15A NCAC 07H .0104  APPLICATION OF EROSION RATE SETBACK FACTORS
(a) Development on lots created on or after June 1, 1979 shall utilize the current erosion rate setback factor in the calculation of the development setback pursuant to 15A NCAC 07H .0304. If application of the current erosion rate setback factor in the calculation of the development setback would preclude the placement of permanent buildings, then the erosion rate in effect at the time that the lot was created may be utilized in the calculation of the development setback, provided that the development:

(1) shall comply with the current erosion rate setback factor to the maximum extent possible;
(2) is located at the landward most position of the lot without violating local zoning requirements;
(3) shall extend no further oceanward than the landward-most adjacent building; and
(4) shall be no more than 2,000 square feet in total floor area.

(b) Development on lots created prior to June 1, 1979 shall comply with the provisions of 15A NCAC 07H .0309(b) and (c).

15A NCAC 07H .0105  EFFECTIVE DATE OF RULE AMENDMENTS
Unless explicitly stated otherwise, the state guidelines for Areas of Environmental Concern and local land use plans in effect at the time of permit decision shall be applied to all development proposals covered by this Subchapter.

15A NCAC 07H .0106  GENERAL DEFINITIONS
The following definitions apply whenever these terms are used in this Chapter:

(1) "Normal High Water" is the ordinary extent of high tide based on site conditions such as presence and location of vegetation which has its distribution influenced by tidal action, and the location of the apparent high tide line.
(2) "Normal Water Level" is the level of water bodies with less than six inches of lunar tide during periods of little or no wind. It can be determined by the presence of such physical and biological indicators as erosion escarpments, trash lines, water lines, marsh grasses and barnacles.
(3) Unless specifically limited, the term structures includes, but is not limited to, buildings, bridges, roads, piers wharves and docks (supported on piles), bulkheads, breakwaters, jetties, mooring pilings and buoys, pile clusters (dolphins), navigational aids and elevated boat ramps.
(4) "Mining" is defined as:
   (a) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of mineral, ores, or other solid matter.
   (b) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location.
   (c) The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

This definition applies regardless of whether the mining activity is for a commercial or noncommercial purpose, and regardless of the size of the affected area. Activities such as vibracoring, box coring, surface grab sampling, and other drilling and sampling for geotechnical testing, mineral resource investigations, or geological research are not considered mining. Excavation of mineral resources
associated with the construction or maintenance of an approved navigation project in accordance with 15A NCAC 7B .0200 of this Chapter is not considered mining.

(5) "Wind Energy Facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of three megawatts or more of energy.

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