



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

OFFICE OF THE  
SECRETARY

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State of Delaware  
Delaware 147<sup>th</sup> General Assembly  
Legislative Hall  
Dover, DE 19901

Dear Members of the 147<sup>th</sup> General Assembly,

It is with great pleasure that we submit the attached report and recommendations from the Floodplain and Drainage Advisory Committee that was established by Senate Bill 64 of the 146<sup>th</sup> General Assembly.

There's an old saying that "flooding is natural, but disasters are manmade."

Every year, Delaware residents and businesses experience millions of dollars of damage to private property and public infrastructure from flooding and heavy storms. The good news is that much of this damage is avoidable with improved drainage practices and more consistent floodplain management at the local government level, as well as more focused attention on conserving and restoring wetlands and other natural systems that can hold hundreds of thousands of gallons of water per acre. Yet today, the State bears the vast majority of the costs incurred to address flood prone areas, while the land use decisions, drainage codes, and floodplain standards are the purview of county and local governments. Without an improved approach, we should expect greater property damage and increased costs in the years ahead as we experience more extreme weather events and intense precipitation.

To address growing statewide concerns about Delaware's vulnerability to ongoing inland and coastal flooding and drainage challenges—and the growing costs to the state, Senator David McBride and Representative Quinn Johnson introduced the SB 64 legislation in 2011 with the goal of mitigating threats to public infrastructure, private property, and human health and safety. Governor Jack Markell signed the bill into law on August 17, 2011.

*Delaware's Good Nature depends on you!*

As prescribed in the legislation, we empaneled an Advisory Committee consisting of a broad range of experts representing diverse organizations to help identify best practices and forward-thinking recommendations that would assist local governments in reducing flood risks in their communities and reducing the associated costs from such damage. Through the process, the Advisory Committee developed 6 Drainage Standards, 15 Floodplain Standards, and 10 Recommendations that were debated during a 10-month process of seven meetings. All of the proposed Drainage Standards and Recommendations were supported by a broad consensus of the Committee as were a majority of Floodplain Standards. The Department adopted the group's work through a Secretary's Order issued in August, 2012.

The Standards and Recommendations developed by the Advisory Committee were presented publically at a series of workshops with local governments and, as specified in SB 64, all 60 local governments were sent copies of the standards and recommendations and asked to comment formally on the impact of incorporating them into their local codes and ordinances for implementation.

Throughout the outreach effort with local governments, it was clear that improving the preparedness of communities and mitigating potential damages from storms and flooding requires willing partnerships among all levels of government and ongoing stakeholder outreach. Fortunately, the vast majorities of municipalities took the six-month review process and the recommended standards very seriously. Several local governments were particularly interested in learning about how updated standards could mitigate property damage and reduce flood and property insurance costs. During the review of local ordinances, it was clear that some local governments already met the recommended standards. Some governments indicated that many of the additional levels of protection made sense, but they foresaw technical challenges in ensuring effective implementation. Others governments were not sure what their existing code language allowed compared to the recommended best practices and requested additional technical assistance.

Despite this wide level of municipal interest, there were a very small number of local governments—including some with the greatest flooding problems and associated costs to the State—that stated that they saw little reason to consider measures above what they are already doing. With all of the recent extreme weather events and flooding that Delaware has experienced since the passage of SB 64, this position is deeply troubling and ultimately poses a very expensive long-term proposition for the State.

This lack of interest from some of the most impacted communities raises a significant policy question that requires further discussion. The State repeatedly uses general fund tax dollars to rectify flooding and drainage problems that are often the direct and foreseeable result of some local land use decisions, inadequate local codes and ordinances, or degradation of wetlands and other natural systems that provide significant flood mitigation benefits. This status quo enables some local decision-makers to shift significant costs to the State, because they bear

little, if any, responsibility for the financial consequences of their decisions, while they benefit from the additional local tax revenue. We need to think creatively about how to most effectively encourage adoption of common-sense local drainage codes and floodplain ordinances that will reduce both flood damages and the significant costs to the state, while also considering ways to reward the local governments that are doing their part, such as giving greater priority to investments that are needed in those communities.

In closing, we extremely grateful to the members of the Advisory Committee, local governments, and members our own team who took up this challenge and dedicated hundreds of hours to work through complex issues. We also want to thank each member of the General Assembly for their continued support for improving the preparedness of our State in these challenging times. None of this is easy, but implementing thoughtful drainage and floodplain policies is absolutely critical to Delaware's long-term preparedness—and our work is just beginning. We hope that you will take a few minutes to review the report's recommendations and encourage the local governments within your district to adopt the recommendations contained within.

We look forward to working with you to make Delaware safer and more resilient.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Collin P. O'Mara', with a large, stylized flourish at the end.

Collin P. O'Mara  
Secretary