



**The Maryland Department of the Environment**  
**Secretary Serena McIlwain**

***House Bill 1101***

***Standing - Environmental and Natural Resources Protection Proceedings (Clean Water Justice Act of 2024)***

**Position:** Support  
**Committee:** Education, Energy, and the Environment  
**Date:** March 26, 2024  
**From:** Jeremy D. Baker

---

The Maryland Department of the Environment (MDE) **SUPPORTS** HB 1101 as amended. The bill would enact several changes in State environmental law enforcement and the authority to intervene in State enforcement actions.

**Bill Summary**

As amended, the bill accomplishes the goal of restoring the legal landscape in Maryland that existed prior to the U.S. Supreme Court’s decision in *Sackett v. Env’t Prot. Agency*, 598 U.S. 651 (2023).

In *Sackett*, the Supreme Court held that wetlands and bodies of water that have no surface connection to navigable, Clean Water Act (CWA) protected bodies of water are not Waters of the United States (WOTUS) and thus do not qualify for CWA protections. The justices asserted that the CWA should not extend to “channels through which water flows intermittently or ephemerally, or channels that periodically provide drainage for rainfall.” Rather, it should only cover wetlands and waterways with a “continuous surface connection” to interstate bodies of water.

**Position Rationale**

As amended, the bill would expand the standing of all persons and organizations to enforce, or intervene in any State action to enforce, Title 5, Subtitle 9 (nontidal wetlands) and Title 9, Subtitle 3 (water pollution control) of the Environment Article, provided that the action is related to a body of water that fell outside of the scope of the CWA under the *Sackett* decision. With the amendments narrowing the bill to these areas, the bill confines its scope to restoring the CWA’s Citizen Plaintiff provisions in accordance with the pre-*Sackett* “significant nexus” test.

MDE recognizes the important role that non-governmental organizations and interested citizens can play in enforcing laws and regulations related to addressing water pollution and providing clean water for Maryland residents, and believes that the bill as amended restores the correct balance that was lost in the *Sackett* decision.

Accordingly, MDE asks for a **FAVORABLE** report for HB 1101.

---

**Contact:** Les Knapp, Government Relations Director  
Cell: 410-453-2611 (cell), Email: [les.knapp@maryland.gov](mailto:les.knapp@maryland.gov)