



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

***House Bill 1170  
Graywater Systems – Public and Private Buildings – Authorization***

**Position:** OPPOSE  
**Committee:** Environment and Transportation  
**Date:** March 08, 2023  
**From:** Gabrielle Leach

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The Maryland Department of the Environment (MDE or the Department) **OPPOSES** House Bill 1170. The bill would expand graywater usage in areas currently prohibited due to public health and safety reasons, allow new construction on holding tanks, provide no enforcement mechanisms, and create numerous undefined terms that would have to be subsequently determined in new regulations.

House Bill 1170 would allow graywater to be stored in a holding tank that is connected to a three compartment sanitation sink for the use of public or private buildings either on a former dredge site or for seasonal operations, located in a remote area with minimal public access. Under current law, graywater is defined as untreated water generated by the use of and collected from a shower, bathtub or lavatory sink and does not include water from a toilet, kitchen sink or dishwashing machine. Graywater systems are allowed in residential settings and outside the 100-year floodplain.

**Use of Holding Tanks For New Construction or Change of Use:** The proposed bill does not differentiate between existing buildings and new construction of buildings. Holding tanks are regulated under COMAR 26.04.02.02 K which limits the use of a holding tank to resolve existing on-site sewage failures and does not permit the use of holding tanks for new construction or a change of use. This would represent a major change to long-established practices regarding the use of holding tanks.

**Expanded Use of Graywater To Commercial Facilities and Floodplains:** Although not explicitly stated in the bill, the bill seems focused on the graywater use in commercial facilities due to the language of seasonal operation and the three compartment sink. Any establishment, whether commercial or residential, must have potable water and proper sewage disposal. Graywater reuse is currently restricted in commercial settings due to public health and environmental concerns. Similarly, graywater use is limited in 100-year floodplains due to environmental protection reasons and the bill's reference to a former dredge site would likely mean creating an exception to the current floodplain prohibition. Additionally, the bill does not reference any compliance with testing the fill material and soil management to ensure the safety of the site.

**Lack of Enforcement Authority:** The Department would need to change regulations in order to incorporate the changes proposed in this legislation. The legislation lacks any enforcement authority for

monitoring minimal public access, seasonal operation or building access to assure connections comply with specified circumstances.

**Undefined Terms and Conflicting Definitions:** The Department recognizes several undefined terms in this proposed legislation that would need to be defined in regulations, such as “three compartment sanitation sink,” “former dredge site,” “seasonal operation,” “remote area,” and “minimal public access.” In addition to addressing the different definitions of graywater as defined in this section compared to § 9-1112 of the Environment Article, the legislation will likely conflict with § 9-1112(b)(2)(ix) which prohibits graywater use in a floodplain considering a “former dredge site” probability to be within a floodplain. Maryland Department of Health regulations, specifically COMAR 10.15.03.16 E, address the use of a three compartment sink for warewashing.

For the reasons detailed above, MDE urges a **UNFAVORABLE** report for HB 1170.