



SPONSOR: Sen. Hansen & Rep. Heffernan & Sen. Townsend &  
Rep. Phillips  
Sens. Hoffner, Sokola, Sturgeon; Reps. Morrison,  
Parker Selby

DELAWARE STATE SENATE  
152nd GENERAL ASSEMBLY

SENATE BILL NO. 290

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE PROTECTION OF WETLANDS.

1 WHEREAS, healthy wetlands reduce, store, and filter stormwater runoff and can help remove harmful bacteria  
2 and pollutants, thereby protecting sources of Delaware's water supply; and

3 WHEREAS, wetlands provide flood storage capacity thereby protecting public and private property from flooding  
4 and the resultant financial and personal impacts associated therewith; and

5 WHEREAS, the preservation, restoration, creation, and enhancement of wetlands plays a critical role in mitigating  
6 the adverse impacts of climate change, supporting biodiversity and ensuring water resource sustainability for our State; and

7 WHEREAS, while the State has acted to protect tidal wetlands, it has not taken action to protect the State's  
8 nontidal wetlands relying instead on federal regulations enforced by the United States Army Corps of Engineers pursuant to  
9 the Clean Water Act; and

10 WHEREAS, the federal government has shifted its definition of what qualifies as a wetland under its jurisdiction  
11 three times from 2015 to 2023; and

12 WHEREAS, in a 2022 report to the General Assembly titled "Options for a Nontidal Wetland Permitting  
13 Program," the Delaware Department of Natural Resources and Environmental Control determined that the approximate  
14 acreage of nontidal wetlands no longer protected under federal jurisdiction was roughly 30,000 acres; and

15 WHEREAS, the U.S. Supreme Court case of *Sackett vs. EPA* decided in 2023 further reduced federal jurisdiction  
16 over wetlands, now leaving approximately 75,000 acres unprotected in Delaware; and

17 WHEREAS, it is important that the State modify its existing wetlands permit program to add necessary protections  
18 for nontidal wetlands, as Delaware is the only state in the mid-Atlantic region without state-level protections, and thus is  
19 especially vulnerable to changes at the federal level; and

20 WHEREAS, protection of all wetlands will be consistent with the current policy of this State to preserve and  
21 protect the productive public and private wetlands to prevent their loss and impairment and consistent with the historic right  
22 of private ownership of lands.

23 NOW, THEREFORE:

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

25 Section 1. Amend Chapter 66, Title 7 of the Delaware Code by making deletions as shown by strike through and  
26 insertions as shown by underline as follows:

27 § 6601. Short title.

28 This chapter shall be known and may be cited as “The Wetlands Act.”

29 § 6602. Purpose.

30 It is declared that much of the wetlands of this State have been lost or despoiled by unregulated dredging,  
31 dumping, filling and like activities and that the remaining wetlands of this State are in jeopardy of being lost or despoiled  
32 by these and other activities; that such loss or despoliation will adversely affect, if not entirely eliminate, the value of such  
33 wetlands as sources of nutrients to finfish, crustacea and shellfish of significant economic value; that such loss or  
34 despoliation will destroy such wetlands as habitats for plants and animals of significant economic and ecological value and  
35 will eliminate or substantially reduce marine commerce, recreation and aesthetic enjoyment; that such loss or despoliation  
36 will, in most cases, disturb the natural ability of wetlands to reduce flood damage and adversely affect the public health and  
37 welfare; that such loss or despoliation will substantially reduce the capacity of such wetlands to absorb silt and will thus  
38 result in the increased silting of channels and harbor areas to the detriment of free navigation, and that such loss or  
39 despoliation substantially impairs our resiliency as a State to withstand the impacts of climate change. It is hereby  
40 determined that the coastal areas of Delaware are the most critical areas for the present and future quality of life in the State  
41 and that the preservation of the coastal wetlands is crucial to the protection of the natural environment of these coastal  
42 areas. It is hereby determined that the transitional areas between terrestrial and aquatic ecosystems of Delaware, and the  
43 wetlands in or about such areas of Delaware, are critical areas for the present and future quality of life in the State and that  
44 the preservation of tidal and nontidal wetlands is crucial to the protection of the natural environment. Therefore, it is  
45 declared to be the public policy of this State to preserve and protect the productive public and private wetlands ~~and to~~  
46 prevent their despoliation and destruction consistent with the historic right of private ownership of lands, to attain no net  
47 overall loss in wetland acreage and function, and strive for a net resource gain in wetlands over present conditions.

48 § 6603. Definitions.

49 (a) “Activity” means any dredging, draining, filling, bulkheading, construction of any kind, including but not  
50 limited to, construction of a pier, jetty, breakwater, boat ramp, or mining, drilling or excavation.

51 (b) “Authorized activity” includes any activity allowed after receipt of a permit from the Department.

52 (c) “Board” means the Environmental Appeals Board.

53 (d) “Department” means the Department of Natural Resources and Environmental Control.

54 (e) "Person" means any individual, group of individuals, contractor, supplier, installer, user, owner, partnership,  
55 firm, company, corporation, association, joint stock company, trust, estate, political subdivision, administrative agency,  
56 public or quasi-public corporation or body, or any other legal entity, or its legal representative, agent or assignee.

57 (f) "Preexisting use of tidal wetlands" means any use of land, or water, or subaqueous lands, or of a structure or  
58 any combination of these which was lawfully in existence prior to and in active use on July 17, 1973 or any temporary or  
59 seasonal use in active use for 10 consecutive weeks within the last 12 months previous to July 17, 1973.

60 (g) "Secretary" means the Secretary of the Department of Natural Resources and Environmental Control.

61 ~~(h) "Tidal wetlands" shall mean those lands above the mean low water elevation including any bank, marsh,  
62 swamp, meadow, flat or other low land subject to tidal action in the State along the Delaware Bay and Delaware River,  
63 Indian River Bay, Rehoboth Bay, Little and Big Assawoman Bays, the coastal inland waterways, or along any inlet, estuary  
64 or tributary waterway or any portion thereof, including those areas which are now or in this century have been connected to  
65 tidal waters, whose surface is at or below an elevation of 2 feet above local mean high water, and upon which may grow or  
66 is capable of growing any but not necessarily all of the following plants:~~

67 ~~Eelgrass (*Zostera marina*), Wedgeon Grass (*Ruppia maritima*), Sago Pondweed (*Potamogeton pectinatus*),  
68 Saltmarsh Cordgrass (*Spartina alterniflora*), Saltmarsh Grass (*Spartina cynosuroides*), Saltmarsh Hay (*Spartina patens*),  
69 Spike Grass (*Distichlis spicata*), Black Grass (*Juncus gerardii*), Switch Grass (*Panicum virgatum*), Three Square Rush  
70 (*Scirpus americanus*), Sea Lavender (*Limonium carolinianum*), Seaside Goldenrod (*Solidago sempervirens*), Sea Blite  
71 (*Suaeda maritima*), Sea Blite (*Suaeda linearis*), Perennial Glasswort (*Salicornia virginica*), Dwarf Glasswort (*Salicornia  
72 bigelovii*), Samphire (*Salicornia europaea*), Marsh Aster (*Aster tenuifolius*), Saltmarsh Fleabane (*Pluchea purpurascens* var.  
73 *succulenta*), Mock Bishop's Weed (*Ptilimnium capillaceum*), Seaside Plantain (*Plantago oliganthos*), Orach (*Atriplex patula  
74 var. hastata*), March Elder (*Iva frutescens* var. *oraria*), Gounsel Bush (*Baccharis halmifolia*), Bladder Wrack (*Fucus  
75 vesiculosus*), Swamp Rose Mallow, Seaside Hollyhock or March Mallow (*Hibiscus palustris*), Torrey Rush (*Scirpus  
76 torreyi*), Narrow-leaved Cattail (*Typha angustifolia*), and Broad-leaved Cattail (*T. latifolia*) and those lands not currently  
77 used for agricultural purposes containing 400 acres or more of contiguous nontidal swamp, bog, muck or marsh exclusive  
78 of narrow stream valleys where fresh water stands most, if not all, of the time due to high water table, which contribute  
79 significantly to ground water recharge, and which would require intensive artificial drainage using equipment such as  
80 pumping stations, drain fields or ditches for the production of agricultural crops.~~

81 (h) "Voluntary wetland habitat restoration project" means any of the following:

82 (1) Activities that are voluntarily undertaken to restore, reestablish, rehabilitate, or enhance altered or  
83 degraded or former aquatic habitats, and that result in a net increase in aquatic habitat functions and services.

84                   (2) Activities to maintain or manage aquatic sites where activities described in subparagraph (1) above  
85                   have taken place.

86                   (3) A voluntary wetland habitat restoration project may only include construction activities related solely  
87                   to the habitat restoration action

88                   (4) A voluntary wetland habitat restoration project does not include an activity undertaken to fulfill,  
89                   currently or in the future, a federal, state, or local aquatic habitat permit mitigation requirement.

90                   (5) Aquatic Habitat Functions and Services means any of the following: i) aquatic habitat hydrology that  
91                   approximates the pre-disturbance condition or that emulates the natural condition of the aquatic habitat, ii) fish and  
92                   wildlife habitat quality or quantity, iii) plant community quality, characterized by native vegetation types and  
93                   diversity, iv) water- and soil-related functions of the aquatic habitat, such as nutrient removal, sediment reduction,  
94                   flood control or groundwater recharge, v) recreational use of the aquatic habitat, including, but not limited to,  
95                   hunting, fishing, trapping and birdwatching, and providing recreational access consistent with the restoration  
96                   project.

97                   (i) "Wetlands" means all tidal and nontidal wetlands in the state, and the terms "tidal" and "nontidal" are  
98                   not necessarily mutually exclusive. All wetlands shall be defined in regulations adopted by the Department, which  
99                   regulations must be based upon generally accepted criteria and methodologies, including (i) the U.S. Army Corps of  
100                   Engineers Wetlands Delineation Manual dated January 1987, (ii) any regional supplemental guidance pertaining to local  
101                   conditions, and (iii) National Wetlands Inventory Maps.

102                   § 6604. Permit Required.

103                   (a) Any activity in the wetlands requires a permit from the Department except the activity or activities exempted  
104 by this chapter and no permit may be granted unless the county or municipality having jurisdiction has first approved the  
105 activity in question by zoning procedures provided by law.

106                   (b) The Secretary shall consider the following factors prior to issuance of any permit:

107                   (1) Environmental impact, including but not limited to, likely destruction of wetlands and flora and fauna;  
108 impact of the site preparation on tidal ebb and flow and the otherwise normal drainage of the area in question,  
109 especially as it relates to flood control; impact of the site preparation and proposed activity on land  
110 erosion; effect of site preparation and the proposed activity on the quality and quantity of tidal and nontidal waters,  
111 surface, ground and subsurface water resources, the related watershed, and other resources;

112                   (2) Aesthetic effect, such as the impact on scenic beauty of the surrounding area;

113 (3) The number and type of public and private supporting facilities required and the impact of such  
114 facilities on all factors listed in this subsection;

115 (4) Effect on neighboring land uses, including but not limited to, any increased water retention or flood  
116 risk, public access to tidal and nontidal waters, recreational areas and effect on adjacent residential and agricultural  
117 areas;

118 (5) State, county and municipal comprehensive plans for the development and/or conservation of their  
119 areas of jurisdiction;

120 (6) Economic effect, including the number of jobs created and the income which will be generated by the  
121 wages and salaries of the jobs in relation to the amount of land required, and the amount of tax revenues  
122 potentially accruing to the state, county and local governments;

123 (7) The Department must adopt regulations that protect threatened or endangered species located within  
124 wetland areas.

125 (c) The applicant for a wetlands permit shall have the burden of proving whether the proposed activity is, or is not,  
126 within tidal or nontidal wetlands.

127 (ed) The Secretary may require a bond in an amount and with surety and conditions sufficient to secure  
128 compliance with the conditions and limitations, if any, set forth in the permit. The particular amount and the particular  
129 conditions of the bond required shall be consistent with and in furtherance of the purposes of this chapter. The Secretary  
130 shall state for the record, the basis for the bonding requirements imposed with each permit granted. In the event of a breach  
131 of any condition of any such bond, the Attorney General may institute an action in Superior Court upon such bond and  
132 prosecute the same to judgment and execution.

133 § 6605. Preexisting use.

134 Unless otherwise exempt through regulation, Any expansion or extension of a preexisting use of  
135 wetlands requires a permit and no permit may be granted under this chapter unless the county or municipality having  
136 jurisdiction has first approved the use in question by zoning procedures provided by law.

137 §6606. Exemptions.

138 Any of the following activities are exempt from permit requirements for wetlands : Mosquito control activities  
139 authorized by the Department; construction of directional aids to navigation; duck blinds; foot bridges; the placing of  
140 boundary stakes; wildlife nesting structures; grazing of domestic animals; haying; hunting; fishing and trapping. Any of the  
141 following activities are exempt from permit requirements for nontidal wetlands: Normal activities established prior to the  
142 adoption of regulations under this chapter required for the farming and production of food crops, such as plowing, seeding,

143 cultivating and harvesting, provided that such activity is part of an established and on-going operation for the farming and  
144 production of food crops, and an operation ceases to be established when the area on which it was conducted has been  
145 converted to another use or has lain fallow or idle for 5 years except as part of a conventional, crop rotation cycle.

146 § 6607. Procedures; regulations; application fees.

147 (a) The Secretary shall administer this chapter.

148 (b) The Department may, pursuant to regulations, prepare and adopt maps identifying wetlands within the State.  
149 The maps will serve as reference sources only, and shall not be conclusive for purposes of this chapter, including any  
150 permit proceedings.

151 ~~(b) The Secretary shall inventory, as promptly as he or she is able, all wetlands within the State and prepare~~  
152 ~~suitable maps. Such maps shall be filed with the Secretary of State and made available for public inspection at the offices of~~  
153 ~~the Department. On completion of a wetlands boundary map for an area, the Secretary shall propose that wetlands within~~  
154 ~~the area be designated as such in accordance with the map. Wetlands designation on the maps shall be conclusive for the~~  
155 ~~purpose of this chapter upon adoption by the Secretary, subject to the outcome of any appeals taken under this section, and~~  
156 ~~subsection (e) of this section. After such designation, the 2-foot elevation above local mean high water specified in § 6603~~  
157 ~~of this title shall not apply to any land outside the designated area.~~

158 (c) The Secretary shall adopt a wetlands designation or any other regulation only after holding a public hearing in  
159 accordance with § 6609 of this title.

160 (d) The Secretary shall, in furtherance of the purpose of this chapter, adopt regulations:

161 (1) Setting forth procedures, including provision for fees, which shall govern the processing of permit  
162 applications and the conduct of hearings;

163 (2) Elaborating standards consistent with §6604 of this title by which each permit application will be  
164 reviewed and acted upon;

165 (3) Controlling or prohibiting activities on lands designated or proposed for designation as wetlands,  
166 which regulations may vary from area to area according to the ecological value of the subject wetlands and the  
167 threat to the health and welfare of the people of this State which their alteration would pose.

168 (4) Setting forth procedures to attain no net overall loss in wetland acreage through the creation of  
169 programs and practices such as a wetland mitigation bank, aquatic restoration fund, or other vehicle for the  
170 creation, restoration, enhancement, or protection of wetlands.

171 (5) Allowing for voluntary wetland habitat restoration projects through an expedited permit process.

172                   (6) Recognizing that there are some areas that may have wetland qualities, but due to their small size,  
173                   manmade nature, or lack of significant ecological wetland value, may not be subject to the permitting requirements  
174                   of this Chapter.

175                   ~~(4)(7)~~ Any fees collected under this chapter are hereby appropriated to the Department to carry out the  
176                   purposes of this chapter. The Secretary shall report through the annual budget process the receipt, proposed use  
177                   and disbursement of these funds.

178                   (e) The Secretary will consult with the soil conservation districts, the Department of Agriculture, and, as the  
179                   Secretary deems appropriate, any other relevant state, local, or federal agency in the development of best management  
180                   practices to protect wetlands in compliance with the regulations to be adopted by the Department under this chapter.

181                   ~~(e) If an on-site evaluation by the Department establishes that an error exists in a wetlands map that has been~~  
182                   ~~adopted by the Department, the wetlands map containing the error may be corrected by the Department after the~~  
183                   ~~Department documents, in writing, the results of the on-site evaluation, and the Department gives the public notice of any~~  
184                   ~~proposed correction. For purposes of this subsection, the term “public notice” shall consist of having notice of the proposed~~  
185                   ~~correction, the name of the property owner, location of the property in issue and a description of the error, published in a~~  
186                   ~~daily newspaper of general circulation throughout the State and a newspaper of general circulation in the county in which~~  
187                   ~~the activity is proposed. Such notice shall be published at least 20 days in advance of any correction to a map by the~~  
188                   ~~Department. If the Department determines that it has received a meritorious objection to any proposed correction set forth~~  
189                   ~~in a public notice, the Department shall hold a public hearing in accordance with the procedures set forth in §6609 of this~~  
190                   ~~title. Any Department correction made to an adopted wetlands map shall be filed with the Secretary of State and made~~  
191                   ~~available for public inspection at the offices of the Department.~~

192                   § 6608. Permit applications.

193                   (a) Any person desiring to obtain a permit required by § 6604 of this title shall submit an application in such form  
194                   and accompanied by such plans, specifications and other information as required by applicable regulations.

195                   (b) Upon receipt of an application in proper form, the Secretary shall advertise in a daily newspaper of statewide  
196                   circulation and in a newspaper of general circulation in the county in which the activity is proposed (1) the fact that the  
197                   application has been received and (2) a brief description of the nature of the application. The Secretary may hold a public  
198                   hearing with respect to any application if it is deemed to be in the best public interest. The Secretary shall hold a public  
199                   hearing if he or she receives a written meritorious ~~objection~~ request within 20 days of advertisement. A public hearing  
200                   request shall be deemed meritorious if it exhibits a familiarity with the application and a reasoned statement of the permit's  
201                   probable impact.

202 § 6609. Public hearings.

203 Any public hearing held by the Secretary or the Board concerning a regulation, permit application or alleged  
204 violation or appeal shall be conducted as follows:

205 (1) Notification shall be served upon the applicant, alleged violator, or appellant as summonses are served by  
206 registered or certified mail not less than 20 days before the time of said hearing. Not less than 20 days' notice shall also be  
207 published in a daily newspaper of general circulation throughout the State and a newspaper of general circulation in the  
208 county in which the activity is proposed. Such notice shall also be sent by mail simultaneously to persons who have listed  
209 their names and addresses with the Secretary to be notified. Such notice shall also be sent by mail simultaneously to all  
210 adjoining property owners. Notice shall outline the area concerned, activity involved, and the location where the application  
211 for a permit or other pertinent material is available for inspection.

212 (2) The permit applicant, alleged violator, or appellant may appear personally or by counsel at the hearing and  
213 produce any competent evidence in his or her behalf. The Secretary or his duly authorized designee or the Board or its duly  
214 authorized designee may administer oaths, examine witnesses and issue, in the name of the Department or the Board,  
215 notices of hearings or ~~subpoenae~~ subpoenas requiring the testimony of witnesses and the production of books, records or  
216 other documents relevant to any matter involved in such a hearing; and ~~subpoenae~~ subpoenas shall also be issued at the  
217 request of the applicant or alleged violator. In case of contumacy or refusal to obey a notice of hearing or subpoena under  
218 this section, the Superior Court in the county in which the hearing is held shall have jurisdiction, upon application of the  
219 Secretary or the Chairperson of the Board, to issue an order requiring such person to appear and testify or produce evidence  
220 as the case may require.

221 (3) A verbatim transcript of testimony at the hearing shall be prepared and shall, along with the exhibits and other  
222 documents introduced by the Secretary or other party, constitute the record.

223 The Secretary or the Secretary's duly authorized designee or the Board or its duly authorized designee shall make  
224 findings of fact based on the record. The Secretary or the Board shall then enter such order as will best further the purpose  
225 of this chapter, and shall state reasons. The Secretary or the Board shall promptly give written notice to the persons affected  
226 by such order.

227 §6610. Appeal to Board.

228 Any person whose interest is substantially affected by any action of the Secretary may appeal to the Environmental  
229 Appeals Board within 20 days after ~~the Secretary has announced the decision~~ receipt of the Secretary's decision, or  
230 publication of the decision including, without limitation, online publication on the Department's website, whichever is  
231 soonest.



232 § 6611. [Reserved.]

233 § 6612. Appeal from Board's decision.

234 (a) Any person or persons, jointly or severally affected by any decision or nondecision of the Board, or any  
235 taxpayer, or any officer, department, board or bureau of the State, may appeal to the Superior Court in and for the county in  
236 which the use in question is wholly or principally located by filing a petition, duly verified, setting forth that such decision  
237 is illegal, in whole or in part, specifying the grounds of the illegality. Any such appeal shall be perfected within 30 days of  
238 the decision of the Board.

239 (b) The Court may affirm, reverse or modify the Board's decision. The Board's findings of fact shall not be set  
240 aside unless the Court determines that the record contains no substantial evidence that would reasonably support the  
241 findings. If the Court finds that additional evidence should be taken, the Court may remand the cause to the Board for  
242 completion of the record.

243 § 6613. Taking without just compensation.

244 If the Superior Court finds that the action appealed from constitutes a taking without just compensation, it shall  
245 invalidate the order and grant appropriate relief, unless the Secretary at this stage, consents to the reversal or modification  
246 of his or her decision. However, the Secretary may, through negotiation or condemnation proceedings under Chapter 61 of  
247 Title 10, acquire the fee simple or any lesser interest, including but not limited to, a perpetual negative easement or other  
248 interest which assures that the affected land shall not thereafter be altered, dredged, dumped upon, filled or otherwise  
249 altered subject to any reasonable reservations to the landowner as the Secretary may have stipulated to prior to assessment  
250 of damages. A decision of the Superior Court that the action appealed from constitutes a taking without just compensation  
251 shall not become effective for 2 years of the date of decision and shall not become effective at all if within that period the  
252 Secretary has initiated action to acquire fee simple or any lesser interest in the wetlands in question. A finding of the  
253 Superior Court that the denial of a permit or the restrictions imposed by a granted permit constitutes a taking without just  
254 compensation shall not affect any land other than that of the petitioning landowner. If the Secretary has not initiated action  
255 to acquire fee simple or any lesser interest in the wetlands in question within 2 years from the date of a final court ruling,  
256 the permit must be granted as applied.

257 § 6614. Cease and desist orders.

258 The Secretary shall have the power to issue an order to any person violating any rule, regulation or order or permit  
259 condition or provision of this chapter to cease and desist from such violation. Any cease and desist order issued pursuant to  
260 this section shall expire (1) after 30 days of its issuance, or (2) upon withdrawal of said order by the Secretary, or (3) when  
261 the order is suspended by an injunction, whichever occurs first.

262 § 6615. Injunction.

263 Action for injunctive relief may be brought by the Secretary to prevent a violation of this chapter or a permit  
264 condition. The Court of Chancery may, at its discretion, require bond in the appropriate amount.

265 § 6616. Right of entry.

266 The Secretary or the Secretary's duly authorized designee, in regulating any activity over which he or she has  
267 jurisdiction pursuant to this chapter, may enter, at reasonable times, upon any private or public property for the purpose of  
268 determining whether a violation exists of a statute or regulation enforceable by him or her, upon giving written notice, and  
269 after presenting official identification to the owner, occupant, custodian or agent of said property.

270 § 6617. Penalties.

271 (a) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, or any condition of a  
272 permit issued pursuant to § 6604 of this title, or any order of the Secretary, shall be subject to enforcement in accordance  
273 with § 6005 or § 6013, or both, of this title.

274 (b)-(d) [Repealed.]

275 § 6618. Inconsistent laws superseded; all other laws unimpaired.

276 All laws or ordinances inconsistent with any provision of this chapter are hereby superseded to the extent of the  
277 inconsistency; provided, that present and future zoning powers of all counties and municipalities, to the extent that said  
278 powers are not inconsistent with this chapter, shall not hereby be impaired; and provided, that a permit granted under this  
279 chapter shall not authorize an activity in contravention of county or municipal zoning regulations.

280 § 6619. Liberal construction.

281 This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed in order to  
282 preserve the wetlands of the State.

283 § 6620. Federal aid; other funds.

284 The Department may cooperate with and receive moneys from the federal government, state or local government  
285 or any industry or other source. Such moneys received are appropriated and made available for the study and preservation  
286 of the wetlands.

287 Section 2. This Act becomes effective upon the adoption of regulations by the Department, which adoption must  
288 take place on or before January 1, 2026, except with respect to regulations to effectuate the provisions of § 6604(b)(7) of  
289 Title 7, which regulations must be adopted by January 1, 2027.

#### SYNOPSIS

This Bill institutes a State nontidal wetlands program and leaves intact the current State tidal wetlands program under Chapter 66 of Title 7. Prior to these amendments, the only regulatory protection of the State's nontidal wetlands was

through the U.S. Army Corps of Engineers and the federal Clean Water Act ("CWA"). Nontidal (freshwater) wetlands are valuable resources that contribute to the quality of life for all Delawareans and deserve a local program of protection. The State nontidal wetlands program will be more efficient and more responsive than the federal program. The State nontidal wetlands program will cover gaps in federal jurisdiction under the CWA and mitigate the uncertainty surrounding the limits to federal jurisdiction. The bill also makes technical revisions and conforms certain language to existing language in 7 Del. C. Ch. 60, for consistency.

Author: Senator Hansen