

# Coastal Barrier Resources Act

## *Storm Recovery and Disaster Assistance Fact Sheet*

The Coastal Barrier Resources Act (CBRA) of 1982 and subsequent amendments ([16 U.S.C. 3501 et seq.](#)) established the John H. Chafee Coastal Barrier Resources System (CBRS), a defined set of geographic units along the Atlantic, Gulf of Mexico, Great Lakes, U.S. Virgin Islands, and Puerto Rico coasts. The units are depicted on a set of maps that is maintained by the U.S. Fish and Wildlife Service (Service). With some exceptions, no new Federal expenditures or financial assistance may be made available for any purpose within the System Units of the CBRS, including: construction or purchase of roads, structures, facilities, or related infrastructure; and most projects to prevent the erosion of, or otherwise stabilize, any inlet, shoreline, or inshore area. Most new Federal flood insurance is also prohibited within the CBRS.

The purposes of CBRA are “to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and other natural resources associated with the coastal barriers...by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers...” ([16 U.S.C 3501\(b\)](#)). CBRA does not prohibit the expenditure of private, state, or local funds within the CBRS. Additionally, CBRA does not prevent Federal agencies from issuing permits or conducting environmental studies.

### Types of CBRS Units

The CBRS contains two types of units, “System Units” and “Otherwise Protected Areas” (OPAs). OPAs are denoted with a “P” at the end of the unit number (e.g., FL-64P). While the full suite of restrictions on Federal expenditures applies within System Units, the only type of Federal expenditures or financial assistance that is prohibited within OPAs is Federal flood insurance. Consultation with the Service is not required for actions proposed to be carried out within an OPA. However, we recommend that Federal agencies disclose to applicants any relevant information about an OPA designation and its associated restrictions on Federal flood insurance because property owners are required to



Jocelyn Augustino/FEMA

*Crews work to repair the roadway over to Pine Island, in Matlacha, Florida.*

purchase flood insurance in order to be eligible for certain disaster relief funds from FEMA or other agencies.

### CBRA's Exceptions

Federal agencies, after consultation with the Service, may make disaster assistance available within System Units, provided that the expenditure meets one of CBRA's [exceptions](#). Examples of activities that may meet one of the exceptions include:

- Repair of a facility related to the exploration, extraction, or transportation of certain energy resources
- Restoration of existing Federal navigation channels (including the Intracoastal Waterway) and repair of related structures
- Maintenance, replacement, reconstruction, or repair of publicly owned roads, structures, or facilities
- Military activities essential to national security
- Rehabilitation of Coast Guard facilities
- Projects for the study, management, protection, and enhancement of fish and wildlife resources, including acquisition of fish and wildlife habitat (e.g., floodplain buyouts), stabilization projects for fish and wildlife habitats, and recreational projects (e.g., repair of a bike path or bird watching platform)

- Repair of air and water navigation aids and devices
- Scientific research, including repair of related facilities
- Actions necessary to alleviate the emergency in a Presidentially-declared emergency and/or major disaster (e.g., debris removal, provision of emergency food and shelter, restoration of utilities)
- Nonstructural projects for shoreline stabilization (e.g., planting of dune grass and beach nourishment)

See [Title 16 Section 3505](#) of the U.S. Code for the full text and conditions of the exceptions.

### Emergency Disaster Assistance (urgent live-saving activities; after-the-fact notification only for FEMA-funded projects)

Federal assistance for most emergency actions in a Presidentially-declared emergency or major disaster area, which are essential to the saving of lives and the protection of property and the public health and safety, are allowed within the CBRS if those actions are consistent with the purposes of CBRA (16 U.S.C. § 3505(a)(6)(E)). The actions are limited to those that are necessary to alleviate the emergency such as removal of debris from public property; emergency resto-

ration of essential community services such as electricity, water or sewer; provision of emergency shelter; relocation of individuals out of danger; etc. Since these activities must be accomplished immediately, FEMA has conducted advance consultations with the Service for the emergency work. FEMA must notify the Service after the activities have been carried out, and the Service is responsible for providing an opinion after the fact.

#### **Permanent Restoration Assistance (advance consultation required)**

Most Federal funding for permanent restoration assistance is prohibited within the CBRS unless the project or action meets one of the exceptions under CBRA. Federal funding may not be used within System Units to replace private roads, dredge new navigation channels; provide structural beach or shoreline stabilization; expand publicly-owned or -operated roads, structures, or facilities (e.g., sewer lines or wastewater treatment plants); or for other projects or actions that promote or provide for expanded development or services within the CBRS. FEMA's regulations ([44 C.F.R. 206.348](#)) require consultation with the Service before approving any action involving permanent restoration of a facility or structure on or attached to a System Unit. The Service has 12 working days to respond to FEMA's consultation requests for permanent restoration assistance, though an extension may be arranged.

#### **Emergencies Immediately Adjacent to the CBRS (no consultation required)**

CBRA prohibits a wide variety of Federal expenditures including "the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except that such assistance and expenditures may be made available...in all units, in cases where an emergency threatens life, land, and property immediately adjacent to that unit" (16 U.S.C. 3504(a)(3)). CBRA's legislative history makes it clear that the emergency provisions were intended for action to address immediate emergencies. It is the responsibility of the Federal funding agency to determine what constitutes an emergency that threatens life, land, and property immediately adjacent to a unit. Unlike most of CBRA's exceptions, there is no requirement for Federal agencies to consult with the Service under this provision. However, the Service appreciates a notification when this provision is exercised. Federal expenditures that are deemed appropriate under this provision of CBRA do not have to be consistent with the purposes of CBRA.

#### **Resources**

The Service's CBRA website contains information about the [consultation process](#) and [disaster assistance](#) as well as CBRS maps, data, and other resources that can be used by public officials, property owners, and other stakeholders to help determine whether properties and project sites are located within the CBRS.

Below are some additional online resources:

- [Fact sheet](#) for Federal agencies on the CBRA consultation process
- [Flow chart](#) that can help agencies through the consultation process
- [Interagency consultation template](#) to streamline the consultation process
- [CBRS Mapper](#) to view the existing CBRS units and download the official maps
- The [CBRS Validation Tool](#) within the mapper can be used by any user to produce documentation that indicates whether a location is within or outside of the CBRS. Please note that locations within the "CBRS Buffer Zone" (i.e., areas within about 20 feet of a CBRS boundary) require a "CBRS Property Determination," which can be requested by emailing [CBRAadeterminations@fws.gov](mailto:CBRAadeterminations@fws.gov).
- [CBRS GIS Data](#) (shapefile and web map service)
- FEMA's disaster relief regulations implementing CBRA can be found at [44 CFR 206.340 through 206.349](#)
- [Information for Planning and Consultation \(IPaC\)](#) is a decision support tool that can check project locations for CBRS units, endangered and threatened species, and more. Users may also request an official species list through IPaC.

#### **U.S. Fish and Wildlife Service**

##### **Ecological Services**

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<https://www.fws.gov/service/coastal-barrier-resources-act-project-consultation>

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