

Committee on Natural Resources

Rob Bishop, Chairman
Markup Memorandum

June 8, 2018

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff
Subcommittee on Water, Power and Oceans (x58331)

Markup: **H.R. 5787 (Rep. Neal Dunn, R-FL)**, To amend the Coastal Barrier Resources Act to give effect to more accurate maps of units of the John H. Chafee Coastal Barrier Resources System that were produced by digital mapping of such units, and for other purposes.
Wednesday, June 13, 2018, 10:15am; 1324 Longworth HOB.

H.R. 5787 (Rep. Neal Dunn), *“Strengthening Coastal Communities Act of 2018”*

Bill Summary

H.R. 5787 codifies the Coastal Barrier Resources System maps revised and digitized as part of the Digital Mapping Pilot Project. The U.S. Fish and Wildlife Service developed these maps and transmitted them to Congress in 2016 in a report entitled “Final Report to Congress: John H. Chafee Coastal Barrier Resources System Digital Mapping Pilot Project”. This bill also codifies three digital maps developed outside of the pilot project that were developed by the U.S. Fish and Wildlife Service.

Cosponsors

Reps. Lisa Blunt Rochester (D-DE) and Thomas Rooney (R-FL).

Background

In 1981, due to the high risk that coastal developments carry, Congress directed the Secretary of the Interior to draw maps designating undeveloped coastal barriers unsuitable for new federal development subsidies, including federal flood insurance.¹ In 1982 Congress enacted the Coastal Barrier Resources Act (CBRA, 16 U.S.C. 3501 et seq.). CBRA established the Coastal Barrier Resources System (CBRS) administered by the U.S. Fish and Wildlife Service (USFWS).² CBRS units are depicted on maps on file with the USFWS. CBRA prohibits the use of federal dollars to subsidize new development on CBRS units, except for limited exceptions such as maintenance of federal navigation channels, and military readiness.³ The Coastal Barrier Improvement Act of 1990 added “Otherwise Protected Areas” (OPAs) to the CBRS.⁴ While CBRS units carry the full funding prohibitions of CBRA, structures within OPAs⁵ are prohibited only from receiving flood insurance under the National Flood Insurance Program.⁶

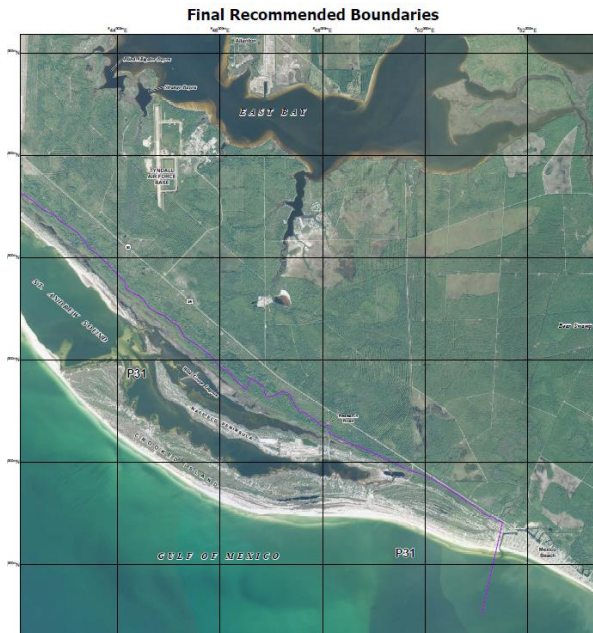


Figure 1: Final USFWS recommendation for the St. Andrews Complex P31 (1 of 3) unit map that depicts existing and recommended boundaries. This is one of three maps that H.R. 2947 would codify.

CBRA impacted only coastal areas that were undeveloped at the time of enactment so that existing coastal communities would not be adversely impacted. Further, CBRA did not apply to the approximately 47% of coastal areas that were undeveloped but already protected by existing law.⁷ At the time of enactment, approximately 13% of coastal areas along the Atlantic and Gulf Coasts were undeveloped and unprotected,⁸ and the original CBRS included

¹ [Public Law 97-35](#) §341(d), *Omnibus Budget and Reconciliation Act*.

² [Public Law 97-348](#), *Coastal Barrier Resources Act*.

³ [16 U.S.C. 3505](#).

⁴ [Public Law 101-591](#), *Coastal Barrier Improvement Act of 1990*.

⁵ As defined by [Public Law 101-591](#), otherwise protected areas may be comprised of “undeveloped coastal barrier[s] 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”.

⁶ [42 U.S.C. 4028\(b\)](#), *National Flood Insurance Act of 1968* as amended by [Public Law 101-591](#).

⁷ S. Rpt. No. 97-419, Senate Committee on Environment and Public Works Report to accompany S. 1018, p. 1.

⁸ Id.

approximately 590,000 acres.⁹ In 2002, USFWS published a report commemorating the 20th anniversary of CBRA. This report conservatively estimated that the program was on track to save taxpayers \$1.3 billion through 2010 and that an additional \$200 million in federal disaster relief could be saved by 2050.¹⁰ Furthermore, a 2007 GAO report found that approximately 84% of CBRS units remained undeveloped and only 3% of units have experienced significant development since the passage of CBRA.¹¹ Currently the CBRS consists of 3.3 million acres in 23 states and territories along the Atlantic, Gulf of Mexico, Great Lakes, U.S. Virgin Islands and Puerto Rico coasts.¹²

Congress has reauthorized CBRA three times.¹³ The most recent reauthorization, the Coastal Barrier Resources Reauthorization Act of 2005, directed USFWS to finalize and submit to Congress a report on the digitization of CBRA maps.¹⁴ USFWS transmitted the final report in November 2016 which included final recommended boundaries for CBRS units and OPAs.¹⁵ The recommendations in the report impact maps in Delaware, North Carolina, South Carolina, Florida and Louisiana. In general, under current law, Congress must codify significant changes to CBRA maps for any new maps to take effect.¹⁶

In response to the 2016 report, several members, including Representatives Neal P. Dunn (R-FL), Lisa Blunt Rochester (D-DE) and Thomas Rooney (R-FL), introduced bills to codify the revised, digital maps that impact their districts. The Subcommittee on Water, Power and Oceans held a legislative hearing on two of these bills on February 27, 2018: H.R. 2947 (Rep. Neal Dunn) and H.R. 4880 (Rep. Lisa Blunt Rochester). Representing USFWS, Mr. Gary Frazer testified in support of both two bills.¹⁷ After this hearing, the bill sponsors worked together to codify these maps in a more comprehensive fashion.

⁹ [The Coastal Barrier Resources Act: Harnessing the Power of Market Forces to Conserve America's Coasts and Save Taxpayers' Money](#); United States Fish and Wildlife Service Report; August 2002; p. 1.

¹⁰ *Id.*, p. 2.

¹¹ [Coastal Barrier Resources System: Status of Development That Has Occurred and Financial Assistance Provided by Federal Agencies](#); Government Accountability Office Report; March 2007; p. 4.

¹² *Id.*, pp. 1-2, 7.

¹³ <https://www.fws.gov/cbra/Legislation.html>.

¹⁴ [Public Law 109-226](#) §4, *Coastal Barrier Resources Reauthorization Act of 2005*.

¹⁵ [Final Report to Congress: John H. Chafee Coastal Barrier Resources System Digital Mapp Pilot Project](#), November 29, 2016.

¹⁶ [16 U.S.C. 3503\(a\)\(3\)](#).

¹⁷ [Legislative Hearing on H.R. 2947 and H.R. 4880: Hearing before the Natural Resources Committee Subcommittee on Water, Power and Oceans, House of Representatives, 115th Cong., 2 \(2018\) \(Testimony of Gary Frazer\)](#), at 1.

H.R. 5787, introduced on May 15, 2018 enacts 32 maps transmitted in the 2016 report and implements the USFWS recommendations for the St. Andrew’s Complex P31 and P31P CBRS units, for a total of 35 new maps.

Major Provisions/Analysis of H.R. 5787

Section 2 codifies certain CBRS maps transmitted to Congress in 2016 by the USFWS.

Section 3 requires the USFWS to maintain a hard copy of any digital map that has been codified by Congress to serve as the official version for purposes of CBRA and to maintain a digitally available version on the agency’s website.

Cost

The Congressional Budget Office has yet to complete a cost estimate of this bill.

Administration Position

At a Subcommittee on Water, Power and Oceans legislative hearing, Mr. Gary Frazer from the U.S. Fish and Wildlife Service stated that, “the Administration recommends that all of the maps included in Appendix C of the *Final Report to Congress: John H. Chafee Coastal Barrier Resources System Digital Mapping Pilot Project* also be adopted”.¹⁸

Anticipated Amendments

The Committee expects a technical amendment from Rep. Doug Lamborn (R-CO) at the request of the Administration.

Effect on Current Law (Ramseyer)

Showing Current Law as Amended by H.R. 5787

[text to be added highlighted in yellow]

Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503 et seq.)

§3503. Establishment of John H. Chafee Coastal Barrier Resources System

(a) Establishment

¹⁸ Id., at 4.

There is established the John H. Chafee Coastal Barrier Resources System, which shall consist of those undeveloped coastal barriers and other areas located on the coasts of the United States that are identified and generally depicted on the maps on file with the Secretary entitled "Coastal Barrier Resources System", dated October 24, 1990, as those maps may be replaced, modified, revised, or corrected under-

(1) subsection (f)(3);

(2) section 4 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101-591); or

(3) any other provision of law enacted on or after November 16, 1990, that specifically replaces such a map or authorizes the modification, revision, or correction.

(b) System maps

(1) IN GENERAL.--The Secretary shall keep the maps referred to in subsection (a) on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service, and in such other offices of that service as the Director considers appropriate.

(2) DIGITAL MAPS.—

(A) AVAILABILITY.—The Secretary shall make available to the public on the Internet web site of the United States Fish and Wildlife Service digital versions of the maps included in the set of maps referred to in subsection (a).

(B) EFFECT.—Any determination as to whether a location is inside or outside the System shall be made without regard to the digital maps available under this paragraph, except that this subparagraph does not apply with respect to any printed version of such a digital map if the printed version is included in the maps referred to in subsection (a).