tend to interfere with the natural processes which build and shape, i.e., stabilize the surface of, coastal barriers. Below the threshold, existing development usually results in little or no interference with natural processes. Of even greater importance, above this density threshold a strong commitment to rebuild after major storm damage exists thereby assuring the area will be stabilized in perpetuity.

There are few coastal barriers which might be considered undeveloped that approach the one structure per five acres of fastland level of development. Most often, those coastal barriers where the density of structures does approach this threshold are presently being developed. Coastal barriers are usually either

much more or much less developed than this threshold level. The threshold thus avoids ambiguity and facilitates easy segregation of developed from undeveloped coastal barriers.

To be considered in determining density of structures for purposes of Section 1321(b)(2) of NFIA, a man-made structure must:

- Be located on the fastland portion of the coastal barrier;
- Have a foundation, an enclosed ground area, or, if elevated, a projected ground area exceeding 200 square feet;
- Be a walled and roofed building as described previously, and
- Be constructed in conformance with Federal, State or local legal requirements (i.e., only legally authorized structures will be counted).

Structures that appear to have been constructed primarily to avoid designation as an undeveloped coastal barrier will be evaluated on a case-by-case basis. An appurtenant structure will be counted as a separate structure provided it satisfies the above criteria and is completely detached from any other structure.

In a number of instances coastal barrier units are complexes with more than one discrete segment (i.e., areas separated by inlets or intervening areas that are otherwise protected or clearly developed). When applying the "density threshold" rule to such complexes, density calculations will be for each discrete segment individually, not the entire unit.

All or part of a coastal barrier will be considered developed, even when there is less than one structure per five acres of fastland, if there is a full complement of infrastructure in place. This is consistent with the clear intent of Congress on this point (*Congressional Record*, July 31, 1981, p. H5793). A full complement of infrastructure requires that there be vehicle access (i.e., improved roads or docks) to each lot or building site plus reasonable availability of a water supply, a waste water disposal system, and electrical service to each lot or building site. Ability to use on-site wells and/or septic systems on each later building site in a development, when legally authorized and the normal practice in the vicinity, will constitute water supply and sewage infrastructure since they can be drilled and/or installed concurrently with the construction of the structure. The presence on a coastal barrier of a single road, or even a through highway, plus associated electric transmission and water and sewer lines in this highway corridor does not constitute the necessary full complement of infrastructure necessary to support development. (House Report 97-158, Vol. 1, June 19, 1981, p. 100; and *Congressional Record*, July 31, 1981, p. H5793).

Commitments or legal arrangements necessary for and leading toward construction of either structures or infrastructure will not be considered relevant to the development status of coastal barriers except to the degree they are actually reflected in the existence of structures or infrastructure on the coastal barrier, or portion thereof.

There are situations where initial construction is substantially completed on

one phase(s) of a large project (100 or more lots or building sites in the aggregate for all phases) being developed by one entity (or a successor in bankruptcy), but where neither structures nor a full complement of infrastructure has been developed for at least a portion of the remainder of the property. In previous delineation of undeveloped coastal barriers, this remaining portion of the property has also been considered developed so long as this phased development has been part of the publicly documented overall plans for the project from its initiation and is being carried out in a diligent manner in general agreement with the schedule outlined in the original plan. Only a very few areas are likely to satisfy these criteria.

The existence of the one structure per five acre threshold, the requirement that there is a full complement of infrastructure reasonably available to each building site and the requirement that a phase of a phased development project be substantially completed and interrelated on-the-ground to other planned phases—each of these factors rest on a fundamental premise. The existence of intensive private capitalization on-the-ground within a coastal barrier area is the most significant indicator of its development status. Until sufficient development actually appears on-the-ground, it is speculative as to whether there is commitment to restore an area devastated by a storm. Once significant private capital has been invested on-the-ground, however, the area tends to be stabilized in perpetuity regardless of other factors.

The demonstrable expenditure of private capital for structures or infrastructure on-the-ground is the key element of this aspect of the definition. Conversely, public expenditures for roads and public utilities, unrelated to private capitalization on-the-ground, is not a reliable development indicator. General availability of public facilities may make development more feasible, but it does not demonstrate an on-the-ground commitment by landowners to maintain the developed status of a coastal barrier area.

*"These structures and man's activities * * * do not significantly impede * * ** The statutory definition requires that any structures present on all or part of an area considered an undeveloped coastal barrier and man's activities thereon must not significantly impede geomorphic and ecological processes. Where there is less than one structure per five acres on the fastland portion of the coastal barrier unit, the structures and man's activities on the unit will be determined to significantly impede geomorphic and ecological processes only if they interfere with these natural processes to an extent which impedes or is likely to impede the long-term perpetuation of the coastal barrier system. Notable among man's activities which may impede natural processes are extensive shoreline manipulation and stabilization, pervasive canal construction and maintenance, substantial dredging, continuous off-road vehicle use by large numbers of people, and heavy recreational use of the entire beach. However, man's activities alone, unrelated to structures, can not be considered under the

existing provisions of Section 1321(b)(2) of the NFIA (House Report 97-158, Volume 1, June 19, 1981, page 100).

To properly assess the impacts of structure and human activities, the cumulative, often synergistic, impacts of these uses of and activities on each coastal barrier must be evaluated collectively. In some cases, such assessments will require informed, professional judgment. However, most of the barriers being considered for designation are substantially unaffected by such human influences and impacts so that such evaluations will usually be fairly straightforward.

The heart of the man's activities element of the definition is the stabilizing influence of the human presence. Once again, private capitalization becomes a critical factor. While large multiple unit structures containing many residential units are only considered as one structure under these definitions, their impact can be great. That impact is evaluated through the "man's activities" criteria. Similarly, other intensively capitalized projects, such as major agricultural development, would quickly tend to stabilize an area even though there were few actual structures. The key point again is that extensive private capitalization on-the-ground tends to stabilize and, therefore, impede coastal barrier processes.

Definition of Undeveloped Coastal Barriers Held for Conservation Purposes

As provided for in section 1321(b)(3) of the NFIA, a coastal barrier shall be determined to be included within the boundaries of an area established under Federal, State, or local law primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes upon a determination that:

- The area is managed in a manner that will maintain the natural character of a coastal barrier ecosystem, or portion thereof, and
- The provisions of law under which the area is established, and the real property interests in (i.e., ownership of) that area, are adequate to ensure that it will continue to be maintained in that protective status for the requisite primary purpose.

A coastal barrier shall be determined to be held by a qualified organization as defined in section 170(h)(3) of the Internal Revenue Code of 1954, as amended, primarily for wildlife refuge, sanctuary, recreational or natural resource conservation purposes when:

- Such a qualified organization has both the intent and capability to maintain the natural character of a coastal barrier ecosystem, or portion thereof, and
- There is a sufficient real property interest in (i.e., ownership of) the coastal barrier unit to ensure its protection and maintenance.

A "sufficient real property interest" is an interest that would, at a minimum, be adequate to be recognized under the provisions of section 170(f)(3)(B)(iii) of the Internal Revenue Code of 1954, as amended. Such an interest need not automatically

restrict the number of structures or the scope of man's activities consistent with the definition of "undeveloped coastal barrier," but it must provide perpetual protection primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. The requirement of the tax code that the conservation purpose be protected in perpetuity limits the scope of this exception to those situations where the interest held by a qualified organization requires that both the present owner and its successors in interest hold the title or interest in question exclusively for these conservation purposes.

A "qualified organization" is an organization, as defined in section 170(h)(3) of the Internal Revenue Code of 1954, that has the intent and capability to maintain the natural character of a coastal barrier ecosystem, or portion thereof. Such an organization must be determined to have the requisite commitment and the resources to enforce its perpetual ownership rights in the lands and waters in question to protect this conservation purpose. Previous recognition of an organization as a qualified recipient of an approved conservation contribution pursuant to section 170(f)(3)(B)(iii) of the Internal Revenue Code of 1954, as amended, shall be an indication of this intent and capability.

Appendix B

Order Form

Proposed Undeveloped Coastal Barrier Maps

This form will enable you to obtain copies of some or all of the 188 proposed Undeveloped Coastal Barrier Maps identified by the U.S. Department of the Interior pursuant to Section 341(d)(1) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). Each paper print which measures 36 inches by 42 inches will cost \$3.25.

Please indicate the number of maps of each unit you want to order in the appropriate box on the following list of maps. If you mark the State box, the number of sets of maps indicated for the entire State will be mailed to you.

- MAINE (10 maps)
 - A01—Lubec Barriers
 - A02—Sprague Neck Bar
 - A02A—Grassy Point
 - A03—Jasper
 - A03A—Rogue Bluffs Beach
 - A05A—700 Acre Island
 - A06—Cape Elizabeth
 - A07—Scarborough Beach
 - A08—Crescent Surf
 - A09—Seapoint
- MASSACHUSETTS (41 maps)
 - C00—Clark Pond
 - C01—Wingaersheek
 - C01A—Good Harbor Beach
 - C01B—Brace Cove
 - C02—North Scituate Beach
 - C03—Rivermoor
 - C04—Plymouth Bay
 - C06—Center Hill Complex
 - C08—Scorton Shores
 - C09—Sandy Neck
 - C10—Freemans Pond
 - C11—Namskaket Spits
 - C11A—Boat Meadow
 - C12—Chatnam Roads

- C13—Lewis Bay
- C14—Squaw Island
- C15—Centerville
- C16—Dead Neck
- C17—Popponesset Spit
- C18—Waquoit Bay
- C18A—Falmouth Ponds
- C19—Black Beach
- C19A—Buzzards Bay Complex
- C20—Coatue
- C21—Sesachacha Pond
- C22—Cisco Beach
- C23—Esther Island Complex
- C24—Tuckernuck Island
- C25—Muskeget Island
- C26—Eel Pond Beach
- C27—Cape Poge
- C28—South Beach
- C29—Squibnocket Complex
- C29A—James Pond
- C29B—Mink Meadows
- C31—Elizabeth Islands
- C31A—West Sconticut Neck
- C31B—Harbor View
- C32—Mishaum Point
- C33—Little Beach
- C34—Horseneck Beach
- RHODE ISLAND (11 maps)
 - D01—Little Compton Ponds
 - D02—Fogland Marsh
 - D02B—Prudence Island Complex
 - D02C—West Narragansett Bay Complex
 - D03—Card Ponds
 - D04—Green Hill Beach
 - D05—East Beach
 - D06—Quonochontaug Beach
 - D07—Maschuset Ponds
 - D08—Napattree
 - D09—Block Island
- CONNECTICUT (11 maps)
 - E01—Wilcox Beach
 - E01A—Ram Island
 - E02—Goshen Cove
 - E03—Jordan Cove
 - E03A—Niantic Bay
 - E03B—Lynde Point
 - E04—Menunketesuck Island
 - E05—Hammonasset
 - E07—Milford Point
 - E08A—Fayerweather Island
 - E09—Norwalk Islands
- NEW YORK (12 maps)
 - F01—Fishers Island Barriers
 - F02—Eatons Neck
 - F04—Crane Neck
 - F05—Old Field Beach
 - F06—Shelter Island Barriers
 - F08A—Sammys Beach
 - F08B—Acabonack Harbor
 - F09—Gardiners Island Barriers
 - F10—Napeague
 - F11—Mecox
 - F12—Southampton
 - F13—Tiana Beach
- NEW JERSEY (2 maps)
 - G01—Stone Harbor Point
 - G02—Cape May Complex
- DELAWARE (2 maps)
 - H00—Broadkill Beach Complex
 - H01—North Bethany Beach
- VIRGINIA (4 maps)
 - K01—Assawoman Island
 - K03—Cedar Island

- K04—Little Cobb Island
 K05—Fishermans Island
 NORTH CAROLINA (10 maps)
 L01—Currituck Banks
 L01A—Duck Research Center
 L02—Bodie Island
 L03—Hatteras Island
 L03A—Shackleford Banks
 L05—Onslow Beach Complex
 L06—Topsail
 L07—Lea Island Complex
 L08—Wrightsville Beach
 L09—Masonboro Island
 SOUTH CAROLINA (12 maps)
 M01—Waite Island Complex
 M02—Litchfield Beach
 M03—Pawleys Inlet
 M04—Debidue Beach
 M05—Deweese Island
 M06—Morris Island Complex
 M07—Bird Key Complex
 M08—Captain Sams Inlet
 M09—Edisto Complex
 M10—Otter Island
 M11—Harbor Island
 M12—St. Phillips Island Complex
 GEORGIA (7 maps)
 N01—Little Tybee Island
 N01A—Wassaw Island
 N02—St. Catherines Island
 N03—Little St. Simons Island
 N04—Sea Island
 N05—Little Cumberland Island
 N06—Cumberland
 FLORIDA (35 maps)
 P02—Talbot Islands Complex
 P04—Guana River
 P04A—Usinas Beach
 P05—Conch Island
 P05A—Matanzas River
 P07—Ormond-by-the-Sea
 P08—Ponce Inlet
 P09A—Coconut Point
 P10—Vero Beach
 P10A—Blue Hole
 P11—Hutchinson Island
 P12—Hobe Sound
 P14A—North Beach
 P15—Cape Romano
 P16—Keewaydin Island
 P17—Lovers Key Complex
 P17A—Bodwitch Point
 P18—Sanibel Island Complex
 P19—North Captiva Island
 P20—Cayo Costa
 P21—Bocilla Island
 P21A—Manasota Key
 P22—Casey Key
 P23—Long Boat Key
 P24—The Reefs
 P24A—Mandalay Point
 P25—Atsena Otie Key
 P26—Pepperfish Keys
 P27A—Ochlocknee Complex
 P28—Dog Island
 P29—St. George Island
 P30—Cape San Blas
 P31—St. Andrew Complex
 P31A—Four Mile Village
 P32—Moreno Point
 ALABAMA (4 maps)
 Q00—Perdido Key
 Q01—Mobile Point
 Q01A—Pelican Island

- Q02—Dauphin Islands
 MISSISSIPPI (4 maps)
 R01—Round Island
 R01A—Belle Fontaine Point
 R02—Deer Island
 R03—Cat Island
 LOUISIANA (12 maps)
 S01—Bastian Bay Complex
 S01A—Bay Joe Wise Complex
 S02—Grand Terre Islands
 S03—Caminada
 S04—Bay Champagne
 S05—Timbalier Island
 S06—Isles Dernieres
 S07—Point Au Fer
 S08—Cheniere Au Tigre
 S09—Rollover
 S10—Mermentau River Complex
 S11—Sabine
 TEXAS (11 maps)
 T01—Sea Rim
 T02—High Island
 T03—Bolivar Peninsula
 T04—Follets Island
 T05—Brazos river Complex
 T06—Sargent Beach
 T07—Matagorda Peninsula
 T08—San Jose Island Complex
 T10—North Padre Island
 T11—South Padre Island
 T12—Boca Chica

Complete set of all draft undeveloped coastal barrier maps (188 maps).

Copies of the proposed undeveloped coastal barrier maps are available from the U.S. Geological Survey. Reproduction and handling costs are \$3.25 for each 36 in. x 42 in. paper ozalid copy. Requests for copies must be prepaid by check or money order (no cash or stamps) and directed to: Eastern National Cartographic Information Center (ENCIC), U.S. Geological Survey, 536 National Center, Reston, Virginia 22092, telephone: (703) 880-6336 or FTS 928-6336.

Make checks payable to: The United States Geological Survey. Please indicate where these maps should be sent:

Name _____
 Street Address _____
 City _____
 State _____ Zip Code _____
 Organization _____

To be able to contact you in the event there are questions about your order, please include a telephone number where you can be reached weekdays between 8 a.m. and 4 p.m. Est. Telephone: Area Code () Number

[FR Doc. 82-22298 Filed 6-13-82; 8:45 am]

BILLING CODE 4310-10-M

43 CFR Subtitle A

Prohibition of Flood Insurance for Undeveloped Coastal Barriers

AGENCY: Office of the Secretary, Interior.

ACTION: Update of Notice of intent to issue proposed rule; submission of Report and proposed designations to the Congress.

SUMMARY: This Notice is to highlight upcoming actions of the Secretary of the

Interior with regard to his responsibilities concerning undeveloped coastal barriers, as provided by Title III, Part 4 of the Omnibus Budget Reconciliation Act of 1981. These actions will include the submission of proposed designations of undeveloped coastal barriers to the Congress for review and comment; the submission of a Report to the Congress; and, the Notice of a Proposed Rulemaking in the Federal Register for a 90-day public review and comment period with regard to the proposed designation of undeveloped coastal barriers.

DATES:

Proposed designations to be provided the Congress for 90-day review on or about August 16, 1982.

Report of findings and conclusions of study of undeveloped coastal barriers to be provided the Congress on or about August 16, 1982.

One recommendation regarding the definition of the term "coastal barrier" as enacted by the Reconciliation Act to be provided the Congress on or about August 16, 1982.

Notice of proposed rulemaking to be published in the Federal Register for 90-day public review and comment period on or about August 16, 1982.

Notice of Availability to be published in the Federal Register for purchase of aerial photographs from the United States Geological Survey with regard to undeveloped coastal barriers proposed for designation on or about August 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Ric Davidge, Chairman, Coastal Barriers Task Force, U.S. Department of the Interior, Washington, D.C. 20240, (202-343-5347).

SUPPLEMENTARY INFORMATION: On December 1, 1981, the Department of the Interior published a Notice of Intent to issue a proposed rule with regard to the Secretary of the Interior's responsibilities concerning undeveloped coastal barriers, 46 FR 58346. That Notice explained the Department of the Interior's dual responsibility to designate undeveloped coastal barriers and to conduct a study and to submit a report to the Congress concerning the Secretary's proposed designations.

Since that original Notice, the Department has chronicled its coastal barrier efforts through additional Notices in the Federal Register. These Notices appear as follows:

Notice of Intent to issue proposed rule, 46 FR 58346, December 1, 1981; Proposed rule; amendment, 46 FR 60022, December 8, 1981; Notice of Availability of Draft Document, 47 FR 2382, January

15, 1982; and Notice of Availability of Draft Environmental Impact Statement and Additional Draft Maps, 47 FR 22231, May 21, 1982.

Consistent with these various Notices, the Department has now reached the point at which *proposed* designations and *proposed* "Definitions and Delineation Criteria" can be provided to the Congress and to the public for review and comment prior to final designation. This is being done in two parallel actions. First, as required by the Reconciliation Act, the Department is preparing to transmit its proposed designations and proposed definitions to the Congress. A report of the findings and conclusions of the Department's study efforts leading to these proposals will also be provided. It is also contemplated that the Secretary will provide the Congress with one recommendation concerning the Reconciliation Act definition of coastal barriers.

Second, the public will also be provided an additional 90-day comment period on the Secretary's proposed designations and proposed definitions. This will be done by a Notice of Proposed Rulemaking. The proposed designations; the proposed "Definitions and Delineation Criteria" utilized to establish the proposed designations; and the procedures proposed to be used to establish final designations will all be available for public review and comment.

The key point is that these designations are only proposed. These designations are not final. Final designations will not be established by the Secretary of the Interior until after the close of the Congressional and public comment periods. This will not occur before November 13, 1982.

To facilitate the upcoming 90-day public review period a number of additional points should be clarified.

- The public review period on the Secretary's proposed designations will be provided pursuant to a Notice of Proposed Rulemaking to be published in the *Federal Register*. It is contemplated that this release will occur on or about August 16, 1982.

- Information concerning the purchase of special Geological Survey maps depicting each proposed designation will be provided with that Notice.

- It is contemplated that the public will also be provided the opportunity to purchase aerial photographs of the vast majority of the Department's proposed designations. A specific *Federal Register* release is being prepared to explain that process.

- Upon request, the public will also be provided copies of the Secretary of the Interior's report to the Congress concerning his study of undeveloped coastal barriers. Requests should be directed at the address listed under the Further Information heading of this release.

- Coastal Barrier Task Force files on each proposed designation are open and available for public inspection. Proposed unit maps, photo atlases and other study information are also available for public review. These files and materials have now been located in Room 3149, at the Department of the Interior, 18th & C Streets, NW., Washington, D.C. Copying facilities will be provided to the degree possible but copies of documents will only be provided pursuant to written request and payment of search and copying costs.

- Consistent with the fact that the Department's submission to the Congress and its Notice of Proposed Rulemaking concern *proposed* designations, *not* final decisions, a number of planning steps remain outstanding. Completion of the Department's final NEPA responsibilities is one example. The relationship between the Secretary's responsibility to designate undeveloped coastal barriers under the Reconciliation Act and the consistency provisions of the Coastal Zone Management Act is also under additional review.

A draft environmental impact statement was provided for public comment on May 21, 1982, and comments were received through July 14, 1982. The proposed designations now being provided to the Congress, and for public review and comment, are similar in scope and overall impact to the preferred alternative provided in that DEIS. Accordingly, it was determined that the existing DEIS was adequate with regard to the proposed designations. A final EIS will be prepared, however, at least 30 days prior to final designation.

The relationship of NEPA to the Department's report to the Congress has also been considered. It has been

determined that a final environmental impact statement is not necessary with the submission of this report. This is true because the report does not require or invite Congressional action. It is factual in nature. Unlike Wild and Scenic River or Wilderness studies, which require Congressional action to be effective, the responsibility to designate undeveloped coastal barriers rests with the Secretary of the Interior. Accordingly, it is the act of final designation by the Secretary—not the transmission of proposed designations and a report—that is the major Federal action. The Department is committed to the completion of a FEIS prior to final designation.

In adopting this approach, the Department has considered that one recommendation is also being proposed for transmission to the Congress. Consistent with the Council on Environmental Quality regulations on legislative proposals, the Department has, accordingly, decided to complete its final environmental impact statement as quickly as possible to facilitate Congressional consideration of that recommendation.

The final issue concerns the Coastal Zone Management Act. Recent comments have suggested there may be a need to reconcile the consistency provisions of that Act with the designation of undeveloped coastal barriers. In accord with those comments, the Department has elected to write each participating Coastal Zone State concerning this issue. In essence, this issue has not appeared to be a major concern because of the nature of the action of designating undeveloped coastal barriers. These designations must be within the restrictions imposed by the Reconciliation Act. In addition, final designations will have the result of removing the availability of new Federal flood insurance after October 1, 1983. This result is typically more restrictive than coastal zone management programs. Designation also serves to implement a decision by the Congress to restrict the authority of the Federal flood insurance program and the magnitude of Federal expenditures to be provided for this purpose.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

August 1, 1982.

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