

# Subcommittee on Water, Power and Oceans

Doug Lamborn, Chairman

Hearing Memorandum

February 23, 2018

To: All Subcommittee on Water, Power and Oceans Members

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

Hearing: **Legislative hearing on H.R. 4880 (Rep. Lisa Blunt Rochester, D-DE), To revise the boundaries of certain John H. Chafee Coastal Barrier Resources System units in Delaware.**  
**February 27, 2018 at 10:00 AM; 1324 Longworth HOB**

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## **H.R. 4880 (Rep. Lisa Blunt Rochester)**

### **Bill Summary**

H.R. 4880 codifies federal corrections to the maps covering the John H. Chafee Coastal Barrier Resources System Units and Otherwise Protected Areas DE-07, DE-07P and North Bethany Beach Unit H01 located in Delaware.

This hearing will also include consideration of one other bill.

### **Invited Witnesses (in alphabetical order)**

*Ms. Karen Hyun*  
Vice President, Coastal Conservation  
National Audubon Society  
Washington, D.C.

*Hon. Ryan Zinke*  
Secretary  
U.S. Department of the Interior  
Washington, D.C.

## Background

In 1981, due to the high risk that coastal developments carry, Congress directed the Secretary of the Interior (Secretary) to draw maps designating undeveloped coastal barriers unsuitable for new federal flood insurance<sup>1</sup>, and in 1982 Congress enacted the *Coastal Barrier Resources Act* (CBRA). CBRA codified the maps drawn pursuant to P.L. 97-35 and established the Coastal Barrier Resources System (CBRS) administered by the U.S. Fish and Wildlife Service (USFWS).<sup>2</sup> CBRA prohibits the use of federal dollars to subsidize new development of coastal areas with limited exceptions as not to impede maintenance of federal navigation channels, military readiness and certain other federal actions.<sup>3</sup> The *Coastal Barrier Improvement Act of 1990* added the new designation of an “Otherwise Protected Area” (OPA).<sup>4</sup> While CBRS

units carry the full funding prohibitions of CBRA, structures within OPAs<sup>5</sup> are prohibited only from receiving flood insurance under the National Flood Insurance Program.<sup>6</sup>

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.<sup>7</sup> At the time of enactment, approximately 13% of coastal areas along the Atlantic and Gulf Coasts were undeveloped and unprotected,<sup>8</sup> and the original CBRS included

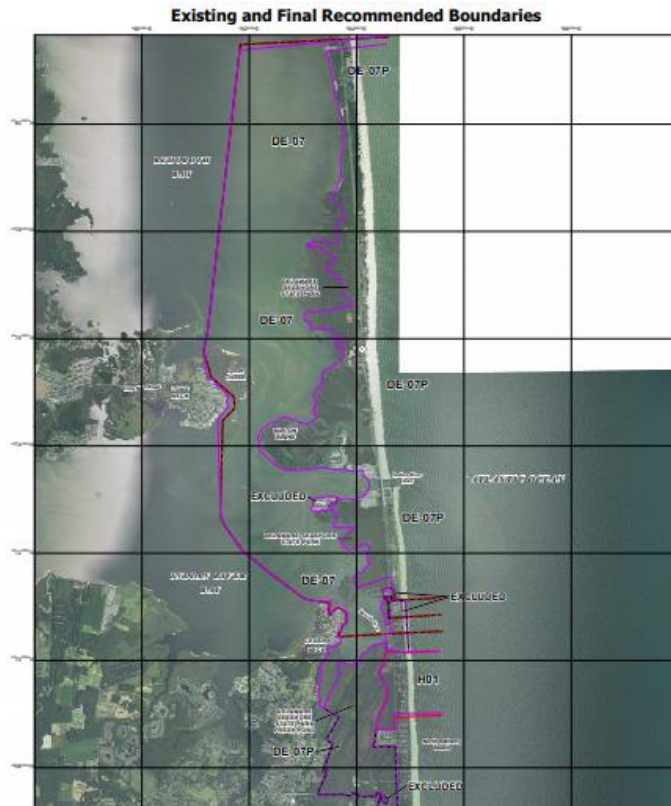


Figure 1: Final USFWS recommendation for the DE-07, DE-07P and H01 unit maps that depicts existing and recommended boundaries. Figure 1 depicts the three units that H.R. 4880 would codify.

<sup>1</sup> [P.L. 97-35](#) §341(d), *Omnibus Budget and Reconciliation Act*.

<sup>2</sup> [P.L. 97-348](#), *Coastal Barrier Resources Act*.

<sup>3</sup> [16 U.S.C. 3505](#).

<sup>4</sup> [P.L. 101-591](#), *Coastal Barrier Improvement Act of 1990*.

<sup>5</sup> As defined by [P.L. 101-591](#), otherwise protected areas are 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”.

<sup>6</sup> [42 U.S.C. 4028\(b\)](#), *National Flood Insurance Act of 1968* as amended by [P.L. 101-591](#).

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

<sup>8</sup> *Id.*

approximately 590,000 acres.<sup>9</sup> In 2002, USFWS published a report commemorating the 20<sup>th</sup> 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.<sup>10</sup> 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.<sup>11</sup> Currently the system 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.<sup>12</sup>

Congress has reauthorized CBRA three times.<sup>13</sup> In 2006, Congress enacted the most recent reauthorization, *Coastal Barrier Resources Reauthorization Act of 2005*. This act directed the Secretary to finalize and submit to Congress a report on the digitization of CBRA maps.<sup>14</sup> USFWS transmitted the final report to Congress in November 2016, which included final recommended boundaries for CBRS units and OPAs.<sup>15</sup> 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.<sup>16</sup>

In response to the 2016 report, Congresswoman Lisa Blunt Rochester (D-DE) introduced H.R. 4880.<sup>17</sup> This bill implements the USFWS recommendations for the North Bethany Beach unit of the CBRS. Due to outdated technology used to develop the original maps, USFWS mistakenly included the South Shore Marina development which inappropriately prohibited residents from taking advantage of federal benefits. In updating the map, these homeowners will be removed from the map and 814 of acres of beaches, wetlands, islands, and waterways will be added to the CBRS.<sup>18</sup> A companion bill, S. 1395, introduced by Senator Thomas R. Carper (D-DE) passed the Senate in January 2018.<sup>19</sup>

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<sup>9</sup> [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.

<sup>10</sup> *Id.*, p. 2.

<sup>11</sup> [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.

<sup>12</sup> *Id.*, pp. 1-2, 7.

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

<sup>14</sup> [P.L. 109-226](#) §4, *Coastal Barrier Resources Reauthorization Act of 2005*.

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

<sup>16</sup> [16 U.S.C. 3503\(a\)\(3\)](#).

<sup>17</sup> <https://www.congress.gov/bill/115th-congress/house-bill/4880>.

<sup>18</sup> [Final Report to Congress: John H. Chafee Coastal Barrier Resources System Digital Mapp Pilot Project](#), pp. C-4 – C-9.

<sup>19</sup> <https://www.congress.gov/bill/115th-congress/senate-bill/1395>.

**Major Provisions/Analysis of H.R. 4880**

*Section 1* of the bill replaces the existing CBRS unit map subtitled “Delaware Seashore Unit DE-07P, North Bethany Beach Unit H01” with the map entitled “Delaware Seashore Unit DE-07/DE-07P, North Bethany Beach Unit H01”.

**Cost**

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

**Administration Position**

Unknown.

**Effect on Current Law (Ramseyer)**

N/A