

SB 9 - A Delaware Initiative for Freshwater Wetlands

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Student attorneys with the clinic have been following the recent Delaware policy initiative that came about after the *Sackett v. EPA* decision, which limits the federal definition of wetlands to exclude Non-Tidal Wetlands (NTW). Student attorneys attended multiple subcommittee and state senate meetings taking note of the talking points and public comments. The state of Delaware does not have its own nontidal wetland regulatory program. Thus, the *Sackett* decision left many NTW in Delaware vulnerable. Wetlands are a critical ecosystem in Delaware and help protect communities throughout the state from flooding, improve water quality, support wildlife habitats, and help Delaware stay climate resilient.

This legislative session, Senator Stephanie Hansen sponsored Delaware Senate Bill 9, a bill that, if enacted, will allow Delaware to join the majority of other states with protections for both tidal and non-tidal wetlands. This bill is vital to Delaware's wetlands protection because it will create a state wetlands regulatory advisory committee and a state program that covers tidal and nontidal wetlands. The bill will have a permitting framework, with detailed guidance and definitions for protected wetlands. Additionally, the bill includes reasonable exemptions for activities that may take place in or around wetlands. Finally, the bill promotes collaboration among farmers, builders, environmental experts, and local governments to increase transparency and support informed decision-making.

During a hearing on the bill in the Delaware Senate in April, Sen. Hansen publicly acknowledged and thanked the Environmental and Natural Law Clinic for the valuable comparative wetland research that guided the bill's development. All of the Clinic's work related to non-tidal wetland protection can be found on the Clinic's webpage.