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Attention: Docket ID No. EPA-HQ-OW-2011-

1. The Agencies Have Not Reviewed the Adequacy of the Underlying Science, But Have Asked for Commenters to Provide Complex Technical Information. Additional Time Is Needed for the Agencies to Complete and Provide Their Assessment So the Public Can Effectively Respond.

The _____ the connectivity report, which is currently under review by the Science Advisory Board (SAB).

Panel is still grappling with the proper criteria for determining under which circumstances a connection amounts to a significant nexus for the purposes of establishing CWA jurisdiction.

Moreover, in recent statements, the EPA has acknowledged that the SAB and the agency are still considering options for review of the adequacy of the science to support the proposed rule. Given the ongoing SAB Panel review, and that the EPA has not yet determined how to review the adequacy of the science to support the proposed rule, commenters should have at least 90 days from the time when EPA completes its review of the science and issues a final connectivity report to comment on the proposed rule.

There are numerous places throughout the preamble to the proposed rule wherein the agencies justifications. The purpose of the SAB Panel review of the draft connectivity study was to _____ the opportunity to comment on the conclusion of that review process. .

A significant amount of time and technical expertise will be required first to evaluate the report from the SAB Panel and _____ ses and then to prepare substantive and thoughtful responses. The comment period should be extended to give stakeholders that additional time needed to review these lengthy, complex scientific analyses and provide meaningful feedback.

2. The Agencies Have Not Provided an Adequate or Comprehensive Economic Analysis, and the Regulated Community Needs Adequate Time to Undertake a More Complete Economic Analysis.

The _____ s. The Economic Analysis suggests that the proposed rule will increase overall jurisdiction under the CWA by only 2.7 percent. But the EPA arrives at this percentage using a flawed methodology that only accounts for the Section 404 program, relies on figures extrapolated from statistics from FY 2009-2010 (a period of extremely low construction activity), and fails to account for the universe of waters and features for which landowners have not previously sought CWA permits. Relying on this percentage throughout the Economic Analysis, the EPA systematically and hugely

¹ See 79 Fed. Reg. at 22,192.

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