

Non-Tidal Wetland Regulation in Delaware

By: Matthew Flaherty

Delaware is one of the only states in the Mid-Atlantic that doesn't regulate non-tidal wetlands. In the absence of state regulation, the federal Environmental Protection Agency, authorized by the Clean Water Act (CWA), had provided some regulation, however the definition of waters covered by the CWA has been narrowed significantly, leaving Delaware's non-tidal wetlands largely unregulated. Delaware State Senator, Stephanie Hansen, a Clinic alumnus, has been working on a Delaware non-tidal wetland regulatory bill and enlisted the Clinic to assist her with the legislation. Initial research was undertaken by Rebecca Carroll and resulted in a [comparative analysis](#) of the regulatory programs in Maryland, Ohio, Pennsylvania, New Jersey, and Virginia.

Clinic attorney Matthew Flaherty, built upon the previous research, and did in-depth research into various states' non-tidal wetlands compensatory mitigation programs and developed a [comparative analysis](#) based on that research. Flaherty attended meetings of the Delaware Freshwater Wetlands Stakeholder Group, and was able to observe how environmental policy is developed and the discourse that transpires when figuring out the fine details. According to Flaherty, "It was fulfilling to participate in the development of these regulations, being allowed to be a part of the conversation was a unique experience that I did not think I would experience at such an early part of my career, and it opened my eyes to the kind of networking opportunities the clinic provides."