

Managing Threatened Oceanfront Structures: **IDEAS FROM AN INTERAGENCY WORK GROUP**



August 2024



*Cover Image, Collapsed house in Rodanthe, NC
Cape Hatteras National Seashore Photo*

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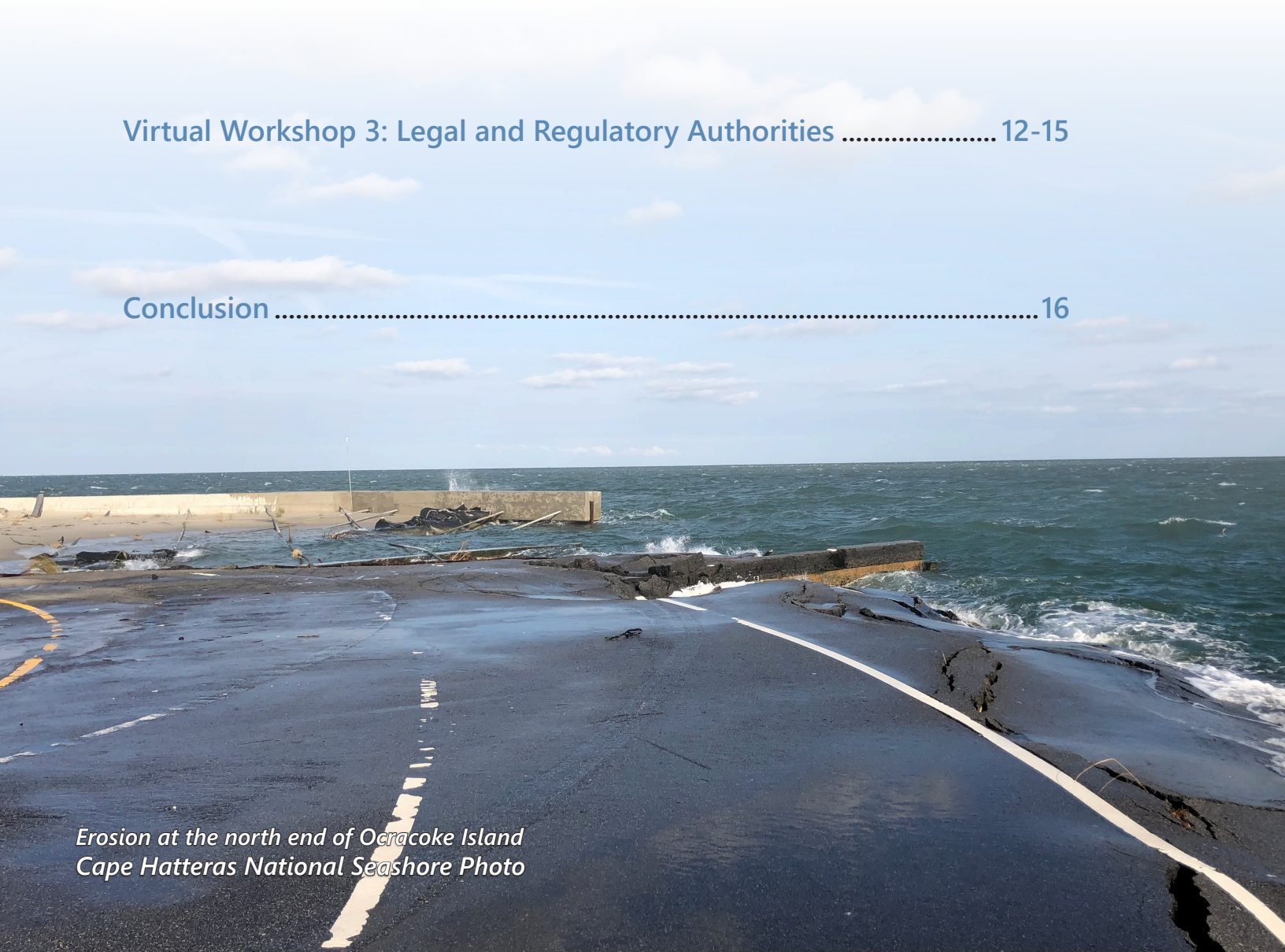
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*Erosion at the north end of Ocracoke Island
Cape Hatteras National Seashore Photo*

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Executive Summary

Co-led by the North Carolina Department of Environmental Quality (DEQ) and the National Park Service's (NPS) Cape Hatteras National Seashore, an interagency work group was established to discuss, research, and provide ideas that will help improve management of threatened oceanfront structures. Hundreds of threatened oceanfront structures are located along sections of eroding beaches in coastal North Carolina. Their presence may have substantial impacts to property owners, public safety and health, beach visitor experience, coastal habitats, the local economy, and land management organizations. The workgroup concluded that there was value in continuing collaboration to address this issue which will inevitably worsen considering sea level rise forecasts. The following short and longer-term ideas were developed through interagency work group and panel discussions; they do not necessarily reflect the formal positions of the organizations represented on the Interagency Work Group:

- 1. Consider leveraging and expanding North Carolina's efforts to acquire, relocate, or remove imminently threatened structures through existing programs such as the N.C. Public Beach and Waterfront Access Grants Program.*
- 2. Federal and state land management agencies may benefit from additional authorities, funding, and partnerships with local government and others to acquire, relocate, or remove imminently threatened oceanfront structures.*
- 3. Consider authorizing a new, state program with funding dedicated to addressing threatened oceanfront structures.*
- 4. Beach communities may consider establishing their own buy-out or financial assistance programs under their own authorities and rules.*
- 5. House owners and prospective buyers may benefit from additional information on erosion risks and costs under the National Flood Insurance Program (NFIP).*
- 6. Flood or other insurance programs could implement proactive strategies to address threatened structures before they collapse.*
- 7. Consider reducing the costs of erosion-driven damages to the NFIP by mitigating erosion exposure.*
- 8. Clarify N.C. Coastal Resources Commission rule language regarding required relocation of threatened structures to address specific circumstances.*
- 9. Consider additional disclosure requirements so that potential property owners are informed about property history and risks.*
- 10. Owners and State or local government agencies could benefit from clarified guidance on when officials would have justification to require erosion-threatened structure removal/relocation from oceanfront beaches under existing state law.*
- 11. Develop strategies related to the enforcement of state and federal laws governing erosion-threatened structures along an ambulatory interjurisdictional boundary.*

Introduction

North Carolina has over 320 miles of oceanfront beaches, including 133 miles located within the Cape Hatteras and Cape Lookout National Seashores, managed by the National Park Service. Along the oceanfront, development activities are subject to unique federal, state, and local regulations. For example, the North Carolina Coastal Resources Commission (CRC) has established rules regarding oceanfront construction setbacks based on local erosion rates that are administered by DEQ's Division of Coastal Management (DCM). In addition, federal, state, and local governments have made significant investments in beach nourishment, inlet relocation, and terminal groin projects that attempt to offset losses from beach erosion in North Carolina. However, even with conservative oceanfront development setbacks and major investments in coastal engineering projects, the continued trend of landward migration of the oceanfront shoreline can gradually (or abruptly following storm events) result in houses and other structures encroaching onto public beaches. Based on a DCM review of 2020 imagery, over 750 of approximately 8,777 oceanfront structures were considered at risk from oceanfront erosion (no dunes or vegetation between the structure and ocean), and this situation is anticipated to worsen with increasing sea level rise and coastal storms.

When structures are imminently threatened by beach erosion, various regulatory, legal, insurance, and financial issues create uncertainty for property owners and coastal managers. While permitting conflicts and legal disputes linger for these properties, structures on the beach can pose significant risks to public health and safety, impacts to aquatic species and shorebirds and their habitats, and interference with public use of the beach. Often, no action is taken until after a house collapses. Recent examples in Rodanthe, North Carolina are reminders that a single home collapse can result in debris for up to fifteen miles along the coast, potential contamination from septic systems, injuries to beach visitors, and a range of environmental concerns. In addition, the debris associated with structure collapses requires large-scale, expensive clean-up efforts. These recent collapses illustrate the need for a more holistic and proactive approach to addressing erosion-threatened structures.

In August 2022, DEQ and the Cape Hatteras National Seashore co-hosted a forum for discussion of issues related to structures imminently at risk from oceanfront erosion in North Carolina. Following that initial meeting, DEQ and NPS agreed to continue a partnership effort to identify potential solutions through the establishment of an Interagency Work Group on threatened oceanfront structures. The Work Group included representatives of various federal, state, and local government agencies, and was asked to engage with partner organizations and stakeholders to research and identify policies and programs to establish a more proactive, holistic, predictable, and coordinated approach to erosion-threatened structures. It is important to note that this Work Group was not tasked with creating a new, comprehensive strategy to address beach erosion in North Carolina or an alternative to beach nourishment. Rather, the focus of the Work Group and this Report is on presenting ideas for addressing severely threatened structures where no viable mitigation options exist.



*Looking south from near house collapse site on March 13, 2023
Cape Hatteras National Seashore Photo*

The Work Group held a series of virtual meetings and three virtual public workshops during 2023 to identify short-term and long-term ideas, and to produce this final report outlining key discussion conclusions that may improve management of threatened oceanfront structures through the use of new financial assistance measures, authorities, and insurance-related programs.

Virtual Workshop 1: —February 2023

Financial Assistance Opportunities

Panelists:

Bill Holman *North Carolina State Director, The Conservation Fund*

Gavin Smith *Professor of Landscape Architecture and Environmental Planning, North Carolina State University*

Bobby Outten *County Manager and Attorney, Dare County, North Carolina*

Heidi Stiller *South Regional Director, NOAA Office for Coastal Management*

Tancred Miller *Policy and Planning Chief, (Now Director) NC DEQ Division of Coastal Management*

Panelists were asked to discuss property acquisition and financial assistance programs that may aid both owners of threatened oceanfront structures and federal, state, or local governments responsible for beach management. The following questions helped guide the discussion:

- What State and Federal Programs are currently available to acquire, relocate, or deconstruct threatened oceanfront structures?
- What challenges may local governments face when “buying out” or condemning threatened oceanfront structures?
- What non-profit models have been used to acquire coastal properties and what are the challenges?
- What are the models and challenges for funding beach nourishment to protect threatened structures?
- How does a municipality decide whether to fund a beach nourishment project versus implementing a buyout or condemnation of vulnerable properties?
- Are there outside the box / potential new funding ideas that the local or state government should be exploring?

During the workshop, panelists and Work Group members discussed funding opportunities that may be available at present, and whether those programs could be potentially amended or expanded to specifically address erosion-threatened structures. The discussion focused on property acquisition and financial assistance programs that may aid owners of threatened oceanfront structures and/or federal, state, or local governments responsible for beach management. One key area of agreement was that, in comparison with flood and disaster mitigation grant programs, it is not always clear which federal and state funding programs may be appropriate for interested property owners and local governments to address erosion-threatened structures, especially if the structures are second homes or investment properties. Furthermore, after reviewing different types of federal grant programs, panelists agreed that today’s federal disaster mitigation grant programs, federal resilience funding and federal infrastructure funding programs are

generally not well-suited to addressing imminently threatened oceanfront structures, in part due to the time involved with procuring and administering these grants, and in part due to eligibility criteria, complexity, competition, and priorities for the funding programs (i.e., even where properties may be technically eligible for a particular funding program, proposed buyouts of oceanfront properties, especially second homes and investment properties, are typically not competitive).

Several additional constraints with respect to financial assistance were identified by the panel and work group members. Demonstrating acceptable benefit/cost ratios for funding eligibility can be challenging because of uncertainties related to sea level rise and erosion. Scale is also important; for example, if funding is provided to support today's "front row" properties, a precedent then appears to exist for future front row properties. Few empty lots remain for relocation on barrier islands, and in most cases, there is not much space on existing lots for landward relocation of structures. Another challenge is that most land acquisition programs do not pay for structures. Further, if a structure is situated close to or partially over submerged lands of the State (below Mean High Water), land acquisition may not be suitable. In general, panelists agreed that there is a lack of grant and other financial assistance tools available to address this issue, and that there is likely no one-size-fits-all solution.

Short-Term Ideas

1. Consider leveraging and expanding North Carolina's efforts to acquire, relocate, or remove imminently threatened structures through existing programs such as the N.C. Public Beach and Waterfront Access Grants Program.

At least two existing State programs could be leveraged to address threatened oceanfront structures in specific situations or circumstances. In some cases, this would require new legislative authorization and/or rule development to authorize, prioritize, or establish guidelines for expenditures of funds for these purposes. These existing programs would require recurring funding sources, and increased funding in order to effectively address threatened oceanfront structures. It may be more politically and financially feasible to focus any State funding on only those expenses associated with threatened structure relocations or removals rather than comprehensive property acquisitions, for several reasons:

- In many cases, threatened structures are partially located over federal and/or state property (submerged lands below the mean high water line, which can shift daily);
- The appraised values of threatened structures are difficult to calculate and can result in disagreement between the funding agencies and the property owners; and
- There may be a lack of support for "buy-out" programs for expensive oceanfront properties, especially for second homes, investment properties, or structures purchased when already encroaching into the State's oceanfront setback area.

The N.C. Public Beach and Waterfront Access Grants Program is authorized under the N.C. Coastal Area Management Act (N.C.G.S. 113A-134) and rules of the N.C. Coastal Resources Commission and administered by DCM. Under 15A NCAC 7M .0300 the program currently prioritizes the acquisition of erosion-threatened properties based on proposal scoring criteria where those properties can be used to enhance public access to the shoreline. The program currently receives limited funds through an allocation from the Parks and Recreation Trust Fund (approximately \$1.5M coastwide annually). These funds must address public access needs across the coast. Annual funding requests from local governments typically exceed \$3 million and therefore existing funding levels are insufficient for addressing multiple threatened structures in any given year. If funding were increased through a pilot program, DCM could partner with local governments and property owners to identify opportunities for threatened structure removals that result in new or enhanced beach access sites. Historically, average cost of new beach access sites has been significant. If DCM were to work with local governments to include one new access site per year that included the removal of 3-4 structures



Debris near collapsed house sites
Cape Hatteras National Seashore Photo

at an average demolition cost of \$120,000 per structure, the program would need an additional \$360,000-\$480,000 per year to remove these structures and restore public access. This could be particularly meaningful in areas with limited existing access points, and in highly eroding inlet areas.

The voluntary removal of erosion-threatened structures will not always result in the creation or enhancement of public access sites; however, in all cases, structure removals will benefit public safety and enjoyment, recreation, tourism, and sensitive habitats. In addition, structures situated on the active beach can cause delays due to logistical and legal complications associated with planning and funding coastal storm damage reduction (beach renourishment) projects. For these reasons, the State of Texas included the removal of threatened structures in allowable expenditures under the Texas Coastal Erosion Planning and Response Act (CEPRA). The CEPRA program (<https://www.glo.texas.gov/coast/grant-projects/cepra/index.html>) takes a comprehensive approach to addressing coastal erosion issues and provides a long-term predictable source of funding for beach nourishment and other projects. The program authorizes a small percentage of annual funds (5% cap) to be used for strategic removals or relocations of threatened oceanfront structures through a competitive proposal process. Based on recent correspondence with program managers in Texas, only a few structures are removed through this program each year. However, this does provide an additional tool for addressing certain cases or situations where other options are unavailable.

North Carolina's Coastal Storm Damage Mitigation Fund (CDSM), authorized and funded by the General Assembly and administered by DEQ's Division of Water Resources is generally similar to CEPRA in its primary purpose, but CDSM funding is variable and it does not provide for structure removals.

2. Federal and state land management agencies may benefit from additional authorities, funding, and partnerships with local government and others to acquire threatened oceanfront structures.

Federal land managers may have caps on annual land acquisitions or requirements to modify existing authorized boundaries before acquiring property. Land managers may benefit from wider authorities to acquire properties from willing sellers of threatened structures when they have a reasonably foreseeable chance of impacting conservation and public recreation beaches. Land managers may also explore partnerships with neighboring municipalities, where the threatened structures are located. New partnerships between local, state, and federal agencies and non-governmental organizations can help to pool limited resources through the development of new financial assistance programs to purchase or help to relocate threatened structures and restore beach areas to improve environmental conditions and public safety.

Long-Term Ideas

3. Consider authorizing a new, state program with funding dedicated to addressing threatened oceanfront structures.

Based on the panel and Work Group discussions, any such program should consider:

- a. Requiring matching funds.
- b. Exploring potential benefits of a public/private partnership framework for increased flexibility and efficiencies in property acquisition, removal and relocation projects.
- c. Other examples from coastal states, such as the Blue Acres program in New Jersey that was created in response to Hurricane Sandy.
- d. Innovative, market-based solutions such as conservation easements or tax credits.

4. Beach communities may consider establishing their own buy-out or financial assistance programs under their own authorities and rules.

Where feasible and with appropriate legislative authority, beach communities could establish independent beach structure removal/relocation programs. The panel and Work Group were not aware of any such examples elsewhere in the U.S., aside from similar flood buy-out programs in larger cities (e.g. Charlotte, Tulsa, Houston). However, this option is worth considering, especially for larger beach communities or where erosion problems and the impacts of threatened structures become significant. Communities could explore recurring sources of funds (to be matched by property owners) by establishing special tax districts, property transfer fees, property rental fees, or bonds associated with oceanfront construction permits.



*House that collapsed on May 10, 2022
Cape Hatteras National Seashore Photo*

Virtual Workshop 2: — May 2023

Role of Public and Private Insurance

Panelists:

Donna Creef *Government Affairs Director, Outer Banks Association of REALTORS*

Dewana Davis *Regional Flood Insurance Liaison | FEMA Region IV*

Spencer Rogers *Retired, North Carolina Sea Grant*

Lisa Sharrard *U.S. Flood Solutions, LLC*

Steve Garrett *NFIP Coordinator, North Carolina Emergency Management*

Panelists were asked to discuss their knowledge and experiences with the National Flood Insurance Program and private insurance policies in addressing threatened oceanfront structures. The following questions helped guide the discussion:

- Could pro-active insurance claims help avoid structural collapses, the resulting marine debris, and other impacts while reducing overall costs to the NFIP and private insurance?
- What were the lessons learned from the 1987 Upton Jones Amendment to the NFIP?
- How would the State and/or local government certify that a structure is imminently threatened by erosion?
- In what way are private flood insurance policies different than NFIP?

Panelists and Work Group members were provided brief background information on the Upton Jones Amendment (UJA) to the NFIP, which Congress passed in 1987. After high water levels in the Great Lakes caused many houses to succumb to bluff erosion, Congressman Fred Upton from Michigan proposed allowing claims of up to 110% of the value of a structure under the NFIP for demolition and removal prior to erosion loss. Congressman Walter Jones, Sr. from North Carolina added proposed payments of up to 40% of the value of a threatened structure for relocating to a safer location. Congressman Jones was familiar with ongoing beach erosion issues in the Outer Banks at that time, and he was also familiar with DCM and other state coastal programs operating under the federal Coastal Zone Management Act. He envisioned a partnership between the Federal Emergency Management Agency (FEMA) and state coastal programs for the identification of properties that were considered at imminent risk of coastal erosion and therefore eligible for pro-active insurance payouts. In the end, the UJA created an important option for property owners and a clear way to avoid the near-certain collapse of structures that were stranded far out on the beach. Structures were eligible for NFIP claims following a local or state condemnation, or certification by a state coastal program that the structure was within a zone of imminent collapse. From the 1980s into the early 1990s, DCM administered individual certifications of structures that were “imminently threatened.” More claims were filed in North Carolina than in any other state. However, the program was discontinued by Congress in 1994 and replaced by the Flood Mitigation Assistance program, which involves FEMA and State-administered grants as opposed to insurance mechanisms. Therefore, at present, a property insured through the NFIP is not eligible for a full claim until the structure collapses.¹

¹ In June 2024, Congressman Greg Murphy, M.D. who represents North Carolina’s 3rd Congressional District introduced a bi-partisan bill entitled the Prevent Environmental Hazards Act to achieve similar goals as the Upton Jones Amendment, alongside Congresswoman Chellie Pingree (D-ME) and several cosponsors.

Panelists noted that the UJA program provided a relatively “quick fix” in comparison with lengthy and competitive grant application programs under the Flood Mitigation Assistance program, which can take years before a property owner receives funds for project implementation. For this reason, the insurance process presents a more immediate and timely solution for imminently threatened structures. However, not all oceanfront properties are currently covered under the NFIP, and even for those properties that are covered, it is often unclear as to when FEMA will approve claims due to erosion impacts because the program only reimburses for such losses during a “flood event” affecting two or more adjoining properties. In addition, no comprehensive evaluation of the UJA outcomes has been undertaken and costs of relocation and removal have significantly increased since the 1980s and 90s. While no other insurance products pay preemptive claims, the panel and Work Group discussed the higher degree of certainty of loss that is present when structures become unsafely situated over the active beach and intertidal area.

Long-Term Ideas

The Work Group suggests review of the 2024 Coastal States Organization (CSO) policy statement on coastal erosion (<https://www.coastalstates.org/>). In particular, the Work Group suggests the following actions be explored, which were adapted from and build upon CSO's recent policy recommendations:

- 5. House owners and prospective buyers may benefit from additional information on erosion risks and costs under the National Flood Insurance Program (NFIP).**
 - a. Methods and procedures could be clarified for determining which structure collapses caused by shoreline erosion will qualify for NFIP claims, especially in cases of oceanfront erosion driven by a combination of sea level rise, flood events and chronic erosion, and in cases where the structure collapses occur soon after a flood event (but not during).
 - b. Consider concepts such as “constructive total loss,” which was applied by FEMA in pilot relocation projects in Nags Head in the 1980s based on a finding that ocean erosion had left structures in the floodway, without essential infrastructure, as evidenced by ocean water and/or tidal scour underneath the structure, thus being the functional equivalent of a total loss in a flood event.
- 6. Flood or other insurance programs could implement proactive strategies to address threatened structures before they collapse.**



*Flooding at the north end of Buxton on Hatteras Island on Jan. 4, 2022
Cape Hatteras National Seashore Photo*



- a. Explore options for the NFIP to provide coverage for removal or relocation of imminently threatened coastal structures prior to inevitable collapse, as it previously did under the Upton Jones Amendment program. Such reforms could help prevent the predictable collapse of severely threatened structures, thereby reducing financial exposure of the NFIP and the public safety and environmental impacts from collapses. Any NFIP reforms should consider the following principles:
 - i. Create a narrow and specific definition for “imminently threatened” eligible structures, based on structure condemnation or designation as an unsafe structure by a local government due to shoreline erosion;
 - ii. Set caps and reasonable rates for payouts (e.g., 40% for structure relocation or 100% for structure removal, with \$250,000 cap and with no contents coverage);
 - iii. Establish timeframes for relocation/removal after payout;
 - iv. Establish land use restrictions post-relocation/removal; and
 - v. Ensure that claims under this program are revenue neutral or provide net cost savings to the NFIP.

7. Consider reducing the costs of erosion-driven damages to the NFIP by mitigating erosion exposure.

- a. Consider raising Increased Cost of Compliance (ICC) coverage to at least \$120,000 for the mitigation of severely and repetitively damaged structures, including relocation or demolition of flood-impacted structures at risk of erosion. The current \$30,000 cap lags contemporary building construction and mitigation costs by decades and is insufficient to abate the most erosion-exposed structures. FEMA should also consider expanding eligibility for ICC coverage to include structures imminently threatened by shoreline erosion and requiring lots which receive ICC funds to demolish or relocate structures be dedicated to open space-compatible uses.
- b. Consider providing Community Rating System credits to local jurisdictions that implement relocation plans or programs to mitigate erosion-threatened structures.



*Debris from collapsed house at 24235 Ocean Dr, Rodanthe, NC
Cape Hatteras National Seashore Photo*

Virtual Workshop 3: — October 2023

Legal and Regulatory Authorities

Panelists:

- Christine Goebel*.....*Assistant General Counsel, N.C. Department of Environmental Quality*
- Trish Courtelyou-Hamilton*.....*Attorney-Adviser, Department of the Interior*
- Andy Garman**Town Manager, Town of Nags Head*
- Dave Owens**Adjunct Professor of Public Law and Government, School of Government, University of North Carolina at Chapel Hill*
- Alyson Flynn*.....*Coastal Advocate and Environmental Economist, N.C. Coastal Federation*
- Danny Couch*.....*Commissioner, Dare County*

This workshop focused on the influence of government regulatory and legal authorities in addressing threatened structures, factors that lead to potential government involvement, what those actions may be, and various challenges and limitations to government interventions. The panel featured experts on local, state, and federal authorities that can come into play when addressing threatened oceanfront structures. Management actions may include requiring the removal or relocation of some threatened structures for the purposes of protecting public health and safety and minimizing impacts to public trust beaches.

The following questions helped guide the discussion:

- What existing authorities are available for local, State, and federal officials to require the relocation or removal of severely threatened oceanfront structures located within the foreshore or on public trust beaches? What are the thresholds for action?
- What are the lessons learned from addressing threatened oceanfront structures in Nags Head, N.C.?
- What authorities can local, State, and federal officials use to hold property owners responsible for marine debris if the property owners fail to take preventative measures in advance of a readily foreseeable structure collapse?
- What new legal authorities or innovative frameworks are needed to proactively address management of threatened oceanfront structures?

The panel discussed existing State rules pertaining to oceanfront structures, including rules of the N.C. Coastal Resources Commission that require removal or relocation of structures threatened by erosion for more than eight (8) years (15A NCAC 7H .0306(g)). This provision has never been applied by DCM, generally as a result of a) the prevalent use of temporary erosion control structures (sandbag revetments); b) the eventual implementation of beach nourishment projects that relieve structures, at least temporarily, from imminent erosion threats; and/or c) the lack of clear thresholds and procedures for State action requiring removal and the corresponding threat of litigation. N.C. CRC rules also include a special provision allowing for the relocation of erosion-threatened structures to lots where development would otherwise not be allowed within the oceanfront construction setback, as long as the

relocation of the structure would reduce the overall erosion risk to that structure and the location would be landward of the vegetation line and frontal dunes (15A NCAC 7H .0306(f)).

New construction permits issued by DCM for oceanfront structures require notice and signed acknowledgement of oceanfront hazard risks; however, new owners of an existing oceanfront structure would not receive the same notification because there are currently no laws or rules requiring disclosure of beach hazard information during real estate transactions. Recent legislation in North Carolina authorizes local governments to attach special use permit conditions to the chain of title (§ 160D-104), and this authorization could be expanded to include the Ocean Hazard Notifications required through CRC rules for oceanfront structures.

Existing State laws allow local governments to condemn structures deemed “unsafe” or to address public “nuisances.” However, a structure threatened by oceanfront erosion can often be made safe (at least temporarily) by reinforcing the piling foundations and through other structural improvements, and at that point the structure is no longer required to be removed or relocated through the condemnation process. Following recent litigation between oceanfront property owners and the Town of Nags Head, legislative amendments were passed to reinforce local governments’ authorities to require removal or relocation of structures on oceanfront beaches. To date, no local government has utilized that new authority. Even with the new legislation, it is likely that a Town will face litigation on a case-by-case basis and risk not only the potential loss of property value determined by a court to constitute a “regulatory taking,” but also attorney fees. The panel suggested that these existing laws need to be further clarified and strengthened to address the specific circumstances associated with oceanfront structures, clear roles for the State and local governments, and clear thresholds for action.

Cape Hatteras National Seashore has existing authorities to address structures based on land ownership. In most cases, the Cape Hatteras National Seashore boundary in front of the unincorporated villages on Hatteras Island extends from mean low water to mean high water and includes the beach, dune, and back dune areas. However, in some limited circumstances along the oceanfront of the villages, such as the northern section of Rodanthe, the boundary has been constrained to between mean low water and mean high water because all other dry land has been eroded away.

In general, the Cape Hatteras National Seashore does not have authorities designed specifically for addressing private structures encroaching on federal lands. However, existing laws and regulations may be enforced. Given that structures may straddle private, Federal, and State-owned lands, it may be complicated as to when government intervention is appropriate and which agency should take the lead role especially since the extent of the boundary is subject to continual change around dynamic beachfront areas.

The panel and Work Group also discussed the need for clear legal authorities to hold a property owner responsible, in certain situations, for marine debris resulting from infrastructure, such as septic systems, and from structure collapses, including the failure to reasonably remove contents prior to a predictable collapse. A few states, including California, New York, Hawaii, and Georgia – have specific legislative authority for requiring the clean-up of collapsed structures. Georgia places the sole responsibility on the homeowner and allows recovery of costs by the state. New York lays out a specific time frame and authorizes heavier fines for clean-ups not completed within the time frame. Hawaii has been experiencing similar issues to North Carolina in recent years, including home collapses and the establishment of a similar interagency working group. The state may consider a formula based on the value of the structure to address clean up of debris associated with structure collapse. The panel suggested that there are certain derelict vessel removal authorities that could be applied or modified to address derelict and/or collapsed structures on the oceanfront. The NPS already has legal authorities to recover clean-up costs needed to restore the beaches through the System Unit Resource Protection Act.

However, in practice it can be difficult to characterize what debris resulted directly from a specific structure, especially when multiple structures collapse in the same area.

Short-Term Ideas

8. Clarify N.C. Coastal Resources Commission rule language regarding required relocation of threatened structures to address specific circumstances.

The Commission's current rule requires relocation after an eight-year period. Based on panel and Work Group discussions, the Commission may want to consider tying removal/relocation requirements to specific site conditions, for example:

- A specific location on the active beach, for example, below mean higher high water.
- A specific time period (e.g. 120 days) without water, power, or wastewater servicing the structure due to erosion impacts as determined by the local government.
- A specific time period of encroachment onto submerged lands of the State (below Mean High Water) due to beach erosion.
- A specific time period wherein any septic systems or components that are no longer servicing the primary structure must be fully removed.

Consideration of these and other ideas could support a legal analysis for potential government interventions on the basis of the Public Trust Doctrine, public safety, and a structure's location on state property (below MHW).

9. Consider additional disclosure requirements so that potential property owners are informed about property history and risks.

- a. Consider adding language to the N.C. Coastal Area Management Act tying the CAMA Ocean Hazard AEC Notice and permit conditions to chain of title and/or real estate disclosure rules rather than just to one-time CAMA development (construction) permits (see G.S. 160D-705(c), from 2019).
- b. The N.C. Real Estate Commission added questions about flood risk to the Residential and Property Owners' Association Disclosure Statement in July 2024 and may consider additional disclosure requirements to prospective buyers on erosion risk and history, for example.

Long-Term Ideas

10. Owners and State or local government agencies could benefit from clarified guidance on when officials would have justification to require erosion-threatened structure removal/relocation from oceanfront beaches under existing state law.

- a. Clarify and strengthen local and State authorities for condemnation, removal and/or relocation of structures from oceanfront beaches;
- b. Establish clear thresholds for State and local actions; and
- c. Establish clear responsibilities and liabilities for marine debris caused by failure to act following State or local notice.



*Original Cape Hatteras Lighthouse Fence Foundation
Cape Hatteras National Seashore Photo*

Prior N.C. legislative efforts in 1995 and 2001 were initiated by local governments in Dare County to address these issues, but apparently stalled and/or lost priority after several at-risk homes collapsed. The 1995 legislation, introduced by then-Senator Roy Cooper, sought to:

- Clarify that “an owner of an erosion or storm-damaged structure is liable for certain damages resulting from the hazards posed by those structures.”
- Establish procedures for local governments to identify those structures and property owners in imminent danger.
- Require property owners to respond with a “remedial plan to resolve and abate the problem” and authorize local governments to require that “a bond or other appropriate financial guarantee be submitted as a part of the remedial plan.”
- Where remedial plans were not provided or approved, authorize local governments to issue an order for or directly undertake the demolition or removal of the structure, cleanup of the debris, and any other remedial action as is necessary to protect the public interest.”
- Assure financial responsibility of the property owner for cleanup costs and damages incurred, including that “the first priority use for insurance coverage payable as the result of the loss of or damage to such structures as the result of flood, storm, or erosion hazard shall be the satisfaction of the reasonable costs of cleanup and damages caused by any debris from the structure.”

A second draft bill, drafted by Senator Marc Basnight in 2001, was entitled “An Act to Provide an Expedited Procedure for Removal of Certain Erosion or Storm-Damaged Structures.” This bill draft considered authorizing local building inspectors, after condemning a structure located on an oceanfront beach, to order the demolition and removal of that structure.

11. Explore strategies related to the enforcement of state and federal laws governing erosion-threatened structures along an ambulatory interjurisdictional boundary.

A threatened oceanfront structure may be partially located over privately-owned land, state public trust submerged lands, and federally owned foreshore land to varying degrees over varying time periods, due to the boundary between state and federal lands shifting as the shoreline naturally migrates. Management of threatened structures in these multi-jurisdictional environments can be complicated due to the ever-changing nature of oceanfront beaches. Coordination and strategy development to provide clear and reasonable communications and enforcement actions is important to ensure public understanding and effective mitigation of impacts caused by threatened oceanfront structures.

Conclusion

The discussion and research by federal, state and local government agency members of Threatened Oceanfront Structures Interagency Work Group for this report focused on presenting ideas for addressing severely threatened structures where no viable mitigation options exist.

The short-term and long-term ideas produced in this final report outline key discussion conclusions that may improve management of threatened oceanfront structures through the use of new financial assistance measures, authorities, and insurance-related programs.

The Work Group concluded that there was value in continuing collaboration to address this issue which will inevitably worsen considering sea level rise forecasts.



*Coastal Storm - Photo of the sand bag area on Ocracoke Island on Jan. 4, 2022
Cape Hatteras National Seashore Photo*