



651 FW 1, Coastal Barrier Resources System

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1.1 Purpose. The purpose of this chapter is to provide guidance on U.S. Fish and Wildlife Service (Service) responsibilities for administering the Coastal Barrier Resources Act (CBRA), as modified by the Coastal Barrier Improvement Act (CBIA).

1.2 Objectives. The objectives of the Service's coastal barrier protection program are taken directly from the CBRA, as amended by the CBIA of 1990. The CBRA established the Coastal Barrier Resources System (CBRS) to minimize the:

- A. loss of human life;
- B. wasteful expenditure of Federal revenues; and
- C. damage to fish, wildlife, and other natural resources by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers.

1.3 Scope. The CBRS is comprised of specifically defined geographic areas designated by Congress. It covers the Atlantic and Gulf Coasts, the shores of the Great Lakes, Puerto Rico, and the Virgin Islands. Locations of areas included in the CBRS are depicted on a set of official maps published by the Department of the Interior. Delineation criteria used to identify and map undeveloped coastal barriers for inclusion into the CBRS were published in the Federal Register on March 4, 1985 (50 FR 8698). A study is currently underway on the West Coast of the United States to incorporate its undeveloped coastal barriers into the CBRS.

1.4 Authorities.

- A. Coastal Barrier Resources Act of 1982.

(1) The CBRA established the CBRS and identified the boundaries of its individual units. Under Section 4 of the CBRA, the Secretary of the Interior is directed to keep the maps of the CBRS on file and available for public inspection in the office of the Director, Fish and Wildlife Service and in other offices as the Director considers appropriate (see [1.8A](#) below).

(2) Prohibition of new Federal financial expenditures and assistance other than flood insurance for property located within the original CBRS went into effect upon enactment of the CBRA (October 18, 1982). Sale of new Federal flood insurance for new structures or substantial improvement was prohibited as of October 1, 1983.

(3) Six specific exceptions to Federal expenditures are described under Section 6 of the CBRA. These exceptions are divided into two distinct categories:

(a) Under the first category (exceptions 1 through 5), expenditures are allowed if the proposed funding is in fact for one of the following five specific exceptions:

(i) "any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to coastal water areas because the use or facility requires access to the coastal water body;

(ii) the maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements;

(iii) the maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or publicly-operated roads, structures, or facilities that are essential links in a larger network or system;

(iv) military activities essential to national security;

(v) the construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto"

(b) The second category (exception 6) pertains to expenditures that are allowable for specific actions or projects - provided that the actions or projects are consistent with the purposes of CBRA. Examples include: projects for research, emergency assistance, and protection of fish and wildlife resources and their habitats.

(4) A Federal agency may provide funding under Section 6 of the CBRA after consultation with the Secretary of the Interior, who delegated authority for consultation procedures to the Service (see [1.9](#) below for further details on consultation procedures). The Federal agency taking the action in the CBRS is responsible for meeting the requirements of the CBRA, as amended by CBIA. All Federal agencies must annually certify to the Secretary of the Interior and to the Congress that they are in compliance with the CBRA, as amended by the CBIA.

(5) The CBRA amended and conformed the Federal flood insurance provisions of the Omnibus Budget Reconciliation Act of 1981 pertaining to undeveloped coastal barriers.

B. Coastal Barrier Improvement Act of 1990 amended the CBRA.

(1) The CBIA significantly increased the size of the CBRS by expanding existing units and adding new units. The CBRS was expanded from 183 units to 560 units and from 143,000 acres to 1.25 million acres. States and Territories in which new units were added or existing units were expanded included: Puerto Rico, United States Virgin Islands, Great Lakes States, New Jersey, Maryland, and the Florida Keys.

(2) The CBIA also established a new category called an "Otherwise Protected Area" (OPA). In OPA's, Federal flood insurance is banned for new construction not in conformance with the purposes for which the area is protected. No restrictions are placed on other Federal expenditures.

(3) Prohibitions on new Federal financial expenditures and assistance, including Federal flood insurance, were effective within new and expanded units of the CBRS upon enactment of the CBIA (November 16, 1990). Prohibitions on the sale of new Federal flood insurance within OPA's became effective one year later (November 16, 1991).

(4) Under the CBIA, the authorities and consultation responsibilities for Section 6 under the CBRA remain essentially the same. However, consultation is not required for OPA's; they are only affected through the Federal flood insurance program.

C. Wild Bird Conservation Act of 1992. This Act revised the boundaries of three OPA's to exclude certain areas within the OPA's that did not meet the definition of "otherwise protected" stated in the CBIA.

D. Pub. L. 101-591 (November 2, 1994). This Act revised the boundaries of AL-01P, P11A, P17, P17A, P18P, P19P, FL-15, FL-95P, FL-36P, P31P, FL-72P, MI21, NY75, and VA62P, and deleted FL-05P from the Coastal Barrier Resources System.

1.5 Boundary Revisions.

A. Neither the Secretary of the Interior nor the Service have authority to revise the boundaries of units of the CBRS to correct perceived inconsistencies with the definition of a coastal barrier. Congress did not provide any provisions for boundary modifications to "Otherwise Protected Areas." Final decisions on areas to be included in either units of the CBRS or in "Otherwise Protected Areas" are the prerogative of Congress.

B. Section 4(e) of the CBIA provided for a one time process to make minor and technical boundary modifications. The Department of the Interior considered requests from State and local governments for minor and technical boundary modifications to units of the CBRS. These boundary modifications had to be:

(1) minor and technical corrections only,

(2) made only as necessary to clarify the boundaries of existing units,

(3) consistent with the purposes of the CBIA.

C. Section 4(e) also required acceptance of requests by State and local governments for transfer of their lands from the "Otherwise Protected Area" status to units of the CBRS.

D. The Service completed the final decision-making process for all minor and technical boundary modifications, and for transfer of OPA's into units of the CBRS on October 1, 1992. Notification of the Service's final decisions and reasons for any denials of requested modifications were provided to State and local governments, the United States House of Representatives Committee on Merchant Marine and Fisheries, and the United States Senate Committee on Environment and Public Works. The statutory deadline for completion of this action was November 16, 1992.

1.6 Responsibilities.

A. Secretary of the Interior. Under the CBRA it is the Secretary of the Interior's responsibility to administer the provisions of the Act. Secretarial Order 3093 delegated responsibility for certain Sections of CBRA to the Service on April 28, 1983. These Sections were:

(1) Section 4(a)(2): opting-in provision which allowed land to be added to the System;

(2) Section 4(c)(3): five year boundary review and adjustment to reflect any boundary changes that have occurred in the CBRS as a result of natural forces;

(3) Section 6: responding to requests for consultation from other Federal agencies regarding exceptions to Federal expenditures in the CBRS;

(4) Section 7: annual certification to the Office of Management and Budget that the Department of the Interior is in compliance with the provisions of the CBRA.

B. The Assistant Director - Ecological Services, through the Chief, Division of Habitat Conservation, is responsible for:

(1) Providing oversight for the Director of the Service's administration of the coastal barrier protection program.

(2) Designating a Service Coastal Barrier Coordinator to ensure Headquarters compliance with this chapter.

C. Regional Directors (Regions 1-5) are responsible for:

(1) Administering the coastal barrier protection program in their Regions.

(2) Designating a Regional Coastal Barrier Coordinator to ensure Regional compliance with this chapter.

1.7 Definitions.

A. Undeveloped coastal barrier is defined as:

(1) "a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that:

(a) is subject to wave, tidal, and wind energies, and

(b) protects landward aquatic habitats from direct wave attack; and

(2) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters; but only if such feature and associated habitats contain few manmade structures and these structures and man's activities on such feature and within such habitats do not significantly impede geomorphic and ecological processes."

B. Otherwise Protected Area is defined as "an undeveloped coastal barrier within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes."

C. Financial assistance is defined as "any form of loan, grant, guaranty, insurance payment, rebate, subsidy, or any other form of direct or indirect Federal assistance." This definition also includes Federal flood insurance.

D. Substantial improvement to a structure means an improvement that would add more than 50% to the value of the overall structure.

E. Prohibited expenditures or assistance include but are not limited to:

(1) Construction or purchase of any structure, appurtenance, facility or related infrastructure;

(2) Construction or purchase of any road, airport, boat landing facility on, or bridge or causeway to, any CBRS unit;

(3) Assistance for erosion control or other stabilization of any inlet, shoreline, or inshore area, except in certain emergencies.

1.8 Maps.

A. Map Availability. Copies of the official Department of the Interior maps of the CBRS are kept on file for reference at Service coastal field offices and the Regional and Headquarters Offices. Copies are distributed to affected State and local governments, and other appropriate Federal agencies. Copies of the maps are also available for sale at \$4.00 per map from: United States Geological Survey, ESIC - CBRS, P.O. Box 25286, Denver Federal Center, Denver,

Colorado 80225. Information regarding the availability of CBRS maps may be obtained by calling (303) 202-4210.

B. Map Interpretation. Interpretations of the CBRS maps are made as well as interpretations of the boundaries of the units and OPA's. Aerial photo atlases of the CBRS were distributed to coastal Ecological Services field offices. These documents aid in determining exact location of units and OPA boundaries during consultation activities as well as when answering inquiries from Congress; other Federal, State, and local governments; private organizations; and the general public.

C. Verification of Flood Insurance Rate Maps. The Service is responsible for ensuring that the Federal Emergency Management Agency (FEMA) is accurately transferring the boundaries of CBRS units and OPA's onto FEMA's Flood Insurance Rate Maps (FIRM). These maps are the tool used by FEMA to determine flood insurance eligibility. Once boundaries of CBRS units and OPA's have been transferred by FEMA to the corresponding FIRM, the updated FIRM are sent to the Service's Coastal Barrier Coordinator in Headquarters, and, in turn, to Regional and Field Offices, for verification of correct transfer of boundaries.

D. 5-Year Update. Section 4(c) of the CBRA requires the Secretary of the Interior to review the CBRS maps at least once every 5 years. The purpose of the review is to make minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system unit as a result of natural forces. The photo atlases developed by the Service will serve as the baseline mapping information from which the 5-year update will be conducted.

1.9 Consultation.

A. Requirement. Federal agencies must consult with and allow the Service an opportunity to provide written comment prior to making Federal expenditures or financial assistance available for an action excepted under Section 6 of the CBRA (as amended by the CBIA) within a unit of the CBRS. The Service provides technical information and comments on the questions of consistency with the CBRA. However, Service response to a consultation request is in the form of an opinion only. The Service has not been granted veto power.

B. Guidelines. The Service is responsible for developing consultation guidelines as required by the CBRA. Consultation guidelines under the CBRA were published in the Federal Register on October 6, 1983 ([Exhibit 1](#)). Proposed guidelines under CBIA were published in the Federal Register on November 5, 1992 ([Exhibit 2](#)). Final consultation guidelines are currently being written.

C. Procedures.

(1) Consultation requests from Federal agencies are to be made to the appropriate Regional Director. The Regional Directors may issue final consultation comments under Section 6 of the CBRA and CBIA for activities that do not specifically require Service Headquarters, other Federal agency headquarters, or Office of Management and Budget involvement on such

activities. Regions may issue final consultation comments without additional review and approval by the Director. The Office of the Assistant Director - Ecological Services may be consulted to aid in determining if specific projects require Headquarters approval.

(2) If the Regional Director delegates the consultation authority to Assistant Regional Directors or to Field Supervisors, copies of such delegations should be provided to the Assistant Director - Ecological Services.

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