

Coastal Barrier Resources Act

Fact Sheet on Expenditures of Federal Funds for Emergency Situations Immediately Adjacent to the CBRS



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Bulldozer moving sand on an eroded beach.

Authority

The Bolstering Ecosystems Against Coastal Harm (BEACH) Act ([Pub. L. 118-117](#)), adopted on November 25, 2024, reauthorized and amended the Coastal Barrier Resources Act (CBRA or Act, [16 U.S.C. § 3501 et seq.](#)). Section 105 of the BEACH Act directs the Secretary of the Interior, in consultation with the Chief of Engineers of the Army Corps of Engineers, to develop guidance on the expenditure of federal funds pursuant to CBRA's provision described at [16 U.S.C. § 3504\(a\)\(3\)](#) for emergency situations that threaten life, land, and property immediately adjacent to a unit of the John H. Chafee Coastal Barrier Resources System (CBRS).

This fact sheet has been prepared in accordance with the above requirement to assist federal agencies in determining the special circumstances in which this provision may be applicable. While the statutory provisions of CBRA contain legally binding requirements, the information provided in this document is not regulatory and does not impose legally binding requirements on any federal agency or other entity.

Overview

Section 5 of CBRA prohibits most new federal expenditures and financial assistance within System units of the CBRS, 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\(a\)\(3\)](#)).

There may be rare cases with extenuating circumstances where federal agencies determine it is necessary to carry out projects within the CBRS in accordance with this emergency provision (e.g., a shoreline stabilization project needed to protect an energy facility located immediately adjacent to a unit of the CBRS).

CBRA does not prohibit the expenditure of private, state, or local funds within the CBRS. Likewise, CBRA does not prohibit federally funded environmental studies, planning, and assessments required for the issuance of permits or other authorizations under federal

law ([16 U.S.C. § 3502\(a\)\(3\)\(A\)\(iii\)](#)). The responsibility for complying with CBRA and the final decision regarding the expenditure of funds for a particular action or project rests with the federal funding agency.

Purpose of CBRA and Legislative History

When Congress enacted CBRA in 1982, it declared the purpose of the Act 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 by restricting federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers, by establishing the CBRS, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved ([16 U.S.C. § 3501\(b\)](#)).

CBRA's legislative history emphasizes that the Act was intended to reduce federal involvement in activities that are costly to the American taxpayer and detrimental to coastal barrier ecosystems included within the CBRS, including dredging activities and the construction of projects intended to reduce impacts from erosion or storm events. House Report 97-841 Part 1 states:

Intense development and human use of coastal barriers have also caused diminished productivity in these important natural resource areas.... The intent of the legislation is that all forms of direct Federal assistance for projects...be precluded. Federal assistance for erosion control would also be prohibited, except where an emergency threatens life, land, or property immediately adjacent to a System unit.¹

Statutory Requirements

The section 5 emergency provision ([16 U.S.C. § 3504\(a\)\(3\)](#)) is limited to projects that “prevent the erosion of, or to otherwise stabilize, any inlet,

shoreline, or inshore area...in cases where an emergency threatens life, land, and property immediately adjacent to that unit.” Therefore, to qualify for the provision, the project must meet all three of the below criteria of the statute:

1. The project **must “prevent the erosion of” or “otherwise stabilize, any inlet, shoreline, or inshore area.”**
2. There **must be an “emergency” that “threatens life, land, and property.”**
3. The threatened life, land, and property **must be “immediately adjacent to” the unit.**

The terms “emergency” and “immediately adjacent” are not defined in CBRA.

For projects that do not meet the statutory criteria for the section 5 emergency provision, funding agencies may consider the [exceptions](#) in section 6 of CBRA. These exceptions require the funding agency to [consult](#) with the Service prior to carrying out the project (16 U.S.C. § 3505(a)). The list of section 6 exceptions includes certain emergency actions within the CBRS that are necessary to the saving of lives and the protection of property and the public health and safety and certain nonstructural projects for shoreline stabilization. For more information, see:

- [Coastal Barrier Resources Act Storm Recovery and Disaster Assistance Fact Sheet](#)
- [Frequently Asked Questions for Nonstructural Shoreline Stabilization Projects.](#)

Federal Agency Responsibilities

It is the responsibility of the federal funding agency to determine whether a project that would normally be prohibited by CBRA meets the criteria of the section 5 emergency provision. **There is no requirement for federal agencies to consult with the Service under this section 5 provision**, unlike CBRA’s section 6 exceptions (which do require consultation with the Service).

The head of each affected federal agency is independently responsible for revising or issuing regulations and guidance as necessary to ensure compliance with CBRA and certifying annually to the Secretary of the Interior that the agency is in compliance ([16 U.S.C. § 3506](#)).

Recommendations for Federal Funding Agencies

Regarding the section 5 emergency provision, the Service recommends the following voluntary measures for federal funding agencies:

1. Consistent with the purpose of CBRA and the legislative history noted above, only use this emergency provision in limited cases with extenuating circumstances and when all other viable options have been exhausted.
2. Demonstrate, and thoroughly document for the decision record, the nature of the emergency and the threats to life, land, and property immediately adjacent to the CBRS.

3. Coordinate with the Service’s Ecological Services [Field Office](#) in advance (if the situation allows) to identify voluntary conservation measures and best management practices that may mitigate any harmful effects of the project on natural resources.
4. Provide a courtesy notification to the Service when this provision is exercised. Such voluntary notifications may be emailed to the appropriate Ecological Services Field Office.

Additional Resources

- [CBRS Maps and GIS Data](#)
- [CBRA Project Consultation](#)
- [Exceptions to Limitations on Federal Expenditures](#)
- [Shoreline Stabilization and the CBRS](#)
- [Disaster Assistance Within the CBRS](#)
- [FWS Ecological Services Field Offices](#)

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¹ U.S. Congress, House, Committee on Merchant Marine and Fisheries, *Coastal Barrier Resources Act: Report Together with Additional Views (to Accompany H.R. 3252)*, 97th Congress, 2d Session, 1982, H. Rep. 97-841, part 1, 10-11, 15.

