

Citing Flawed Data, ‘Green’ Group Files to Block Highlands’ Septic Tank Rule

[Tom Johnson](#) | May 19, 2016

Complaint argues DEP proposal relies on well-testing data from developed areas, skewing results of impact analysis



The state should withdraw a new proposal that would permit more development in the New Jersey Highlands because the data supporting the rule is flawed, according to a complaint filed yesterday.

Echoing criticism from other conservation groups, the complaint, filed by Public Employees for Environmental Responsibility, argued that the well-testing data used by the state Department of Environmental Protection to draw up the rule does not justify changing the standards.

The rule proposal deals with how many septic systems would be allowed in the most pristine parts of the Highlands, the source of drinking water for six million residents. It is widely viewed by environmentalists as the latest bid by the Christie administration to [roll back protections](#) in the 860,00 acres of the Highlands, an area of forested ridges, rolling hills, and farmland.

In putting forward the changes earlier this month, the DEP cited [extensive water-quality data](#) from the U.S. Geological Survey, proposing a “science-based approach to protecting the region’s precious water supplies, while creating reasonable opportunities for economic growth and jobs.”

But the complaint claimed that most of the study’s data is drawn from the state’s private well-testing program in developed areas, which is not representative of groundwater in pristine parts of the “preservation area” that would be opened to more extensive development.

“This study suffers from a classic case of GIGO—garbage in, garbage out,” said Bill Wolfe, director of New Jersey PEER. “It is telling that every one of the flawed data and methodologies are all biased in the same direction: justifying further degradation of waters in a preservation area.”

DEP officials declined to comment extensively on the complaint. “The rationale and science are all explained in the database,” said Larry Hajna, a spokesman for the agency. “For the most part, he’s questioning the method used by the premier geological agency in the nation.”

The agency’s 19,670 samples were used in the study. Of these, 8,977 were from the “planning area,” which is more developed; 10,437, from the preservation area; and 240, just outside the region but close enough to be used in the analysis.

The underlying basis of the rule relies on pollution from nitrates, found in septic systems, to gauge groundwater quality. Critics of the proposal argued that using private-well data from areas already developed gives a misleading perception of background pollution levels that would otherwise be found in undeveloped land.

They said the department should have drilled new wells to get the data before proposing the rule, a strategy the agency rejected in a fact sheet it prepared on the measure.

“Drilling hundreds of new wells to obtain additional data points would inflict ecological disruption in pristine areas of the Highlands, while imposing unreasonable additional costs on the state’s taxpayers,” according to the DEP. By the agency’s calculation, the new rule would allow up to 1,145 new septic systems.

Another flaw in the proposal deals with where the septic systems would be allowed in the preservation area, according to Elliott Ruga, policy director of the New Jersey Highlands Coalition. The preservation area consists of 414,900 acres, approximately 345,850 of which are permanently preserved or developed, leaving 69,050 acres affected by the rule change.

The result will increase the level of nitrates in a concentrated area, Ruga said. “This is degradation, which the Highlands Act prohibits, he said.

Wolfe said the state should table its Highlands septic rule until the underlying data can be independently examined. “The whole reason for making the Highlands a preservation area was to protect it from precisely the type of ruinous development now being planned,” he said.

Wolfe is a former DEP staffer who had a hand in developing the original Highlands rules. The complaint process initially goes before the U.S. Geological Survey. If that agency does not retract its study, PEER can appeal to a panel of independent experts.