DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-ES-2022-0107; FF09E42000-FXES111609BFEDR-223]

John H. Chafee Coastal Barrier Resources System; Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Texas, and Wisconsin; Draft 5-Year Review Boundaries

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: The Coastal Barrier Resources Act requires the Secretary of the Interior to review the maps of the John H. Chafee Coastal Barrier Resources System (CBRS) at least once every 5 years and make any minor and technical modifications to the boundaries of the CBRS as are necessary to reflect changes that have occurred in the size or location of any unit as a result of natural forces. We, the U.S. Fish and Wildlife Service, have conducted this review for CBRS units in Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Texas, and Wisconsin. This notice announces the findings of our review and request for comments on the draft revised boundaries from Federal, State, and local officials.

DATES: To ensure consideration, we must receive your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit written comments by one of the following methods:

- *Electronically:* Go to the: *https://www.regulations.gov*. Search for FWS-HQ-ES-2022-0107, which is the docket number for this notice.
- *By hard copy:* Submit by U.S. mail or hand–delivery to: Public Comments Processing, Attn: Docket No. FWS-HQ-ES-2022-0107, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB/3W, Falls Church, VA 22041-3808.

We request that you send comments by only one of the methods described above. We will post all information received on *https://www.regulations.gov*. If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Katie Niemi, Coastal Barriers Coordinator, via telephone at 703–358–2071, by email at *CBRA@fws.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Coastal Barrier Resources Act (CBRA; 16 U.S.C. 3501 *et seq.*) requires the Secretary of the Interior (Secretary) to review the maps of the John H. Chafee Coastal Barrier Resources System (CBRS) at least once every 5 years and make, in consultation with the appropriate Federal, State, and local officials, such minor and technical modifications to the boundaries of the CBRS as are necessary solely to reflect changes that have occurred in the size or location of any unit as a result of natural forces (16 U.S.C. 3503(c)).

The U.S. Fish and Wildlife Service's (Service) review included:

- All 46 units located in Michigan
- One (the only) unit located in Minnesota
- All 7 units located in Mississippi
- All 17 units located in North Carolina
- All 10 units located in Ohio
- Ten of the 23 total units in South Carolina
- All 35 units located in Texas

- All 7 units located in Wisconsin

Of the 133 total units reviewed, the Service revised 18 units that had experienced changes in their sizes or locations as a result of natural forces since they were last mapped. The North Carolina units will be reviewed again in 2023 due to ongoing geomorphic change in certain units and the need for additional data.

Background on the Coastal Barrier Resources System

Coastal barrier ecosystems are located at the interface of land and sea and are subject to continual geomorphic change (e.g., erosion and accretion). Coastal barriers and their associated aquatic habitat (wetlands and open water) provide important habitat for fish and wildlife and serve as the mainland's first line of defense against the impacts of severe storms. With the passage of CBRA in 1982, Congress recognized that certain actions and programs of the Federal Government have historically subsidized and encouraged development on storm-prone and highly dynamic coastal barriers, and the result has been the loss of natural resources; threats to human life, health, and property; and the expenditure of billions of tax dollars.

CBRA established the CBRS, which originally comprised 186 geographic units encompassing approximately 453,000 acres of relatively undeveloped lands and associated aquatic habitat along the Atlantic and Gulf of Mexico coasts. The CBRS was expanded by the Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591) to include additional areas along the Atlantic and Gulf of Mexico coasts, as well as areas along the coasts of the Great Lakes, the U.S. Virgin Islands, and Puerto Rico.

The CBRS now comprises a total of 870 geographic units, encompassing approximately 3.5 million acres of land and associated aquatic habitat. These areas are depicted on a series of official maps. Most new Federal expenditures and financial assistance are prohibited within the CBRS. Development can still occur within the CBRS, provided that it is not subsidized by the Federal Government.

The CBRS includes two types of units, System Units and Otherwise Protected Areas (OPAs). System Units contain areas that were relatively undeveloped and predominantly privately owned at the time of designation, though they may also contain areas held for conservation and/or recreation. Most new Federal expenditures and financial assistance, including Federal flood insurance, are prohibited within System Units. OPAs are predominantly comprised of conservation and/or recreation areas such as national wildlife refuges, State and national parks, and local and private conservation areas, though they may also contain private areas not held for conservation and/or recreation. OPAs are denoted with a "P" at the end of the unit number. The only Federal spending prohibition within OPAs is on flood insurance.

5-Year Review Authority

The Secretary, through the Service, is responsible for administering CBRA, which includes maintaining and updating the official maps of the CBRS, consulting with Federal agencies that propose to spend funds within the CBRS, and making recommendations to Congress regarding proposed changes to the CBRS. With three narrow exceptions, only Congress—through new legislation—can modify the maps of the CBRS to add or remove areas.

The three exceptions authorize the Secretary to:

1. Review the maps of the CBRS at least once every 5 years and make any minor and technical modifications to the boundaries of the CBRS as are necessary to reflect changes that have occurred in the size or location of any CBRS unit as a result of natural forces (16 U.S.C. 3503(c); this process is known as the "5-year review");
2. Add a parcel of real property to the CBRS if:
    a. the owner of the parcel requests, in writing, that the Secretary add the parcel to the CBRS; and

b. the parcel is an undeveloped coastal barrier (16 U.S.C. 3503(d)); and

3. Add excess Federal property to the CBRS following consultation with the Administrator of the U.S. General Services Administration and a determination that the property (or a portion of it) constitutes an undeveloped coastal barrier (16 U.S.C. 3503(e)).

Changes that are outside the scope of these three authorities cannot be made by the Service administratively. Rather, such changes must be made through the comprehensive map modernization process, which is more time consuming and resource-intensive because it entails significant research, public review, and congressional enactment of the revised maps. Comprehensive map modernization not only transfers the CBRS boundaries to a new base map and makes any modifications necessary to account for natural changes, but also corrects errors that affect property owners and adds areas appropriate for inclusion to the CBRS (beyond those additions authorized under 16 U.S.C. 3503(c)–(e)). Additional information about this process can be found in a notice the Service published in the **Federal Register** on January 4, 2021 (86 FR 118) and at: *https://www.fws.gov/program/coastal-barrier-resources-act/what-we-do*.

5-Year Review Schedule

The Service last completed the 5-year review for 19 of the 23 States and territories that currently contain CBRS units between 2014 and 2016. Additional information about that 5-year review is available at *https://www.fws.gov/project/digital-conversion-and-5-year-review*. The remainder of the CBRS units that did not go through that 5-year review process (located in Connecticut, Massachusetts, Rhode Island, and the Long Island region of New York) were comprehensively revised through the Hurricane Sandy Remapping Project, which incorporated changes due to natural forces in addition to other more significant changes that have been recommended to Congress. The maps

produced through the Hurricane Sandy Remapping Project were transmitted to Congress for consideration in April 2022 and must be adopted through legislation to become effective.

With this notice, the Service initiates a new 5-year review cycle, which is planned to include approximately 450 units in three batches between 2022 and 2025. The units included in each batch are prioritized by considering the following factors: (1) the age of the current effective maps, with the oldest maps generally being revised first; (2) the availability of recent high-resolution aerial imagery (based on the anticipated U.S. Department of Agriculture National Agriculture Imagery Program [NAIP] acquisition schedule); and (3) avoiding overlaps between 5-year review and comprehensive map modernization projects, which can cause confusion and result in duplicated effort.

The schedule and batching for the 5-year review are subject to change, based upon the availability of aerial imagery that meets the standards described in the **5-Year Review Methodology** section below and changes to our comprehensive remapping schedule. Information regarding the 5-year review is available on the Service's website at: *https://www.fws.gov/project/cbrs-5-year-review*.

5-Year Review Methodology

The methodology described below is the general process through which the Service conducts a review of the CBRS units to identify areas where natural change has occurred and to produce revised maps through the 5-year review. Through the 5-year review effort, the existing CBRS boundaries are reviewed against updated base maps (i.e., a recent aerial image) to identify any natural changes that have occurred since the maps were last updated.

Base Map Selection and Base Fitting

Base map selection and base fitting are the first steps in the 5-year review process. A base map is a map depicting background reference information – such as landforms,

roads, landmarks, and political boundaries – onto which other thematic information is overlaid. The Service selects aerial imagery to serve as the CBRS base map that is recent (generally less than 3 years old), high resolution (1 meter per pixel resolution or better), orthorectified (i.e., adjusted to ensure the proper perspective of features relative to their true position on the Earth's surface), and available free of charge. The base map for this 5-year review will primarily be NAIP imagery.

CBRS boundaries are generally intended to follow natural and development features on the ground, such as shorelines, stream channels, edges of marshes or wetlands, roads, structures, and jetties. These features may appear in slightly different locations when viewed on different base maps due to minor differences in their georeferencing (i.e., alignment to a known geographic coordinate system) and/or orthorectification. The CBRS boundaries must be fit to these same features on the new base map in cases where small but significant differences are noted. If the intent of a particular boundary segment was clearly to follow an identifiable natural or development feature, the digital boundary is adjusted to the appropriate feature on the new base map. However, the extent of such adjustments is limited to the width of the existing boundary line depicted on the official map (which translates to about 20 feet on the Earth's surface). These adjustments are also within the stated horizontal accuracy range of NAIP imagery, which is also about 20 feet.

Base-fitting adjustments are not made through the 5-year review if the intent of a particular boundary segment cannot be determined; the underlying feature has clearly undergone human-generated change; or the boundary line on the official map is more than 20 feet from the actual feature it was intended to follow on the ground (unless geomorphic change has occurred, as described in the section below). Some changes are beyond the scope of the 5-year review and may require further review through the comprehensive map modernization effort that is described earlier in this notice.

Boundary Modifications to Account for Natural Changes

The Service assesses the current official CBRS maps, as well as historical and current aerial imagery, to determine where natural changes (e.g., eroded shorelines, accreted sand spits) have occurred since the maps were last updated. Where the intent of a boundary segment was clearly to follow a geomorphic feature on the ground, and that feature had undergone natural change, the boundary on the map is modified to follow the present location of the geomorphic feature and/or the aquatic habitat associated with the feature. Associated aquatic habitat may include the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters associated with the fastland component of the coastal barrier. The term "fastland" refers to the portion of a coastal barrier between the mean high tide line on the ocean side, and the upper limit of tidal vegetation (or, if such vegetation is not present, the mean high tide line) on the landward side of the coastal barrier.

In some cases, portions of the landward boundary are modified to reflect natural changes to the wetland/fastland interface. The "wetland/fastland interface" is a transitional area between wetlands and fastland, or land that is predominantly wet and land that is predominantly dry. This interface is identified for CBRS mapping purposes through aerial photo interpretation, supported in some cases by National Wetlands Inventory data (*https://www.fws.gov/program/national-wetlands-inventory*).

In cases where no such boundary changes are necessary, the Service will generally reissue the maps with updated base map imagery. Updating the imagery (even when there are no boundary changes) is useful because geomorphic changes are likely to have occurred within the interior of many units, even if they do not affect the outer boundaries of the units. Updated imagery also improves the usability of the maps to reflect changes in road networks and other features that serve as reference points to map users. In limited cases, to avoid confusion, the Service may choose not to reissue a map if there are no geomorphic changes and there is another draft revised map for the area

undergoing review by Congress.

Map Paneling

Each official CBRS map covers a spatial extent roughly equivalent to one U.S. Geological Survey 7.5-minute topographic quadrangle; this spatial extent is referred to as a "map panel." There are some places where the existing CBRS map panels overlap each other, and yet provide no indication that there is another CBRS unit in the same area that is shown on a different map panel. This omission is a source of confusion for users who assume that, if no CBRS unit is depicted on a specific CBRS map, then there is no CBRS unit in that area.

Rather than making static draft maps for stakeholder review, the Service will use a web mapping application to display proposed 5-year review changes to the CBRS boundaries. Following the close of the stakeholder review period, the Service will address the issue of map panel overlaps where possible by repaneling the affected areas. The existing map panels will be shifted and/or combined to eliminate overlaps, and all CBRS units on a given map panel will be depicted. Changes to the configuration of the CBRS map panels do not affect the placement of the CBRS boundaries but will help reduce confusion and improve the usability of the official CBRS maps.

Proposed Modifications to the CBRS

In accordance with CBRA's requirement to update the CBRS maps at least once every 5 years to account for natural changes, the Service has conducted a review of certain unit boundaries in Michigan, Minnesota, Mississippi, Ohio, North Carolina, South Carolina, Texas, and Wisconsin. (See the list at the beginning of this section.) The remaining 13 South Carolina units are not included in this review either because they were either comprehensively reviewed recently or they will be included in a more comprehensive review (beyond the scope of the 5-year review) at a later date, at which time the Service will also complete an assessment of changes necessary due to natural

forces.

The Service made modifications due to natural changes in the size or location of a total of 18 CBRS units (of the 133 units reviewed). Below is a summary of those changes and the results of our review.

Michigan

The Service's review found that 3 of the 46 CBRS units in Michigan require changes due to natural forces. The imagery that was used on the current effective maps is dated 2012. The imagery that was used for this review, and will be used for the revised maps, is dated 2020. Additionally, one adjustment was needed to the northern lateral boundary of Sadony Bayou Unit MI-22 to maintain the relationship between the boundary and a structure that was on the ground prior to the designation of the CBRS unit in 1990. This structure appeared to be outside of the unit on the 2012 NAIP imagery used for the currently effective map but appears to be within the unit on the 2020 imagery due to an approximately 10-foot difference in location between the two images. The boundary has been adjusted to the south by about 10 feet to maintain the relationship between the boundary and the structure that is depicted on the currently effective CBRS map.

In September 2022, the Board on Geographic Names voted to replace the names of nearly 650 geographic features that had previously featured a derogatory word for indigenous women. These name changes affect three Michigan units, which have been updated accordingly.

MI-05: HURON CITY. The boundary of the unit has been modified to account for shoreline erosion along Lake Huron to the east of Willow Creek.

MI-13: BIRDSONG BAY. The name of this unit has been changed from "Squaw Bay" to "Birdsong Bay" to reflect the new name of the underlying feature.

MI-21: ARCADIA LAKE. The boundary of the unit has been modified to account for natural changes along the shoreline of the peninsula located between Arcadia Lake

and Lake Michigan.

MI-25: MINO-KWE POINT. The name of this unit has been changed from "Squaw Point" to "Mino-kwe Point" to reflect the new name of the underlying feature.

MI-40: GREEN ISLAND. The boundary of the unit has been modified to account for shoreline erosion along Lake Michigan at Point la Barbe.

MI-64: MINO-KWE JIIGIBIIK. The name of this unit has been changed from "Squaw Beach" to "Mino-kwe jiigibiik" to reflect the new name of the underlying feature.

Minnesota

The Service's review found that the boundaries of Unit MN–01 (the only CBRS unit in Minnesota) do not need to be modified due to changes from natural forces. The imagery that was used on the currently effective map is dated 2012. The imagery that was used for this review, and will be used for the revised map, is dated 2021.

Mississippi

The Service's review found that two of the seven CBRS units in Mississippi require changes due to natural forces. The imagery that was used on the currently effective maps is dated 2012. The imagery that was used for this review, and will be used for the revised maps, is dated 2021.

R02: DEER ISLAND. The western boundary of the unit has been modified to account for accretion at the western end of Deer Island.

R03: CAT ISLAND. The southern boundary of the eastern segment of the unit has been modified to account for accretion of the spit at the south end of Cat Island.

North Carolina

The Service made no changes to the 17 CBRS units in North Carolina, and revised maps have not been produced for this State. The imagery that was used on the currently effective maps is dated 2010, 2012, or 2014, depending on the unit. The

imagery that was used for this review is dated 2020.

While no changes have been made to the CBRS boundaries in North Carolina at this time, future changes are warranted for the boundaries of Unit NC-03P, which were updated by Congress in 1999 through Pub. L. 106-116 to align with the boundaries of Cape Hatteras National Seashore at that time. However, there has been significant shoreline erosion along the Atlantic coast of Hatteras Island, particularly in the villages of Rodanthe, Waves, Avon, and Buxton, and the CBRS boundary is now hundreds of feet offshore in some places. Erosion is occurring at a rate of 2-4 meters per year in some areas.

In those places where the shoreline has eroded significantly, the boundary of Cape Hatteras National Seashore is the mean high-water line. Numerous structures may be located seaward of the mean high-water line due to erosion and may be on National Park Service owned property. Some of these structures have been deemed uninhabitable due to compromised septic systems and/or other issues. At the time of our review, the National Park Service was planning to conduct a boundary survey. As the survey was not completed before our 5-year review effort was completed, we have not made any boundary modifications at this time.

We plan to revisit the North Carolina CBRS units again with the next batch of 5-year review maps anticipated in 2023, and we invite Federal, State, and local officials to submit any pertinent data regarding shoreline erosion along Hatteras Island at this time. We will reassess the boundary of Unit NC-03P against the survey of the national seashore, more recent aerial and satellite imagery that we expect to be available in 2023, and any additional data that we receive from Federal, State, and local officials. We will also continue to monitor geomorphic change occurring in other areas in North Carolina, including the northwestern boundary of Unit L03AP (where geomorphic change is occurring very near to the CBRS boundary along Shackleford Banks).

Ohio

The Service's review found that 1 of the 10 CBRS units in Ohio requires changes due to natural forces. The imagery that was used on the currently effective maps is dated 2013 and 2014. The imagery that was used for this review, and will be used for the revised maps, is dated 2021.

OH-06: BAY POINT. The southern boundary of the unit has been modified to account for the southward accretion of Bay Point.

South Carolina

The Service's review found that 3 of the 10 CBRS units in South Carolina that are included in this review (Units M02, M03, M08, M09/M09P, M10, M13, SC-01, SC-03, and SC-10P) require changes due to natural forces. The imagery that was used on the currently effective maps is dated 2011, 2013, or 2015, depending on the unit. The imagery that was used for this review, and will be used for the revised maps, is dated 2021.

The remaining 13 South Carolina units are not included in this review, either because they were either comprehensively reviewed recently or they will be included in a more comprehensive review (beyond the scope of the 5-year review) at a later date, at which time the Service will also complete an assessment of changes necessary due to natural forces.

M03: PAWLEYS INLET. The southwestern boundary of the unit has been modified to account for natural changes in the wetlands.

M09: EDISTO COMPLEX. The coincident boundary between Units M09 and M09P has been modified to follow the current location of Jeremy Inlet. The landward boundary of the unit has been modified to reflect natural changes in the configuration of the wetlands along the Townsend River.

M09P: EDISTO COMPLEX. The coincident boundary between Units M09 and

M09P has been modified to follow the current location of Jeremy Inlet.

Texas

The Service's review found that 6 of the 35 CBRS units in Texas require changes due to natural forces. The imagery that was used on the currently effective maps is dated 2010. The imagery that was used for this review, and will be used for the revised maps, is dated 2020.

T03A: BOLIVAR PENINSULA. The boundary of the unit has been modified to reflect natural changes in the configuration of the wetlands on and around the Bolivar Peninsula.

T04: FOLLETS ISLAND. The boundary of the unit (a portion of which is coincident with Unit T04P) has been modified to reflect erosion along the shorelines of Mud Island and Moody Island.

T04P: FOLLETS ISLAND. The boundary of the unit (a portion of which is coincident with Unit T04) has been modified to reflect erosion along the shoreline of Moody Island.

T07: MATAGORDA PENINSULA. The coincident boundary between Unit T07 and T07P has been modified to account for natural changes at the mouth of Caney Creek.

T07P: MATAGORDA PENINSULA. The coincident boundary between Unit T07 and T07P has been modified to account for natural changes at the mouth of Caney Creek.

T12: BOCA CHICA. The boundary of the unit has been modified to account for natural changes along the shoreline of the Rio Grande.

Wisconsin

The Service's review found that three of the seven CBRS units in Wisconsin require changes due to natural forces. The imagery that was used on the currently effective maps is dated 2013. The imagery that was used for this review, and will be used for the revised maps, is dated 2020.

WI-03: PESHTIGO POINT. The southern boundary of the western segment of the unit has been modified to account for erosion and an increased lake level in Green Bay.

WI-04: DYERS SLOUGH. The eastern boundary of the unit has been modified to account for erosion and an increased lake level in Green Bay.

WI-07: FLAG RIVER. The western boundary of the unit has been modified to reflect natural changes in the configuration of the wetlands at the mouth of the Flag River.

Request for Comments

CBRA requires consultation with the appropriate Federal, State, and local officials on the proposed CBRS boundary modifications to reflect changes that have occurred in the size or location of any unit as a result of natural forces (16 U.S.C. 3503(c)). We therefore invite interested Federal, State, and local officials to review and comment on the draft revised boundaries for Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Texas, and Wisconsin. The Service is specifically notifying the following stakeholders concerning the availability of the draft revised boundaries: (1) the Chair and Ranking Member of the House of Representatives Committee on Natural Resources; the Chair and Ranking Member of the Senate Committee on Environment and Public Works; and the members of the Senate and House of Representatives for the affected areas; (2) the governors of the affected areas; (3) State and local officials with floodplain management and/or land use responsibilities; and (4) Federal officials with knowledge of the coastal geomorphology within the project area.

Federal, State, and local officials may submit written comments and accompanying data as described in **ADDRESSES**, above. Comments regarding specific CBRS unit(s) should reference the appropriate unit number(s) and unit name(s). Please note that boundary modifications through the 5-year review process can only be made to

reflect changes that have occurred in the size or location of any CBRS unit as a result of natural forces. Other requests for changes to the CBRS outside of the Service's administrative authorities (e.g., the removal of structures from a unit) will not be considered at this time. We must receive comments on or before the date listed above in **DATES**.

Following the close of the comment period, the Service will review all comments received on the draft revised boundaries; adjust the boundaries, as appropriate; prepare final revised maps; and publish a notice in the **Federal Register** to announce the availability of the final revised maps. The revised maps will take effect upon the date of publication of that notice in the **Federal Register.**

Availability of Draft Revised Coastal Barrier Resources System Boundaries and Related Information

The draft revised boundaries may be viewed in a web mapping application accessed from the Service's website at *https://www.fws.gov/project/cbrs-5-year-review*. A shapefile of the draft revised CBRS boundaries, which can be used with GIS software, is also available for download. The shapefile is best viewed using the base imagery to which the boundaries were drawn; the base imagery sources and dates are included in the metadata for the shapefile. The Service is not responsible for any misuse or misinterpretation of the shapefile.

Interested parties who are unable to access the draft revised boundaries or other information online may contact the individual identified in **FOR FURTHER INFORMATION CONTACT**, above, and reasonable accommodations will be made.

Gary Frazer,
Assistant Director for Ecological Services.

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