

PART 2, CHAPTER 15

COASTAL BARRIER RESOURCES

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PART 2, CHAPTER 15

COASTAL BARRIER RESOURCES

15.1 OVERVIEW

This chapter contains the procedures to determine whether an Florida Department of Transportation (FDOT) project is subject to the provisions of the **Coastal Barrier Resources Act of 1982 (CBRA)** which was later amended by the **Coastal Barrier Improvement Act (CBIA) of 1990**, collectively “the Acts”, found at **16 United States Code (U.S.C.) §§ 3501-3510**. The chapter also details the coordination, consultation and documentation required to ensure compliance with the Acts. This chapter is only applicable to FDOT Federal Projects.

15.1.1 Legislative and Regulatory Framework

In 1982, the **CBRA** was signed into law (**Public Law 97-348**), to preserve the ecological integrity of areas that serve to buffer the U.S. mainland from storms and provide important habitats for fish and wildlife by prohibiting federal expenditures for the development of designated undeveloped coastal barriers and their associated aquatic habitat, including wetlands, estuaries, and inlets.

The **CBRA** required the U.S. Department of the Interior (USDOI) to establish the Coastal Barrier Resource System (CBRS) creating designated “units” or areas that fall under this protection.

Three goals of the **CBRA** are to:

1. Minimize loss of human life by discouraging development in high risk areas;
2. Reduce wasteful expenditure of federal resources; and
3. Protect the natural resources associated with coastal barriers.

The **CBRA** accomplishes these goals by restricting federal expenditures and financial assistances 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.

15.1.1.1 Types of Coastal Barrier Resources

The **CBRA** defines an “undeveloped coastal barrier” as:

- (A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that–

- (i) consists of unconsolidated sedimentary materials,
- (ii) is subject to wave, tidal, and wind energies, and
- (iii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters; but only if such feature and associated habitats contain few manmade structures and these structures, and man's activities on such feature and within such habitats, do not significantly impede geomorphic and ecological processes.

Types of coastal barriers include:

1. **Bay barriers** – Coastal barriers that connect two headlands, and enclose a pond, marsh, or other aquatic habitat.
2. **Tombolos** – Sand or gravel beaches that connect offshore islands to each other or to a mainland.
3. **Barrier spits** – Coastal barriers that extend into open water and are attached to the mainland at only one end.
4. **Barrier islands** – Coastal barriers completely detached from the mainland.

The **CBIA** amended the **CBRA** by adding units to the CBRS and establishing a category identified as Otherwise Protected Areas (OPAs). OPAs are undeveloped coastal barriers within the boundaries of conservation lands, such as those reserved as wildlife refuges, parks, or areas for other conservation purposes. New construction within OPAs cannot receive federal flood insurance unless it conforms to the purposes for which the area is protected. No other restrictions are placed on federal expenditures in these areas.

In Florida, CBRS units (i.e. specific coastal barriers) have been designated along the Atlantic and Gulf Coasts. The U.S. Fish and Wildlife (USFWS) issues maps identifying the boundaries of CBRS units and OPAs. These maps can be found on the USFWS website or by viewing the mapper built into the **CBRS Validation Tool**. See [Section 15.3](#) for links to these resources.

15.1.1.2 Limitations on Federal Expenditures

The **CBRA** restricts most federal or financial assistance for development within the boundaries of designated coastal barrier units, except for OPAs identified on maps of the System. The **CBRA** defines financial assistance as "any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect federal assistance." **Section 5** of the **CBRA (16 U.S.C. § 3504)** provides that no new expenditures or new financial assistance may be made available under authority of any federal law for any purpose within the CBRS, including, but not limited to:

1. Construction or purchase of any structure, appurtenance, facility, or related infrastructure;
2. Construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to a CBRS unit;
3. Assistance for erosion control or stabilization of any inlet, shoreline, or inshore area, except in certain emergencies.

15.1.1.2.1 Exceptions to Limitations on Federal Expenditures

Exceptions to the prohibition on financial assistance are provided in **Section 6** of the **CBRA (16 U.S.C. § 3505)**.

A federal expenditure is allowable within CBRS units if it meets the exceptions in **16 U.S.C. § 3505(a)(1)-(5)**. Those applicable to FDOT include:

- Maintenance or construction of improvements to existing federal navigation channels (including the Intracoastal Waterway) and related structures (such as jetties), including disposal of dredge materials related to such maintenance or construction.
- The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system. Construction, operation, maintenance, and rehabilitation of U.S. Coast Guard (USCG) facilities and access to them.

A federal expenditure is allowable within CBRS units if it meets the exceptions in **16 U.S.C. § 3505(a)(6)(A)-(G)** and is also consistent with the three goals of the **CBRA**. Those applicable to FDOT include:

- Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.
- Scientific research, including aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.
- Maintenance, replacement, reconstruction, or repair, but not the expansion (except for U.S. Highway 1 in the Florida Keys) of publicly owned or publicly operated roads, structures, or facilities; (All highways on the federal network are essential links in a larger network or system).
- Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system.

For projects which may qualify for an exception under **Section 6** of **CBRA**, the consultation requirements described in the Advisory Guidelines contained in the **48 Federal Register (FR) 45664**, must be satisfied. Under these guidelines, the USFWS must be consulted with and allowed to comment on the proposed action prior to commitment of federal funds. The USFWS provides comments and determines if the project is consistent with the **CBRA**. Consultation with USFWS is **not required** in areas identified as OPAs. See [Section 15.2.2](#) for consultation requirements.

15.2 PROCEDURE

Since funding for a project can be rescinded by Lead Federal Agencies, it is necessary to determine, as early as possible, whether an FDOT Federal Project is located within, or in the vicinity of, a coastal barrier resource designated under the **CBRA** (see [Section 15.2.1](#)). This determination should be made early during the Planning phase and/or the Efficient Transportation Decision Making (ETDM) process ([ETDM Manual, Topic No.650-000-002](#)).

Projects in which federal funds are restricted under **Section 5** of the **CBRA** ([Section 15.1.1.2](#)) and are not included in the exceptions listed in **Section 6** of the **CBRA** ([Section 15.1.1.2.1](#)) are either removed from FDOT's Work Program or assigned as FDOT State Projects or Local Agency Managed projects. This determination also occurs during the Planning phase.

For projects which may qualify for an exception under **Section 6** of **CBRA** ([Section 15.1.1.2.1](#)), the District coordinates with USFWS during the project development phase ([Section 15.2.2](#)). The coastal barrier resources process is shown in [Figure 15-1](#).

15.2.1 Determining if Provisions of Coastal Barrier Resources Act Apply

The first step is for the District to determine if a project is subject to provisions of the **CBRA** by first identifying if the project is located on or leads to a coastal barrier island. If so, the next step is to view CBRS unit maps to determine if the project site is within a CBRS unit. There are several ways of viewing CBRS unit maps:

- PDFs on the USFWS website (see [Section 15.3](#) for link).
- The **CBRS Validation Tool** which includes a CBRS interactive mapper and provides the means to print/create maps.
- The Environmental Screening Tool (EST) **CBRA** data: The data layer can be viewed along with the project limits. The unit type on **CBRA** data layer's metadata should identify whether the area is an OPA or CBRS unit. OPAs are denoted on the unit number with a **P** after the CBRS number (e.g., FL-03P, P31P).

For projects that qualify for ETDM EST screening, the District should review the CBRS unit maps and include its initial evaluation of coastal barrier involvement for the project in the Preliminary Environmental Discussion (PED)([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)). The results of the Geographical Information System (GIS) analysis for the **CBRA** data layer should be reviewed and discussed in the PED. The unit type on **CBRA** data layer's metadata should identify whether the area is an OPA or CBRS unit. OPAs are denoted on the unit number with a **P** after the CBRS number (e.g., FL-03**P**, P31**P**). During the screening events, the Environmental Technical Advisory Team (ETAT) will review the PED and available Geographic Information System (GIS) layers in the EST. At the end of the Programming Screen, the District reviews the information published in the **Programming Screen Summary Report** with attention to any ETAT comments for the Coastal and Marine topic. Comments by USFWS are especially important.

For projects that do not qualify for ETDM EST screening, the Area of Interest (AOI) tool may be used to view the GIS layers in the EST.

If the District determines that the project is neither in the vicinity of nor leads directly to a designated coastal barrier resource unit, documentation is included in the Environmental Document according to [Section 15.2.3](#).

If the District determines that the project is in the vicinity of or leads directly to a designated coastal barrier resource unit that is not otherwise identified as an OPA, then the USFWS must be consulted as required in [Section 15.2.2](#). Consultation with USFWS is not required for projects designated as OPA units.

15.2.2 Consultation Requirements

The District is responsible for initiating consultation with the USFWS. The USFWS has developed a **Template for Interagency CBRA Consultation** to facilitate this consultation (see [Section 15.3](#) for link). This includes providing a description of the proposed action and map showing the project location, the CBRS unit(s), and a reference to the appropriate CBRS unit map (see [Section 15.2.1](#)). The following should also be included:

- The **National Environmental Policy Act (NEPA)** Assignment standard statement (see [Part 1, Chapter 4, Project Development Process](#))
- The ETDM Number, Financial Management Number, and Federal-Aid Project Number (if available)
- A statement to the effect that:

This project information package is being provided to you to initiate consultation in compliance with the Coastal Barrier Resources Act (CBRA). The subject project and its relationship to a federally-designated coastal barrier resource is described in this package.

Please review the attached information and provide the District Environmental Engineer/Manager a written opinion regarding whether the project meets the exception under Section 6 of CBRA within thirty (30) calendar days.

This information is sent to the local field office of the USFWS. The District's USFWS ETAT representative is contacted to determine the appropriate office/contact for consultation.

15.2.3 Documentation in Environmental Document

Documentation depends on the Environmental Document Type.

Type 1 Categorical Exclusion (CE) - Documentation of the consultation process and final determination (if applicable) is included in the StateWide Environmental Project Tracker (SWEPT) project file and attached to the **Type 1 Categorical Exclusion Checklist**. It is recommended that these be placed within the Coastal Barrier Resources folder within SWEPT.

Type 2 CE, Environmental Assessment (EA), or Environmental Impact Statement (EIS) – If the District determines that the project is neither in the vicinity of nor leads directly to a designated coastal barrier resource unit; **or** the project is along coastal areas where the provisions of the **CBRA** could apply but following the appropriate review it has been determined that there is no CBRS involvement, the following or similar statement is included in the Coastal Barrier Resources section of the Environmental Document:

It has been determined that this project is neither in the vicinity of, nor leads directly to a designated coastal barrier resource unit pursuant to the Coastal Barrier Resources Act of 1982 (CBRA) and the Coastal Barrier Improvement Act of 1990 (CBIA).

If consultation was required, the consultation process and final determination is summarized in the Coastal Barrier Resources subsection of the Environmental Analysis section. The correspondence, and other documents developed during the consultation process (e.g., maps from the **CBRS Validation Tool**) are referenced and included in the Appendix as well as the project file in SWEPT. It is recommended that these be placed within the Coastal Barrier Resources folder within SWEPT.

15.2.4 Emergency Consultation

In cases where temporary emergency repairs may affect Coastal Barrier Resources, consultation with the USFWS is not required where an emergency threatens life, land, and property immediately adjacent to a CBRS unit **[16 U.S.C. 3504(a)(3)]**. In this case an email notification of the activity occurring under this exemption may be emailed to cbra@fws.gov. Related emergency action correspondence is discussed in the Environmental Document and uploaded into the SWEPT project file. Permanent

repairs must follow the appropriate consultation for the **CBRA** outlined in [Section 15.2.2](#).

15.3 REFERENCES

48 FR 45664, October 6, 1983

Coastal Barrier Improvement Act of 1990

Coastal Barrier Resources Act of 1982

Coastal Barrier Resources Reauthorization Act of 2000

Coastal Barrier Resources Reauthorization Act of 2005

Public Law 97-348, October 18, 1982

Title 16 U.S.C. §§ 3501-3510, Coastal Barrier Resources.

<https://uscode.house.gov/view.xhtml?path=/prelim@title16/chapter55&edition=prelim>

USFWS, CBRA Consultation website (including the Template for Interagency CBRA Consultation). <https://www.fws.gov/service/coastal-barrier-resources-act-project-consultation>

USFWS, CBRS Validation Tool website. <https://www.fws.gov/service/coastal-barrier-resources-system-property-documentation>

USFWS PDF of CBRS unit maps. <https://www.fws.gov/library/collections/coastal-barrier-resources-system-maps-florida>

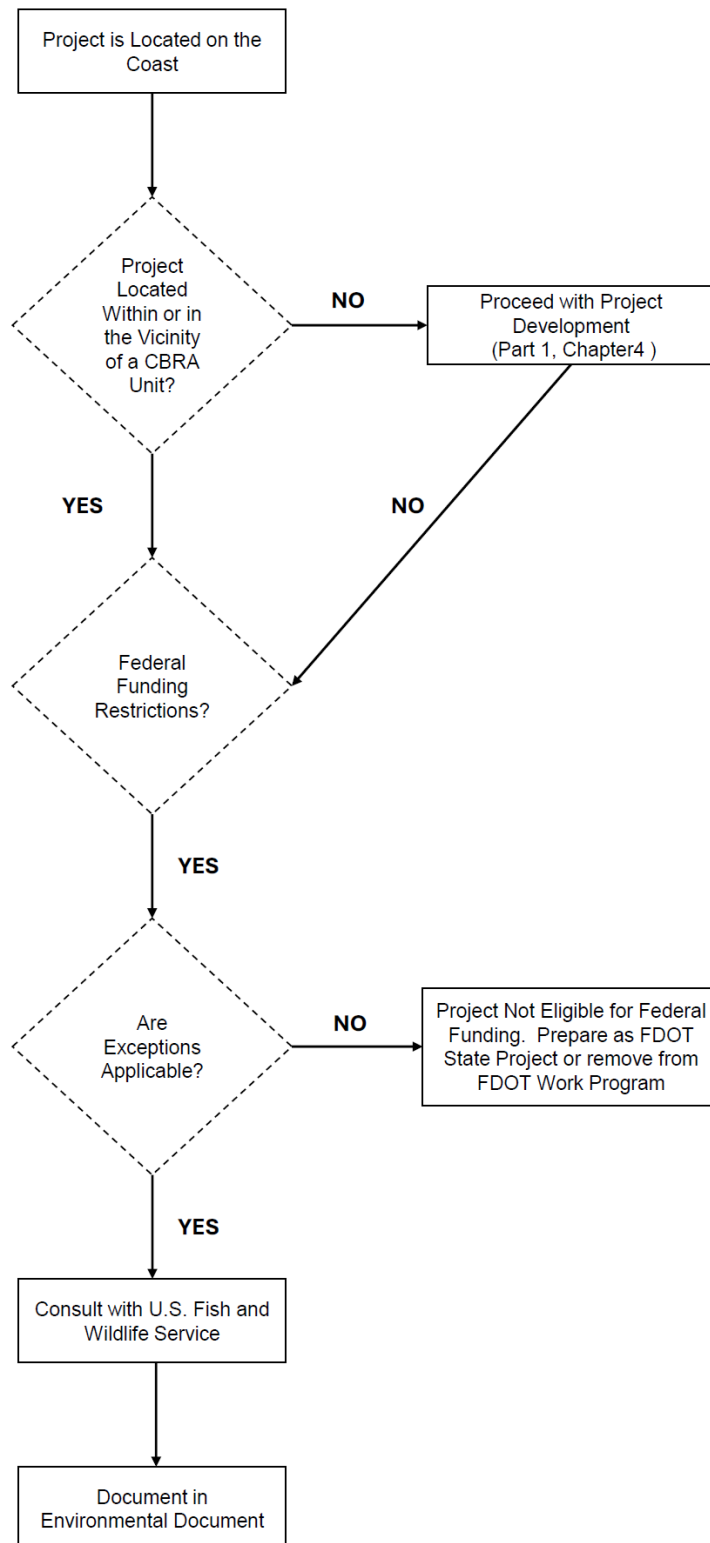


Figure 15-1 Coastal Barrier Resources Process