



Testimony on Proposed DEP PACT REAL Rules

Presented by Ray Cantor, Deputy Chief Government Affairs Officer
New Jersey Business and Industry Association

September 5, 2014

10 W Lafayette Street
Trenton, NJ 08608-
2002

609-393-7707
www.njbia.org

Michele N. Siekerka,
Esq.
President and CEO

Christopher Emigholz
Chief Government
Affairs Officer

Raymond Cantor
Deputy Chief
Government Affairs
Officer

Althea Ford
Vice President

Elissa Frank
Vice President

Kyle Sullender
Director of Economic
Policy Research

Thank you for this opportunity to testify today. My name is Ray Cantor, and I am speaking on behalf of the New Jersey Business & Industry Association, the state's largest business association representing businesses of all types and sizes and from all areas of the state.

We will be submitting comprehensive written comments, but I want to make three points today. One, these rules, contrary to declarations from the Department, create vast no build zones along our coast and river communities. Two, the science the Department relies on to support a 5-foot sea level rise standard is outdated, uses low confidence assumptions, and no credible scientist, even the authors of the STAP report, believe such a rise in sea level is likely to happen this century. Finally, the Department, and the state, should focus on how to make our coastal communities more resilient, not focus on how to drive people off the coast in what the Department calls a "managed retreat."

In establishing a new regulatory area called the "inundation risk zone," the proposed rules would set several criteria for any new, expanded, redeveloped, or substantially improved development. Development would need to be 5 feet above existing flood elevation standards which may not be feasible for many houses or lots. An alternative analysis will be required which may result in the permit to build being denied. Even if you just need a minor permit at an existing house, you will need to place a deed notice on the property falsely telling future purchasers that the property

is going to be under water. This will certainly lower property values and impact on local property taxes. Finally, and most importantly, the IRZ will be considered a critical environmental site and subject the whole property to a 3% impervious cover standard. Three percent, is, by definition, a “no build” standard.

While we recognize that sea levels are rising, as they have for thousands of years, we absolutely disagree with the Department’s projection of a 5-foot sea level rise by the end of the century. Even ignoring the validity of a modeled based 75-year projection with a 17% confidence level, the 2019 STAP report is outdated science and does not comport with the general projections of experts in the field.

The STAP report itself explicitly says that it should be updated with new scientific studies once they are published. Since the 2019 STAP report, there have been two major studies that each reject the assumptions that support the 5-foot projection. The IPCC, the “gold standard” in the climate science world, has also rejected the DEP’s projection. The DEP even had the authors of the STAP report analyze these latest studies and compare them to the 5-foot projection of the STAP report. This updated analysis, which the Department does not reference in the rule proposal, and which has not been made public, states that the STAP report relied on “low confidence” assumptions.

In the climate science world, “low confidence” is as low as it gets. The analysis concludes that use of “low confidence” assumptions should only occur if you are risk adverse. Use of low confidence assumptions is not how the Department has ever used science to support a regulatory standard. Given the tremendous economic and societal impacts of this proposed standard, the Department should use a likely sea level rise standard of 2 feet, which is in line with generally accepted national and international projections and would make New Jersey the most protective state in the nation. If sea level rise is shown to be trending higher, we have 75 years to adjust.

Finally, the business community believes that the state should be looking at ways to make the state more resilient, not how to force people into a managed retreat. We should be looking at the Army Corps back bay study and the projects undertaken in Europe, even in Venice, which has adapted to its sinking and sea levels rising. Whether to retreat from the shore or not should be a matter for public debate and decided by the public through the Legislature. It should not be a decision made by a few people in a regulatory agency who are driven more by ideology than reality.

Thank you.