

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 John H. Chafee 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.” 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; therefore, development may still occur using private and nonfederal funds. 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.

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 and erosion. Additionally, development often disrupts the natural movement of sandy 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 2006. CBRA may receive attention from the 116th Congress due to the effects of coastal storms in 2016, 2017, and 2018 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) 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

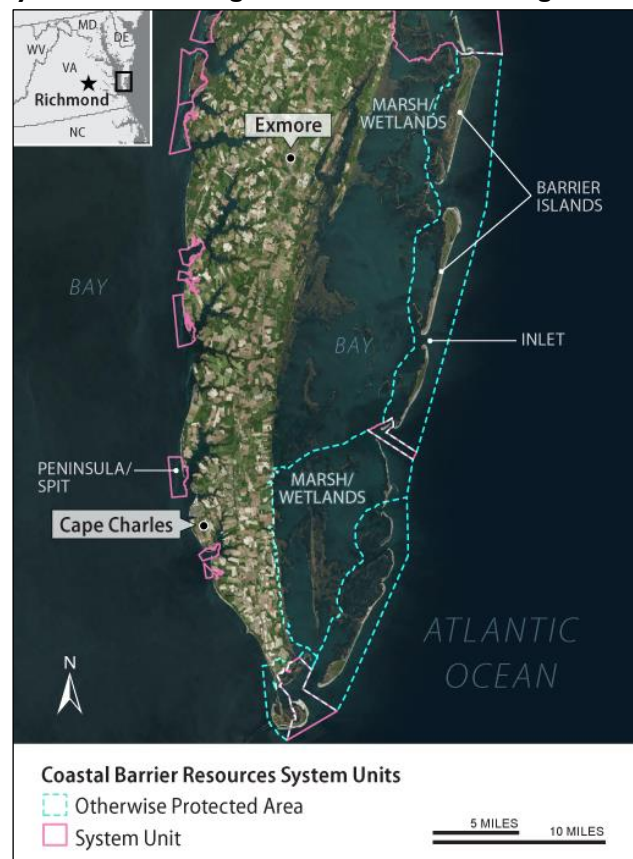
Coastal barriers are low-lying, shifting landforms in the form of peninsulas/spits, islands, bay barriers, and other formations and associated aquatic habitats (e.g., marsh, wetlands, inlets) subject to waves, tides, and winds (**Figure 1**). Coastal barriers and associated areas provide diverse habitats for fish and wildlife and protect the landward natural and built environments from the impacts of coastal storms and hurricanes.

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 seaward of the shoreline.

Upon enactment, 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 862 total units (585 system units and 277 OPAs) covering 3.5 million acres along 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 “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” 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 completed its most recent five-year review process in 2016. During the process, FWS converted existing maps into a digital format and modified CBRS boundaries to reflect natural changes. As of July 1, 2019, FWS had completed digital conversion maps for 94% of the System’s acreage.

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. As a result, approximately 14% of the System’s acreage has been comprehensively reviewed. FWS recommendations for changes to these areas were submitted to Congress for approval in 2016, with the majority of recommended changes enacted in P.L. 115-358. Post-Hurricane Sandy, Congress provided supplemental funding to the Department of the Interior, which used the funds to review System maps in the Northeast. As a result, FWS comprehensively revised maps for an additional 16% of the System’s acreage. FWS is finalizing its recommendations to Congress for changes in these areas.

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 some System areas 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 System areas. In contrast, FWS in 2002 found that CBRA resulted in federal savings of approximately \$686 million (nominal dollars) in costs related to infrastructure (roads and waste/potable water systems) and disaster relief from 1983 through 1996. Further, a 2019 study in the *Journal of Coastal Research* 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 role; and authorization of appropriations. 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. In the 116th Congress, bills have been introduced and/or passed that would enact additional FWS recommendations and make other System boundary changes (e.g., H.R. 1047, H.R. 2834/S. 1406, and P.L. 116-9).

Concerns also have centered on the role of FWS oversight of other federal agency spending and actions in the System. Some have argued that FWS should expand the interpretation of current statutory exemptions to federal spending restrictions to allow additional types of activities. Expansion of exempted activities may raise concerns about how closely such activities align with the declared purposes of CBRA.

CBRA’s authorization of appropriations expired in 2010. Congress has continued to appropriate funds to FWS to implement CBRA—\$1.4 million in each of FY2017 through FY2019. FWS has requested \$1.4 million for FY2020.

Eva Lipiec, Analyst in Natural Resources Policy

R. Eliot Crafton, Analyst in Natural Resources Policy

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