



## The Coastal Barrier Resources Act (CBRA)

In 1982, Congress passed the Coastal Barrier Resources Act (CBRA; P.L. 97-348; 16 U.S.C. §§3501-3510), which established the Coastal Barrier Resources System (System). It declared the purpose of CBRA to be “to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and other natural resources associated with coastal barriers.” The System is currently composed of parts of coastal areas along the Atlantic Ocean, Gulf of Mexico, Great Lakes, Puerto Rico, and U.S. Virgin Islands. CBRA was enacted to remove federal financial assistance incentives for development on undeveloped coastal barriers, in recognition of potential problems associated with developing coastal areas. CBRA does not prohibit development within System areas; development may still occur using private and nonfederal funds.

Coastal areas are of interest for development because of their aesthetic and recreational significance and resulting high taxable land values. However, due to the dynamic nature of coastal systems, development on coastal barriers and along the coast in general may be at a relatively high risk of storm damage, flooding, and erosion. Additionally, development often disrupts the natural movement of sand and other materials that maintain the protective nature of the shoreline and may harm fish and wildlife habitat.

CBRA has been reauthorized and legislatively modified numerous times, most recently in 2019. CBRA may receive congressional attention due to the effects of coastal storms and subsequent federal expenditures. Some stakeholders have shown interest in the expansion, reduction, or modification of System areas; the U.S. Fish and Wildlife’s (FWS’s) oversight role; and authorization of appropriations. This In Focus provides background information about CBRA and the System and briefly describes selected possible issues for Congress.

### Characteristics of Coastal Barriers

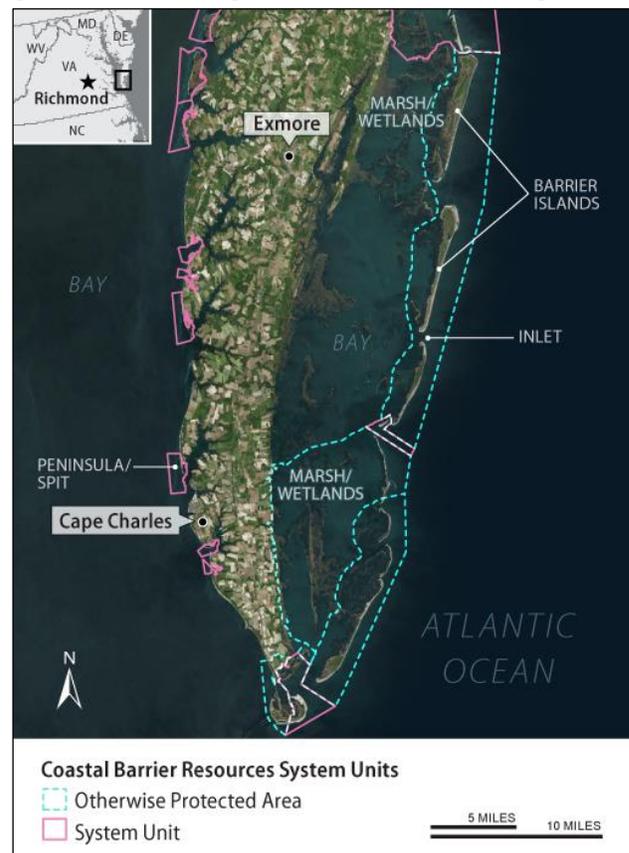
Coastal barriers are low-lying, shifting landforms in the form of peninsulas/spits, islands, bay barriers, and other formations and associated aquatic habitats (e.g., marsh, wetlands, inlets) subject to varying waves, water levels, and winds (Figure 1). Coastal barriers and associated areas provide diverse habitats for fish and wildlife and reduce storm impacts landward of natural and built environments, among other benefits.

### Coastal Barrier Resources System

Under CBRA, the Secretary of the Interior and FWS are responsible for maintaining and updating official System maps, consulting with federal agencies regarding expenditures in the System, and making recommendations to Congress about potential changes to the System.

The System is composed of typical coastal barriers, as well as nonbarrier areas along the coast that share similar qualities but are not backed by aquatic features. The System has two types of areas: System units and otherwise protected areas (OPAs; Figure 1). System units mostly consist of private land that was relatively undeveloped (e.g., housing density of less than one unit per five acres) at the time of designation to the System. Beginning in 1990, FWS began designating OPAs, which mostly consist of public land and are defined as undeveloped coastal barriers 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” (16 U.S.C. §3503).

Figure 1. Examples of Coastal Features and Types of System Areas Along the Eastern Shore of Virginia



Source: CRS using ESRI and FWS data.

Notes: FWS defines the seaward side of a System area on a coastal barrier by the 30 foot (ft) bathymetric contour and in large coastal embayments and the Great Lakes by whichever is closer: the 20 ft bathymetric contour or a line one mile away from the shoreline.

In 1982, the System was composed of FWS-recommended undeveloped coastal areas: 186 System units covering 453,000 acres along the Atlantic and Gulf of Mexico coasts.

The System has since grown to 870 total units (588 System units and 282 OPAs) covering nearly 3.5 million acres along over 2,500 shoreline miles across 23 states and territories.

### Restrictions to Federal Expenditures

CBRA prohibits *new* federal financial assistance in System units, with some exceptions for emergencies; maintenance or repair of publicly owned structures; military activities; energy resource exploration, extraction, and transportation; and navigation (16 U.S.C. §§3504, 3505). CBRA broadly defines federal financial assistance as “any form of loan, grant, guaranty, insurance [including flood insurance], payment, rebate, subsidy, or any other form of direct or indirect Federal assistance” (16 U.S.C. §3502).

Developments in System units that predate CBRA designation, and/or development in OPAs, still may qualify for some types of assistance. The only type of financial assistance prohibited in OPAs is federal flood insurance. For more information on the relationship between the Federal Emergency Management Agency’s federal flood insurance and CBRA, see CRS Report R44808, *Federal Disaster Assistance: The National Flood Insurance Program and Other Federal Disaster Assistance Programs Available to Individuals and Households After a Flood*, by Diane P. Horn.

### System Map Changes

CBRA requires congressional action to modify the boundaries of System areas, with three administrative exceptions. Adjustments to System boundaries may be made administratively (1) through minor and technical modifications “necessary solely to reflect changes that have occurred in the size or location of any System unit as a result of natural forces” at least once every five years; (2) through additions to the System at the request of property owners; and (3) by additions of eligible excess federal land (16 U.S.C. §3503). FWS conducts its five-year review process on a rolling basis, working on different regions each year.

Congress has directed FWS to comprehensively review CBRS boundaries. Under P.L. 106-514 and P.L. 109-226, Congress charged FWS with completing a pilot study to digitize a subset of System maps; reporting on the feasibility, data needs, and costs of digitizing the entire System; and subsequently digitizing remaining System areas. After Hurricane Sandy, Congress provided supplemental funding to the Department of the Interior, which used the funds to review System maps in the Northeast. So far, FWS has comprehensively revised and digitized approximately 31% of the System. FWS recommended changes to System boundaries in the area covered by the pilot study to Congress in 2016. Congress enacted the majority of recommended changes in P.L. 115-358. FWS submitted to Congress recommended changes to System areas in the Northeast in 2022; those changes are awaiting congressional consideration.

### Evaluating CBRA Effectiveness

Some observers question whether CBRA has minimized the loss of human life; reduced wasteful federal expenditures; and prevented damage to coastal fish, wildlife, and other

natural resources. For example, a 2007 Government Accountability Office (GAO) study found that 84% of System areas remained undeveloped, but development still occurred in the System due to a combination of commercial interest and public desire, local government support, and the availability of affordable private flood insurance. The GAO study also found that multiple federal agencies had provided prohibited financial assistance to property owners within the System. In terms of federal expenditures, in 2002 FWS found that CBRA resulted in savings of approximately \$686 million (nominal dollars) in federal costs related to infrastructure (roads and waste/potable water systems) and disaster relief from 1983 through 1996. Another study published in 2019 by Coburn and Whitehead estimated that CBRA reduced federal coastal disaster expenditures by \$9.5 billion (in 2016 dollars) from 1989 to 2013. The study also projected future federal savings of between \$11 billion and \$108 billion by 2068 (in 2016 dollars). Both the 2002 and 2019 studies used assumptions of the development rate and federal agency expenditures that may impact the estimates in different ways.

### Issues for Congress

Congress may choose to consider questions related to the expansion, reduction, or modification of System areas; FWS’s oversight and consultative role; and appropriations for CBRA. Some Members of Congress typically introduce legislation to expand, reduce, or change the boundaries of specific System areas each year. Legislative proposals to modify System boundaries are often in response to FWS recommendations and/or constituent requests. For example, in the 118<sup>th</sup> Congress, Members introduced bills to enact FWS recommendations and make other System boundary changes (e.g., H.R. 2437, H.R. 4821, and H.R. 5490).

Some concerns also have centered on the role and effectiveness of FWS oversight of other federal agency spending and actions in the System. FWS has implemented GAO recommendations from 2021 on consultation with federal agencies; Congress has not granted FWS the power to enforce funding limitations, and the responsibility for complying with CBRA lies with other federal agencies. Others have argued that FWS should expand the interpretation of current statutory exceptions to federal spending restrictions to allow additional types of activities; some Members have introduced bills to make those changes statutorily (e.g., H.R. 524 and H.R. 4821 in the 118<sup>th</sup> Congress). Expansion of excepted activities may raise concerns about how closely such activities align with the declared purposes of CBRA.

According to the 2021 GAO report, FWS also has not met the five-year review requirement due to funding constraints, among other issues. Some stakeholders have proposed updating CBRA’s authorization of appropriations, which ended in 2010 (e.g., H.R. 5490 in the 118<sup>th</sup> Congress). Congress has continued to appropriate funds to FWS to implement CBRA (e.g., \$1.4 million in FY2023), and FWS has requested \$1.9 million for FY2024.

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