

DEP has lost its way with proposal to change development rules near waterways | Opinion



The NJDEP has proposed rules changes that would allow development in areas of the state near waterways. (*Andrew Mills/The Star-Ledger*)

[Star-Ledger Guest Columnist](#) on September 28, 2015 at 8:00 AM, updated September 28, 2015 at 8:11 AM

By **Julia Somers**

New Jersey's Department of Environmental Protection has proposed changes to the rules regulating development near rivers, streams and in coastal areas, and flood control and soil erosion measures. In the DEP's world, these changes will "reduce complexity, correct conflicting regulations and streamline the permitting process." However, taken as a whole, the new rules weaken or eliminate important protections that prevent flooding and maintain water quality. Clearly, the Christie administration views the rules that protect our health, safety and property as an annoyance. Consider this: Our DEP is weakening the flood hazard rules in the state with the second largest number of flood claims in America.

More facts: We all know we live in the most densely populated state in America; 200 persons per square mile, more than the second-most dense and double the density of Maryland, which comes in at number five. And contrary to a popular myth, our population is growing. The Census Department estimates that we will exceed 9 million people for the first time this year, here in the state with the second highest household income. So how do we manage to cram so many well-off people into such a tiny space? One answer is water. NASA used to say, "No bucks, no Buck Rogers." In New Jersey our reality is, "No water protection, no prosperity."

Flood and water protections were not adopted to benefit bureaucrats or simply to annoy developers. New Jersey has transformed in the past 40 years from a foul-smelling, toxic, rustbelt relic to a prosperous, residential and corporate haven because we got our environmental act together. Many formerly blighted urban areas are benefitting, particularly from a new urban transit real estate boom. But you can't put over 1,200 people on every square mile of your state

without an abundant water supply from places like the Highlands and Pinelands, or without a plan to protect rivers and headwaters and to address persistently catastrophic flooding.

If you read [the DEP's June 1 public notice](#) or the Flood Hazard Area rule change summary, it is clear that this administration thinks our biggest environmental problem is red tape. The rule change is sprinkled with terms like "flexibility," "undue hardship," "streamlining" and "consolidation." My personal favorite is "uncertainty." Until now, in order to build in protected, sensitive water resource areas developers had to qualify for a "hardship" waiver. The DEP says the current process is too time-consuming and expensive for the applicant. And the developer may be denied because the environmental harm is excessive. The DEP wants to give applicants more confidence and to not get so stressed. How? By allowing many of the activities that are currently prohibited. Then the question becomes, why have regulations at all?

The term "streamline" is a theme throughout the proposed rule changes. The current DEP attitude seems to be, "Sure there are regulations. And there are ways to get around them. We can streamline the process simply by doing away with the regulations." "Consolidation" means lumping as many regulated areas, such as flood protection, clean water, soil conservation and stormwater, into a one-size-fits-all package with the same set of standards, in spite of fundamental differences in their purposes, and the physical mechanisms and scientific principles they are governed by.

It is clear DEP has lost its way, and much to our peril. It is the sole agency in New Jersey responsible for the protection of the resources the state holds in trust for benefit of the public. If it is not in earnest minding the store, no one is. If the department's primary concern is the welfare and convenience of those whom it is supposed to regulate, as this rule proposal indicates, the department is in conflict and has compromised its ability to ensure that flooding is controlled and our water remains clean and plentiful. Sure, the department may streamline and consolidate its regulations, and ensure greater certainty for those whom it regulates. Not by saying "yes" sooner and more easily, but by saying "no." Only that way will our economic stability be preserved, and everyone win.

Julia Somers is executive director of the New Jersey Highlands Coalition.