

REPLACEMENT OF JOHN H. CHAFEE COASTAL BARRIER  
RESOURCES SYSTEM MAP

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DECEMBER 22, 2014.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. HASTINGS of Washington, from the Committee on Natural  
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5139]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5139) to correct the boundaries of the John H. Chafee Coastal Barrier Resources System Unit P16, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. REPLACEMENT OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM MAP.**

(a) IN GENERAL.—The map included in the set of maps entitled “Coastal Barrier Resources System” referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)) and relating to Unit P16 in Florida is hereby replaced by another map relating to the same unit entitled “John H. Chafee Coastal Barrier Resources System Corrected Unit P16” and dated October 30, 2014.

(b) AVAILABILITY.—The Secretary of the Interior shall keep the replacement map referred to in subsection (a) on file and available for inspection in accordance with section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

PURPOSE OF THE BILL

The purpose of H.R. 5139 is to correct the boundaries of the John H. Chafee Coastal Barrier Resources System Unit P16.

## BACKGROUND AND NEED FOR LEGISLATION

Coastal barriers are natural landscape features that protect the mainland, lagoons, wetlands and salt marshes from the full force of wind, wave and tidal energy. Major types of coastal barriers include fringing mangroves, barrier islands, barrier spits and bay barriers. Composed of sand and other loose sediments, these elongated, narrow land forms are dynamic ecosystems and prone to frequent disruption by storms. They are the first line of defense against the strong winds, huge waves and powerful storm surges that accompany hurricanes. However, despite their vulnerability, these areas are attractive places to locate private homes and resorts.

The John H. Chafee Coastal Barrier Resources System (CBRS) is comprised of coastal barrier units delineated on maps adopted by Congress. Except for very minor technical changes to account for natural accretion and erosion, boundaries cannot be adjusted unless Congress passes a law adopting revised maps. These units consist of undeveloped sections of coastal barrier islands and the associated aquatic habitat which lies behind these barriers. The System was created by the Coastal Barrier Resources Act of 1982 and was expanded by the Coastal Barrier Improvement Act of 1990. The entire Coastal Barrier Resources System, including "Otherwise Protected Areas" (OPAs) has 856 units and more than 3 million acres of fastland and associated aquatic habitat.

Inclusion of property in the CBRS does not prevent private development of land nor does it prevent actions necessary to process and issue federal permits necessary for development. However, it does place significant restrictions on the availability of any new federal assistance to develop the property. After October 1, 1983, no new federal flood insurance can be issued for properties in the System. For those homeowners who were issued flood insurance policies before the deadline, they remain in force. However, if the property is damaged more than 50 percent of its value, and a claim is placed, the claim will be paid but the insurance policy cannot be renewed. In addition, if an insured structure in the System is substantially expanded or replaced with more intensive development, insurance coverage is lost.

There are 271 OPAs comprising approximately 1.7 million acres which includes national wildlife refuge lands, national parks and seashores, state parks, military bases and conservation lands owned by private organizations. While federal flood insurance is not available within these areas, OPAs are eligible for other federal financial assistance, unlike System units. When OPAs were included in the System, they were delineated with rudimentary mapping tools based upon pre-existing boundary data. As a result of technological advancements in geographic information systems, databases and digital mapping techniques, OPA boundaries have been shown to have embedded inaccuracies. The Fish and Wildlife Service (FWS) continues to uncover cases where OPA boundaries do not coincide with the actual legal land boundaries.

This legislation would affect fastland that was added to System Unit P-16, Keewaydin Island, with the adoption of the Coastal Barrier Improvement Act of 1990. This measure would remove 43.61 acres of private land on Marco Island and 17 acres of private

land on the Isles of Capri. All of this property is within Collier County, Florida. The Unit would retain 14,984 acres of aquatic habitat, 1,115 acres of fastland and 40.31 acres of conservation land owned by the State of Florida.

Based on research by the property owners, the required infrastructure that made land ineligible for inclusion in the System codified in the Coastal Barrier Resources Reauthorization Act of 2000 was in place prior to 1990. Specifically, the number of condominium owners on Marco Island affected by this measure is 315, of which 110 are not eligible for the National Flood Insurance Program and 205 were “grandfathered” under the program. At the time of inclusion within the System, four of the six condominium buildings had been built and the last two were completed in 1995 and 1996. A full complement of infrastructure including paved roads, electricity, sewer, and water was present as of December 1988.

In terms of the Isle of Capri, 190 condominium owners are impacted including 54 that are not eligible for participation in the Federal Flood Insurance Program. In this case, six of the seven condominium buildings were completed prior to 1990. The first building was completed in 1986. The seventh building was partially constructed, the developer went bankrupt and the condo was totally rebuilt in 2000. Again, the full complement of infrastructure was present by June 1985.

During the hearing on this legislation, it became clear that there is no dispute that these condominium owners were mistakenly incorporated within the CBRs. This bill is necessary to correct the mapping errors because FWS lacks the statutory authority to administratively fix the problem.

#### COMMITTEE ACTION

H.R. 5139 was introduced on July 17, 2014, by Congressman Curt Clawson (R-FL). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. On September 18, 2014, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs was discharged by unanimous consent. Congressman John Fleming (R-LA) offered an amendment designated .001 to the bill; the amendment was adopted by voice vote. No further amendments were offered, and the bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in car-

rying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 5139—A bill to correct the boundaries of the John H. Chafee Coastal Barrier Resources System Unit P16*

H.R. 5139 would update a map for a portion of the Coastal Barrier Resources System (CBRS) located in Florida. Based on information provided by the U.S. Fish and Wildlife Service (USFWS), CBO estimates that implementing the legislation would have no significant effect on the federal budget.

Because H.R. 5139 could affect direct spending, pay-as-you-go procedures apply. However, we estimate that any net change in direct spending would be negligible over the 2015–2024 period. Enacting the bill would not affect revenues.

The bill would revise the CBRS map for a unit within the system and remove certain land from the CBRS. The amount of lands that would be removed from the CBRS under the bill is uncertain because the USFWS has not completed the revised map. However, based on information from the agency, CBO expects that the new map would exclude lands containing between 20 and 50 structures, which would enable owners of those structures to purchase federal flood insurance. CBO estimates that, relative to current law, enacting H.R. 5139 could increase premium collections of the National Flood Insurance Fund by less than \$150,000 annually. Such collections would be offset by new mandatory spending for underwriting and administrative expenses and new flood insurance claims over the 2015–2024 period.

H.R. 5139 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the U.S. Fish and Wildlife Service, CBO estimates that implementing the legislation would have no significant effect on the federal budget. Enactment of the bill could affect direct spending but the net effect would be negligible over the 2015–2024 time period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to correct the boundaries of the John H. Chafee Coastal Barrier Resources System Unit P16.

## EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

## COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

## COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

## CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

## DISSENTING VIEWS

### H.R. 5139—TO REMOVE FROM THE JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS INCLUDED IN FLORIDA SYSTEM UNIT P-16.

Originally passed in 1982, the Coastal Barrier Resources Act (CoBRA) has long enjoyed broad bipartisan support because, in the words of President Ronald Reagan, it “enhances both natural resources conservation and fiscal responsibility.” The Act created the Coastal Barrier Resources System (CBRS), and required the U.S. Fish and Wildlife Service to recommend for inclusion in the system land that was at high risk of flooding, erosion, and impacts from coastal storms. The law makes property in the CBRS ineligible for Federal Government subsidies like flood insurance and transportation grants, because Congress realized that repeated bailouts of people and communities that make risky development decisions was wasting tax dollars.

H.R. 5139 would replace an existing Coastal Barrier Resources System (CBRS) map with a new map which, among other things, carves out several parcels of land in Florida that have homes on them. But for CoBRA to be effective in protecting both shorelines and taxpayers, the maps that are the basis of the law must be drawn accurately to show which properties should be eligible for Federal subsidies. The Fish and Wildlife Service is currently drafting a map for the CBRS unit addressed in H.R. 5139, but will not finalize the map until early next year. FWS has concerns about the possibility of codifying inaccurate CBRS boundaries and would prefer to wait until it has remapped the unit through the appropriate process. The bill references a map dated October 30, 2014. However, FWS does not expect to have a final recommended map until the spring of 2015. Therefore this legislation would short-circuit the standard process for development of maps that maximize coastal resiliency and taxpayer protection.

Given the reality of sea level rise driven by human-induced climate change, we cannot afford to get these maps wrong. It is far more responsible to wait until the final recommended maps are complete before legislating. For this reason we oppose H.R. 5139.

PETER DEFAZIO,  
*Ranking Member, Committee  
on Natural Resources.*

GREGORIO KILILI CAMACHO  
SABLAN,  
*Ranking Member, Sub-  
committee on Fisheries,  
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