



# CHESAPEAKE BAY FOUNDATION

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## Senate Bill 523

### Department of the Environment – Water Resources – Protection of Vernal Pools (Vernal Pool Wetlands Protection Act of 2026)

**Date:** April 2, 2026

**To:** Environment and Transportation Committee

**Position:** **FAVORABLE**

**From:** Alan Girard,  
Director of Advocacy

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The Chesapeake Bay Foundation (CBF) **SUPPORTS Senate Bill 523**, which, as amended by the Senate, requires the Maryland Department of Natural Resources (DNR) to scientifically identify vernal pools and create and maintain a statewide vernal pool inventory. The amendments clarify the responsibility of the Maryland Department of the Environment (MDE) to regulate vernal pools that meet the definition of nontidal wetlands and require MDE to notify DNR when a location may qualify as a vernal pool.

#### **Vernal pools are high value wetlands:**

Wetlands - including vernal pools - are among the most productive, diverse, and important ecosystems in the Chesapeake Bay watershed. They improve water quality, reduce storm damage and flooding, control erosion, provide vital wildlife habitat, and help fight climate change. Wetlands act as natural filters, protecting groundwater and downstream waters by trapping and treating pollutants, including phosphorus, nitrogen, and sediment. They are often referred to as the watershed's kidneys, absorbing and cleansing polluted runoff through a complex system of physical, chemical, and biological processes before it enters the Bay.

Vernal pools are a unique type of seasonal, shallow wetland that is filled with water in the spring and fall and dries out in the summer. Ranging in size from puddles to shallow lakes, they are often found in low lying areas and throughout Maryland's coastal plain. Vernal pools are vital to the survival of many amphibians, insects, and crustaceans, and are sensitive habitats that can be easily disturbed or destroyed by human activities.

#### **Wetland protection is under threat:**

In 2015, the U.S. Environmental Protection Agency (EPA) finalized the Clean Water Rule, which clearly defined the specific types of wetlands and waterways considered "[Waters of the United States](#)" (WOTUS) protected by the Clean Water Act. The rule clarified that wetlands adjacent to navigable waters, regardless of whether they have an above-ground connection to those waters, are subject to Clean Water Act requirements that prohibit discharge of pollutants to waterways.

The Trump administration repealed the Clean Water Rule in 2020 and replaced it with a much narrower rule that excluded protections for many wetland types, including vernal pools. A federal court overturned the Trump Administration's Navigable Waters Rule in 2021, and in 2023, the Biden administration issued a new rule reinstating and updating the pre-2015 WOTUS regulations. The latest rule restored protections for

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*The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 200,000 members and e-subscribers, including 71,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.*

isolated wetlands, including vernal pools, which don't have a permanent inlet or outlet of water or flow all year round.

The 2023 rulemaking was seriously undermined when the Supreme Court's [May 2023 ruling in Sackett v. EPA](#) dramatically narrowed the scope of the Clean Water Act. The high court held that the law covers only wetlands with "a continuous surface connection" to navigable waters. The new definition excludes wetlands that may only connect to surface waters underground, such as vernal pools. Today, the *Sackett* decision exposes vernal pools to destruction from land use decisions in states that do not have their own rules to protect these special areas.

**SB 523 as amended clarifies and strengthens protections for vernal pools:**

Approximately 60% of Maryland's wetlands lost Clean Water Act coverage due to *Sackett*. However, Maryland and some other Bay states including New York, Virginia, and Pennsylvania all have policies in place that allow them to regulate all or most waters within their respective jurisdictions not covered by the Clean Water Act. MDE's Wetlands and Waterways Protection Program is designed to protect Maryland wetlands and waterways from loss and degradation through the regulation of the draining, dredging and filling of tidal and nontidal wetlands through a permitting or authorization process.

Unfortunately, while tidal and nontidal wetlands are intended to be protected under Maryland law, these protections do not always extend to vernal pools. Wetlands in Maryland are identified in part by whether they include hydric soils or hydrophytic vegetation, two features that not all vernal pools have. SB 523 as amended begins to close this regulatory gap by providing clear, science-based criteria for identifying vernal pools and requiring that a vernal pool list be created and made publicly available online. The amended bill clarifies MDE's authority to regulate vernal pools that meet the existing definition of nontidal wetlands and directs the agency to notify DNR if MDE staff identify a location that may qualify as a vernal pool.

Vernal pools filter stormwater, replenish groundwater, and provide critical habitat for wildlife that cannot reproduce anywhere else. SB 523 as amended begins to close a regulatory gap for this important type of wetland, clarifying and strengthening wetland law at a time when federal protections are being eliminated.

**For these reasons, CBF urges the Committee's FAVORABLE report on SB 523.**

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