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6. **The Rule should include a definition of upland.** During the July 16, 2014 webinar, “Waters of the U.S.: Clarifying Misconceptions,” Ms. Stoner, EPA, clarified that the term upland in this Rule refers to everything that is not water. Specific language clarifying this point should be added to the Rule.
7. **The proposed definition for floodplain may have unintended conflicts with other federal, state and/or local regulations and ordinances.** It is uncertain whether this new federal definition is consistent or will create conflicts with existing federal regulatory programs that utilize the term floodplain. The proposed definition does not meet the goal of clarifying the definition of “neighboring.” The HRPDC proposes the following underlined changes, “The term floodplain means an area bordering inland or coastal waters that was formed by sediment deposition from such water under present climatic conditions and is regularly inundated one or more times per year.”
8. **The Rule places too much reliance on individual COE staff members’ best professional judgment when making jurisdictional determinations.** Over many years, the Region’s localities have experienced a lack of consistency between different regulators within the Norfolk District. The HRPDC is concerned that the Rule relies on interpretation by local Corps staff in the field which may lead to less clarity, certainty and predictability for the regulated public, possibly leading to resource demanding case-specific analyses.

Sincerely,

Kenneth I. Wright  
Chairman

JLT/jcc