

Introduced	<u>9/4/18</u>
Public Hearing	<u>9/17/18</u>
Council Action	<u>10/1/18</u>
Executive Action	<u>10/10/18</u>
Effective Date	<u>12/10/18</u>

County Council of Howard County, Maryland

2018 Legislative Session

Legislative Day No. 12

Bill No. 60 -2018

Introduced by: Jon Weinstein

AN ACT to ban the sale or use of certain coal tar and similar pavement sealing products; and generally related to the control of surface applied pavement sealing products in the County.

Introduced and read first time September 4, 2018. Ordered posted and hearing scheduled.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on September 17, 2018.

By order Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on October 1, 2018 and Passed Passed with amendments _____, Failed _____

By order Jessica Feldmark
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4th day of October, 2018 at 3 a.m./p.m.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Approved by the County Executive Oct 10, 2018

Allan H. Kittleman
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 WHEREAS, Polycyclic Aromatic Hydrocarbons (PAH) are the harmful chemicals found in coal-
2 tar based and other pavement sealants that are known to cause rashes, skin irritations,
3 cancer, mutations, birth defects, and death; and
4

5 WHEREAS, the benzene compound found in PAH is a known carcinogen, exposure to which the
6 U.S. Department of Health and Human Services has found increases risk of cancers in
7 humans and animals, including skin, lung, kidney, bladder, and stomach cancers; and
8

9 WHEREAS, studies by the U.S. Geological Survey have identified coal-tar based sealants as a
10 major source of polycyclic aromatic hydrocarbon (PAH) contamination; and
11

12 WHEREAS, the estimated lifetime cancer risk is 38 times higher for people who live near a coal
13 tar pavement product for their lifetime; and
14

15 WHEREAS, cost effective coal tar free pavement products are available which are not major
16 sources of PAH contamination; and
17

18 WHEREAS, stormwater runoff from parking lots, driveways, and other paved surfaces is a
19 significant contributor to stormwater pollution; and
20

21 WHEREAS, banning the sale and use of PAH and the associated products will protect human
22 health, the environment, and marine life.
23

24 ***NOW, THEREFORE***

25 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard*
26 *County Code is amended as follows:*

27 *By adding:*

28 *Title 3. Buildings*

29 *SUBTITLE 11. MISCELLANEOUS.*

30 *SECTION 3.1100. COAL TAR.*

31
32 **Title 3. Buildings**

33 **SUBTITLE 11. MISCELLANEOUS.**

34 **SECTION 3.1100. COAL TAR.**

1 (A) *SCOPE OF SECTION.*

2 THIS SECTION APPLIES TO ANY PRODUCT THAT IS USED TO SEAL THE SURFACE OF
3 DRIVEWAYS, PARKING AREAS, AND OTHER PAVEMENT AND THAT CONTAINS LEVELS OF
4 POLYCYCLIC AROMATIC HYDROCARBONS (PAHs) GREATER THAN 10,000 MILLIGRAMS PER
5 KILOGRAM, INCLUDING, BUT NOT LIMITED TO, COAL TAR PITCH OR ETHYLENE CRACKER
6 RESIDUE.

7 (B) *FINDINGS.*

8 THE COUNTY COUNCIL FINDS THAT, UNDER SOME CONDITIONS, CERTAIN PAVEMENT
9 SEALING PRODUCTS CONTAMINATE WATER, SOIL, AND AIR, AND THEREFORE CONTROL OF
10 THESE PAVEMENT SEALING PRODUCTS IS NECESSARY TO PROTECT THE PUBLIC HEALTH,
11 SAFETY, AND WELFARE.

12 (C) *PROHIBITION.*

13 A PERSON SHALL NOT SELL, OFFER FOR SALE, OR APPLY TO PAVEMENT A PAVEMENT
14 SEALING PRODUCT DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

15 (D) *PENALTY.*

16 (1) A VIOLATION OF THIS SECTION IS A CLASS A CIVIL VIOLATION UNDER TITLE 24 OF THE
17 COUNTY CODE.


18 (2) FOR PURPOSES OF THIS SECTION, THE DEPARTMENT OF INSPECTIONS, LICENSES AND
19 PERMITS HAS THE DUTIES OF THE ENFORCEMENT OFFICIAL UNDER TITLE 24 OF THE
20 COUNTY CODE.

21 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
22 ***this Act shall become effective 61 days after its enactment.***

23

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on October 10, 2018.


Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2018.

Jessica Feldmark, Administrator to the County Council

Clay, Mary

From: Eric Pellegrino <Eric_Pellegrino@hcpss.org>
Sent: Wednesday, August 22, 2018 11:34 AM
To: Sigaty, Mary Kay
Cc: Clay, Mary; Singleton, Julia
Subject: CLES students need your help!

Dear Councilwoman Sigaty,

Hi! We are 16 students from Centennial Lane Elementary School, and we are on a mission to ban coal tar and other sealants with a high PAH (Polycyclic Aromatic Hydrocarbons) concentration in Howard County. We are doing this because these PAHs are dangerous to our community. Human exposure to PAHs will cause many different kinds of cancer, and they are toxic to aquatic animals. Three of our students with our teacher, Mr. Pellegrino, made a presentation to Councilman Weinstein regarding our strong feelings about this ban. He agrees with us, and wrote legislation. There is a public hearing on September 17th proposing our bill to the community. We would like to make the same presentation to you as we did to Councilman Weinstein in the hopes that we can convince you to support this ban. We are asking if you can schedule a date and time with us so we can present our PowerPoint to you. Thank you for taking time out of your busy day to consider the ban!

Sincerely,
Cindy Z. and our teacher, Mr. Pellegrino

Eric Pellegrino
G/T Resource teacher
Centennial Lane Elementary School
410-313-2800

"Life is like a math equation. In order to gain the most, you need to know how to turn the *negatives* into *positives*!"

Sayers, Margery

From: Sigaty, Mary Kay
Sent: Friday, September 21, 2018 4:58 PM
To: Sayers, Margery
Subject: FW: CB60-2018

From: Chris Mariani <cmariani@gemsealproducts.com>
Sent: Friday, September 14, 2018 3:21 PM
To: Weinstein, Jon <jweinstein@howardcountymd.gov>
Cc: Ball, Calvin B <cball@howardcountymd.gov>; Terrasa, Jen <jterrasa@howardcountymd.gov>; Sigaty, Mary Kay <mksigaty@howardcountymd.gov>; Fox, Greg <gfox@howardcountymd.gov>
Subject: CB60-2018

Dear Councilman Weinstein:

My name is Chris Mariani and I am the Southern Regional GM for Gem Seal Pavement Products. Our company has one of nine production facilities located at 10300 Pulaski Highway in White Marsh to which CB60-2018, as proposed, would be detrimental if passed. The Maryland legislature once considered a similar bill roughly 7 years ago and it failed to pass out of committee. I have spent most of my life since age 14 working in the paving industry, my entire career at Gem Seal (38 years).

I would much like the opportunity to meet with you and I will be attending the hearing on Monday. I am very much concerned about CB60-2018 because this ordinance, pushed by interests out of DC, threatens our ability to operate as it slowly creeps toward Baltimore County where our operation and two other producers are located. I respectfully ask that you keep an opened mind and consider the following before deciding on this bill.

The bill as written would be detrimental to the businesses (Gem Seal, Sealmaster, Seaboard) represented in Maryland:

- Nearly 70-75% of our volume is shipped out of state. The bill as written, if passed in Baltimore County, would prevent us from selling coal tar sealer to contractor beyond Maryland. Our out of state contractor clients would purchase coal tar sealer products from one of several out of state competitors. We could never survive a drop in volume of that magnitude.
- The bill is modeled after a local municipal ordinance in Michigan where the local governing entity (Lake Huron River Watershed Auth.) consulted with ONE manufacturer to who influenced the language to their favor at the expense of their competitors.
- Sales of pavement sealer of any type have declined over 40% in the Austin TX area, the first municipality to pass a ban in 2007.
- The bill specifically eliminates alternative sealers that have low PAH content and have been approved for use in Austin TX.
- This bill potentially eliminates certain brands of asphalt based sealers at .1% PAH level.

The bill claims that exposure to coal tar sealer increases cancer risk 38 times is a completely false claim:

- Coal tar sealer is not listed as a carcinogen by IARC or any other organization.
- The mission of the USGS does not include determining the carcinogenicity of any product or substance. The USGS (Mahler and Van Metre) never conducted any study to determine the carcinogenicity of coal tar sealer.

- In the nearly 15 years that USGS has been targeting coal tar sealers, they have never established a link to human cancer or adverse health effects from to coal tar sealer, likely because.....
- In the 60+ years that coal tar sealers have been commercially available, there is absolutely no history of human cancer or adverse health effects from this product to the general public, or by those who manufacture sealer, manufacture the raw material, or apply coal tar sealers. The statement is based on a model that makes numerous assumptions. Historical human health records both medical and OSHA related do support this claim.

What was missed in the student's research report:

- There was no effort to interview at least one of 3 of the local sealer manufacturers, a contractor, or a producer of RT-12 about coal tar sealers and PAHs
- There was no effort to interview any of the scientists that peer reviewed the USGS research and found it to be deeply flawed.
- There was no effort to consult one of many independent researchers who have done multiple studies (all peer reviewed) on coal tar sealers and PAHs like Dr. Kirk O'Reilly (geochemist), Dr. Robert DeMott (toxicologist), Dr. Tom Gauthier (environmental geologist), Dr. Brian Magee (toxicologist specializing in PAH toxicology and risk assessment), or Dr. Sung Woo Ahn (environmental scientist)
- **There was no balanced or objective approach.**

I hope you will consider these facts in the days ahead. We have been in business since 1957 and have had a safe operating record. The same is true for our industry. If you have any questions, my contact information is listed below my signature.

Most Respectfully,

Chris Mariani

Gem Seal Pavement Products
Southern Regional GM
cmariani@gemsealproducts.com
813-630-1695 office
727-422-8021 cell

Chris Mariani

Gem Seal Pavement Products
Southern Regional GM
cmariani@gemsealproducts.com
813-630-1695 office
727-422-8021 cell

Sayers, Margery

From: Sigaty, Mary Kay
Sent: Friday, September 21, 2018 4:58 PM
To: CouncilMail
Subject: FW: vote to ban coal tar sealants

Testimony for CB60-2018.

--

Mary Kay Sigaty
Councilperson
Howard County Council, District 4

3430 Court House Drive
Ellicott City, MD 21043
(410) 313-2001

From: Stuart Baker <profstu@outlook.com>
Sent: Saturday, September 15, 2018 8:02 PM
To: Sigaty, Mary Kay <mksigaty@howardcountymd.gov>
Subject: vote to ban coal tar sealants

Dear Ms. Sigaty:

I urge you to vote to ban coal-tar sealants.

There is considerable evidence for health and environmental hazards.

For example

<https://toxnet.nlm.nih.gov/cgi-bin/sis/search/a?dbs+hsdb:@term+@DOCNO+5050>

<https://www.usgs.gov/news/coal-tar-sealant-a-major-source-pah-contamination-milwaukee-streams>

Sincerely,

Stuart G. Baker
10226 Dottys Way
Columbia, MD 21044

Sayers, Margery

From: Sigaty, Mary Kay
Sent: Friday, September 21, 2018 4:56 PM
To: CouncilMail
Subject: FW: Additional considerations for Proposed Bill CB-60-2018 Banning Coal Tar Pavement Sealers

Forwarding testimony related to CB60-2018.

--

Mary Kay Sigaty
Councilperson
Howard County Council, District 4

3430 Court House Drive
Ellicott City, MD 21043
(410) 313-2001

From: Tom Decker, JR <tdeckerjr@sealmasterdelmarva.com>
Sent: Thursday, September 20, 2018 3:43 PM
To: Sigaty, Mary Kay <mksigaty@howardcountymd.gov>
Subject: FW: Additional considerations for Proposed Bill CB-60-2018 Banning Coal Tar Pavement Sealers

Dear Ms. Sigaty,

I want to thank you and the rest of the Council Members for allowing myself, Mr. Mariani and Mr. Genzler to testify this past Monday evening to present some points from the manufacturers and distributors of coal tar sealer in the state of Maryland. Before you decide to ban coal tar pavement sealer, we would appreciate your consideration of a few additional thoughts.

Although the elementary school students did a fine job with their presentation on Monday evening, they only presented facts and opinions as to why coal tar pavement sealers should be banned in Howard County. In my testimony I should have asked whether there were any instances when a Howard County resident was harmed either short term or long term by exposure to coal tar pavement sealer that had been applied to driveways or commercial parking lots. Were they able to find any examples of fish deformities or fish kills in any of the lakes or ponds? Is there evidence that any person in Howard County has ever been stricken with cancer or any other disease due to exposure to coal tar pavement sealer?

Of course, the answer to all of those questions would be "No" because in the 60 years of coal tar pavement sealer manufacturing and application those examples have never occurred in Howard County or anywhere else in the United States.

We believe the students would have greatly benefitted if their teacher would have invited Maryland coal tar pavement sealer manufacturers and suppliers to ask us why our product is safe for the environment and would have been a useful lesson to have the students tour a manufacturing facility. I would have loved to have the students visit my Cockeysville plant to demonstrate the entire manufacturing process from start to finish allowing them to view inside the 1,100 gallon mixer seeing the coal tar mixing into the clay slurry, to see how each ingredient is weighed and measured on the mixer deck and then loaded for delivery. The students would have a better understanding why this durable, cost effective product is so popular with residents and businesses.

More important, we would have explained what goes into the product and the care manufacturers and suppliers, take to make a safe product for the environment. As you know, science can be complex and confusing, but we believe 5th Graders would come away with a clear understanding that even when a product may look or have an unusual smell, it is indeed a product that can be embraced.

We are a small company who has been operating our business in the State of Maryland since 1996. We ship pavement sealer to our storefront operations in Frederick, Upper Marlboro, Delaware and Virginia too. We have provided good jobs for our employees, paid taxes, and pay for 100% of the health care coverage costs for our employees because we care about them. During the entire time we have been in business none of my employees has ever had to go to a doctor because of their exposure to coal tar pavement sealer or the raw material coal tar we purchase to make pavement sealer with. There is no reason to eliminate even a single job in the state of Maryland by banning coal tar sealer in yet another county, when there is no evidence available anywhere to substantiate any of the claims presented by the elementary school children and USGS.

Considering there is no evidence of anyone or anything being harmed by the application of coal tar pavement sealer in Howard County Maryland, I am asking you to consider pulling the Bill from being voted upon this session.

If you or any of the other Council Members have any interest in visiting our manufacturing plant and warehouse to see our pavement sealer manufacturing operation for yourself, all you need to do is call me to set an appointment.

Thank you for your consideration.

Sincerely,
Tom Decker, Jr.
President
Decker Enterprises, Inc.
DBA SealMaster



10817 Williamson Lane
Cockeysville, MD 21030
Office: 410-527-2801
Fax: 410-527-2803
Cell: 443-831-5645
Email: tdeckerjr@sealmasterdelmarva.com
www.sealmaster.net

September 18, 2018



Sierra Club Howard County

County Council Members:

RE: CB60-2018

The Sierra Club supports the passage of CB60-2018, the ban of use of coal tar and similar paving products. Polycyclic Aromatic Hydrocarbons (PAHs), the main components found in coal tar, have both ecological and public health concerns.

In November 2016, the American Medical Association called for a nationwide ban of coal tar based sealants. "Whether they are sending their children to a playground or repairing a driveway, Americans are potentially being exposed to harmful carcinogens in coal-tar-based sealcoats," said AMA Board member Albert J. Osbahr III, M.D. "Even if one's exposure is limited, as sealcoats erode over time, PAHs leach into the water, soil, and air, finding their way into sediment and eventually into aquatic wildlife. We must take action to either eliminate the use of PAH altogether or dramatically reduce its concentration in coal-tar sealcoats."

The second major concern in using coal tar based sealants is that they are toxic to wildlife. Used widely when applied to tops of parking lots and roadways, the PAH compounds can be carried by storm water and enter our streams and waterways. These toxic chemicals collect in the stream and pond sediment and can cause great damage to the plants and animals living in our natural waterways.

Coal tar based sealants contain hundreds to thousands of times the amounts of PAHs that alternative products such as asphalt or latex based sealers contain. These alternatives have been used in many areas where coal tar sealants have been banned and have been shown to be viable alternatives. GemSeal testified that they manufacture both coal tar and non coal tar based products in equal amounts. They have shifted their production to follow market demand, as many locations in Maryland and nationwide have already banned coal tar based products. If Howard County were to pass CB60-2018, industry would follow and increase production of its non coal tar based products.

Nationwide, Home Depot, Lowe's, Ace Hardware, True Value and Do It Best stores have discontinued selling their coal tar based sealants. These nationwide chains are shifting their product lines to match the trends in public health and protection of the environment.

In Maryland and nearby many municipalities have already banned coal tar based sealants, including Montgomery (2012), Anne Arundel (2015) and PG (2015) counties as well as Washington DC (2009). It is time for Howard County to join this movement and make our environment healthier for humans and all other animals in our watershed.

Thank you for your time considering our testimony.

Carolyn Parsa
Conservation Chair
Howard County Sierra Club

NOTES:

Bans

Washington state is the first state to have banned the use of coal tar products in sealants.

Over concerns for human health and threat to our waterways, Home Depot and Lowe's have discontinued selling sealants containing PAHs nationwide.

Business testimony against the ban:

Chris Mariani – Gemseal pavement products plant in white marsh. Family business. 1. Bill would harm their business, although they make both kinds. The sale prevents the sale out of state? This is not a state bill. Confusing?

0.1% would exclude many alternatives, it is too low.

USGS has not determined it to be carcinogenic.

No link has been established. 60 plus years not been found a link.

Fox – question to CM – others have stopped using it long ago, and we are heading in that direction, how has that effected your business already? And, we are not banning outside of state . .

Answer: 50% of volume in MD is non coal tar based sealer. Fox set him straight on the state thing . . .

Doug Gensler – Gemseal – arguing that 0.1 will affect too many people.

Tom Decker – president of sealmaster of Delmarva, manufacturer of sealants for years, doesn't see the reason for the ban for health reasons, his whole family uses it and nobody is sick. No lawsuits, etc. It works the best and is the best.

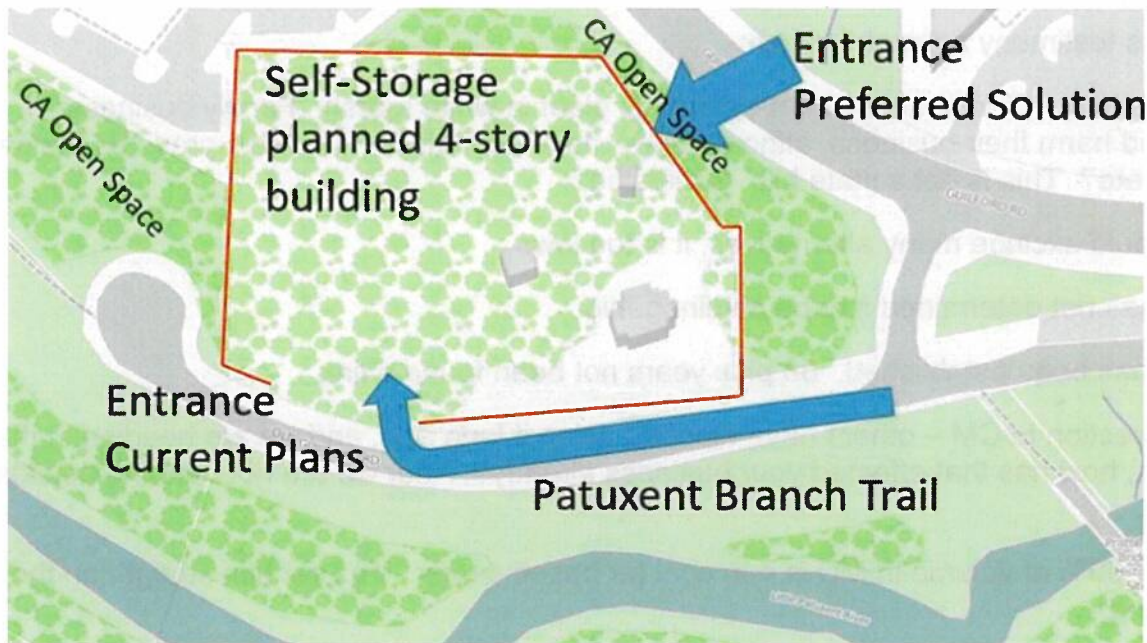
No further questions.

Location of entrance to the Mini Storage units on Guilford Rd

Position: Make the entrance to the Mini Storage units on Guilford Rd (instead of alongside the Patuxent Branch Trail where it is currently proposed)

Peter Barnes & Carolyn Parsa, Conservation Committee Chair

It is our hope that the Columbia Association, the Developer of the Mini Storage Unit and Howard County compromise on a solution to the issue of the proposed location of the entrance to the Mini Storage units alongside Patuxent Branch Trail and Old Guilford Rd. Placing the entrance to the Mini Storage Unit as a road alongside the trail is dangerous to pedestrians and bikers who enjoy the trail. This entrance to the trail is one of the most popular and the only trail head for this section of the trail in some distance. Please strongly consider a compromise that allows the front as the access point as this will make it separate from the entrance to the trail and therefore pose no harm to the users of the trail. as was discussed at the 3/29 meeting at Hammond High School.



Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Wednesday, September 19, 2018 9:40 AM
To: victor@pavementdepotmaryland.com
Subject: Bill (CB60-2018)

First Name: Pavement Depot of Maryland, LLC
Last Name: Davis
Email: victor@pavementdepotmaryland.com
Street Address: 7908 REICHS FORD RD
City: FREDERICK
Subject: Bill (CB60-2018)

Message: I oppose bill (CB60-2018). This would negatively effect more businesses and employees than you may realize. We supply the Maryland paving contractors with asphalt pavement sealers. We are a family owned business located in Frederick Md. My family lives in Howard county, my sons Dakota Davis graduated from Glenelg and Mason Davis is currently a Junior there. 80% of our business is selling asphalt sealers and 95% of the sealer sales are the alternatives to coal tar. Most contractors in are area have switched to the alternative (Neyra Force) because they do work all across Maryland. Other local counties have banned coal tar, but allowed the use of alternative sealers. If you do decide to ban coal tar sealants, please allow the use of alternatives sealants. The use of pavement sealants substantially extend the life of your asphalt pavement. Thank you

Sayers, Margery

From: Devon Thomas <devonkid16@gmail.com>
Sent: Tuesday, September 18, 2018 7:53 AM
To: CouncilMail
Subject: CB-2018

My name is Devon Thomas , I own Thomas and Son Asphalt Sealcoat LLC and my company has been in business for about a year contracting in all facets of pavement construction and maintenance which includes sealcoating. Our company is located at 8902 Maple Ave Bowie MD . I am writing to respectfully oppose CB-2018 because I have used Coal Tar sealer without any health effect on me or my customers. I chose to use Coal Tar sealer over Asphalt sealer do to better quality and performance. I don't see any reason why it should be banned . I hope that writing to you and by expression my experience with working with Coal Tar sealer . Will convince you that Coal Tar sealer should not be banned in the Howard County or in any other surrounding areas.

Thank you !

Sincerely Devon Thomas

Sayers, Margery

From: joel hurewitz <joelhurewitz@gmail.com>
Sent: Sunday, September 30, 2018 10:03 PM
To: CouncilMail
Subject: CB60-2018 - Response to the Testimony of Chris Mariani
Attachments: Response to Testimony of Mariani CB60-2018.pdf

Dear Council,

Prior to the legislative hearing on September 17, I had given the issue of coal tar sealants just casual attention. Because of issues at my condominium with non-coal-tar sealants, I was cognizant in general of the environmental concerns. I was aware that Councilman Weinstein had filed the bill in response to research by elementary students, but had not studied the bill or the specific issues. I reentered the Banneker Room specifically to hear the students shortly after they had started their presentation. Probably like most people in the chamber, I was impressed with the students' presentation and their grasp of scientific concepts years in advance of studying them in high school biology and chemistry. I learned about PAH's and the work of the USGS on coal-tar sealants. I had not realized that the USGS worked on environmental pollution.

I then listened to the opponents of the bill. In particular, the comments of Chris Mariani caught my attention. He made his convoluted slippery slope argument that it would be detrimental to his company's business if Baltimore County passed this bill. He also made dubious, emphatic claims about the lack of scientific support for the students' argument. I rewatched his testimony to confirm that I had heard it correctly. The attached response to his testimony is the result of my research the past two weeks.

Sincerely,

Joel Hurewitz

**A RESPONSE TO THE TESTIMONY OF
CHRIS MARIANI, GEMSEAL PAVEMENT PRODUCTS
FOR CB60-2018 – AN ACT TO BAN THE SALE OR USE OF CERTAIN
COAL-TAR AND SIMILAR PAVEMENT SEALING PRODUCTS**

by

Joel Hurewitz

This memorandum is in response to the oral and written testimony on CB60-2018 made to the County Council by Chris Mariani, Southern Regional General Manager for GemSeal Pavement Products. In his oral testimony to the Council on September 17, 2018 Mariani stated in part:

“The other points I would like to make is that there is no agency or entity including International Agency for Research on Cancer that has deemed coal-tar pavement sealers [a] carcinogen. The USGS has never performed a study to determine if coal-tar sealer is a carcinogen. In 15 years since the USGS has targeted coal-tar sealers, they have not been able to establish a link to adverse human health effects or cancer to humans from the use of pavement sealer. Because in the 60 plus years that coal-tar pavement sealer has been available, there is no history by OSHA or documented health adverse effects of this product like smoking or asbestos. . . . I would like a fair chance to present data as well.”

These statements taken as a whole are demonstrably false. They show that at best Mariani is naively unaware of the scientific reports on coal-tar pavement sealers or at worst was purposefully deceptive in his testimony to the Council.

International Agency for Research on Cancer

The International Agency for Research on Cancer (IARC) has in fact concluded that coal-tar pavement sealers are a carcinogen: “**2. Cancer in Humans** In IARC Monograph Volume 92 (IARC, 2010) it was *concluded that there is sufficient evidence in humans for the carcinogenicity of occupational exposures during paving and roofing with coal-tar pitch*. This was based on studies of pavers and roofers who presumably had been exposed to coal-tar pitch (and often also to bitumen), which suggested *increased cancer risks in these occupations*. . . . Since the previous evaluation (IARC, 2010) a few additional studies have been published with information on paving with coal-tar pitch and associated cancers.” IARC Monographs -100F Coal-Tar Pitch (emphasis added) p. 163-164. <https://monographs.iarc.fr/wp-content/uploads/2018/06/mono100F-17.pdf> In addition, the IARC also reports that coal-tar pitch studies caused cancer in mice: “**3. Cancer in Experimental Animals** Six coal-tar pitches and three extracts of coal-tar pitches all produced skin tumours, including carcinomas, when applied to the skin of mice.” *Ibid* at p. 164.

The USGS Studies

The USGS does in fact claim that its studies have concluded that parking lot sealers contain PAHs and are suspected human carcinogens: “**Abstract** Studies by the U.S. Geological Survey (USGS) have identified coal-tar-based sealcoat-the black, viscous liquid sprayed or painted on asphalt pavement such as parking lots-as a major source of polycyclic aromatic hydrocarbon (PAH) contamination in urban areas for large parts of the Nation. Several PAHs are suspected human carcinogens and are toxic to aquatic life.” <https://pubs.er.usgs.gov/publication/fs20113010> and <https://pubs.usgs.gov/fs/2011/3010/> The later webpage was last update in November 2016 and remains online in spite of efforts of the

present Administration to hide reports on adverse environmental problems and especially those detrimental to the coal industry. The USGS report “Coal-Tar-Based Pavement Sealcoat, Polycyclic Aromatic Hydrocarbons (PAHs), and Environmental Health” again restates the above-quoted statement. Page 1 <https://pubs.usgs.gov/fs/2011/3010/pdf/fs2011-3010.pdf>

The study “Coal-Tar-Based Pavement Sealcoat and PAHs: Implications for the Environment, Human Health, and Stormwater Management” (Mahler/Van Metre) specifically states: “Coal-tar-based sealcoat products, widely used in the central and eastern U.S. on parking lots, driveways, and even playgrounds, are typically 20–35% coal-tar pitch, a known human carcinogen that contains about 200 polycyclic aromatic hydrocarbon (PAH) compounds.” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3308201/>

In the section entitled “Coal-Tar Based Sealcoat: A Newly Identified Source of PAHs: the study states: “Coal-tar pitch, a known (Group 1) human carcinogen, is the residue remaining after the distillation of crude coal-tar (a byproduct of the coking of coal), and contains about 200 PAH compounds. Most coal-tar-based sealcoat products consist of 20–35% coal-tar pitch as the binder. Asphalt is the residue remaining after the distillation of crude oil and is the binder in asphalt-based sealcoat products. Although the two sealcoat product types are similar in appearance, PAH concentrations in coal-tar-based sealcoat are about 1000 times higher than those in asphalt-based sealcoat.” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3308201/>

In the section “Human-Health Concerns” is the statement: “coal-tar and coal-tar pitch are listed as Group 1 (carcinogenic to humans) carcinogens, and the U.S. EPA currently classifies seven PAH compounds as probable human carcinogens (Group B2): benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[k]fluoranthene, chrysene, dibenz[a,h]anthracene, and indeno[1,2,3-cd]pyrene. coal-tar itself is a powerful mutagen: The mutagenicity index for coal-tar is about 1000 times that of asphalt cements.” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3308201/>

Additionally, in his written testimony, Mariani states that “The mission of the USGS does not include determining the carcinogenicity of any product or substance.” While a parsing of this sentence might be technically correct regarding the USGS’s mission, the biography section of the study states that “Barbara Mahler, Ph.D., and Peter Van Meter, Ph.D., are Research Hydrologists at the U.S. Geological Survey Texas Water Science Center, where they investigate occurrence of and trends in sediment-associated contaminants. Their recent research has focused on identifying sources of polycyclic aromatic compounds to the environment.” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3308201/> So USGS employees are in fact studying PAHs in the environment.

Additionally, in his written testimony Mariani claims that the students’ research report did not make an “effort to interview any of the scientists that peer reviewed the USGS research and found it to be deeply flawed,” yet though he listed a number of “scientists” he failed to provide a citation to any actual peer reviewed reports. Contrary to Mariani’s assertion the research studies of Mahler and Van Metre have been cited with approval and/or support in several other studies which are listed on this webpage of the National Center for Biotechnology Information, U.S. National Library of Medicine:

← → ↻ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3308201/citedby/> ☆

NCBI Resources How To Sign in to NCBI

PMCID: PMC3308201 Search

Advanced Journal list Help

Journals List Cited By ..

Coal-Tar-Based Pavement Sealcoat and PAHs: Implications for the Environment, Human Health, and Stormwater Management
 Barbara J. Mahler, Peter C. Van Metre, Judy L. Cranc, Alison W. Wards, Matteo Scoggins, E. Spencer Williams
 Environ Sci Technol. 2012 Mar 20; 46(6): 3039-3045. Published online 2012 Jan 24. doi: 10.1021/es203659x
 PMCID: PMC3308201
[Article](#) [PubReader](#) [PDF-1.6M](#) [Citation](#)

Is Cited by the Following 4 Articles in this Archive:

Oral exposure to commercially available coal tar-based pavement sealcoat induces murine genetic damage and mutations
 Alexandra S. Long, Margaret Watson, Volker M. Arlt, Paul A. White
 Environ Mol Mutagen. 2016 Aug; 47(7): 535-545. Published online 2016 Jul 30. doi: 10.1002/em.22332
 PMCID: PMC4979009
[Article](#) [PubReader](#) [PDF-2.6K](#) [Citation](#)

Identification and Toxicological Evaluation of Unsubstituted PAHs and Novel PAH Derivatives in Pavement Sealcoat Products
 Ivan Tealey, Anna Chlebowski, Lisa Truong, Robert L. Tanguay, Staci L. Massey-Simonich
 Environ Sci Technol Lett. 2016; 3(6): 234-242. Published online 2016 Apr 25.
 PMCID: PMC4777955
[Article](#) [PubReader](#) [PDF-1.6M](#) [Citation](#)

Developmental toxicity and DNA damage from exposure to parking lot runoff retention pond samples in the Japanese Medaka (*Oryzias latipes*)
 Meryl D. Collon, Kevin W.H. Kwok, Jennifer A. Brandon, Isaac H. Warren, Ian T. Ryde, Ellen M. Cooper, David E. Hinton, Daniel R. Tschopf, Joel N. Meyer
 Mar Environ Res. Author manuscript; available in PMC 2013 Jan 23.
 Published in final edited form as: Mar Environ Res. 2014 Aug; 96C:117-124. Published online 2014 Apr 28. doi: 10.1016/j.marenvres.2014.04.007
 PMCID: PMC4309503
[Article](#) [PubReader](#) [PDF-297K](#) [Citation](#)

Studies Raise Questions about Pavement Sealers
 Bob Weinhold
 Environ Health Perspect. 2012 May; 120(5): a192-a193. Published online 2012 May 1. doi: 10.1209/ehp.120-a192a
 PMID: 22449134
[Article](#) [PubReader](#) [PDF-297K](#) [Citation](#)

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3308201/citedby/>

OSHA

There is in fact a history of acknowledgment by OSHA regarding coal-tar. This webpage lists numerous studies: <https://www.osha.gov/SLTC/coalpitchvolatiles/hazards.html> The heading states: “**Hazard Recognition** coal-tar pitch volatiles (CTPVs) are found in the industry when heating of coal-tar or coal-tar pitch takes place. Once the pitch is heated, chemicals vaporize and may be inhaled by workers. Industries where workers are potentially exposed to CTPVs include coking, roofing, *road paving*, aluminum smelting, wood preserving and any others where coal-tar is used. The following links provide information about the health effects of CTPVs:” (emphasis added).

GemSeal's Safety Data Sheets Show That Coal-Tar Products Are Carcinogens

Lastly, Mariani appears to be naively unaware of the information on his company's own website. The company's technical sheet states that "GemSeal Pro-Blend is a premium concentrate, formulated by emulsification of refined *coal-tar* and asphalt resins"(emphasis added) https://www.gemsealproducts.com/wp-content/uploads/2016/05/ProBlend_6-17.pdf and is listed as a potential mutagen and carcinogen in the safety data sheets. <https://www.gemsealproducts.com/wp-content/uploads/2016/05/pro-blend-sds.pdf>



GemSeal® Pro-Blend

Safety Data Sheet

according to the Hazard Communication Standard (CFR29 1910.1200) HazCom 2012.

Date of issue: 02/01/2016

Version: 1.0

SECTION 1: Identification of the substance/mixture and of the company/undertaking

1.1. Product identifier

Product form : Mixture
Product name : GemSeal® Pro-Blend
Product code : 60310023 – 5 gal

1.2. Relevant identified uses of the substance or mixture and uses advised against

Use of the substance/mixture : Various.

1.3. Details of the supplier of the safety data sheet

GemSeal Pavement Products
3700 Arco Corporate Drive, Suite 425
Charlotte, NC 28273 - USA
T 866-264-8273 Tech Service: Monday - Friday; 8:00am - 5:00pm EST

1.4. Emergency telephone number

Emergency number : CHEMTREC (800) 424-9300

SECTION 2: Hazards identification

2.1. Classification of the substance or mixture

GHS-US classification

Eye Irritation 2A
Skin Sensitization 1
Germ Cell Mutagenicity 1B
Carcinogenicity 1A
Reproductive Toxicity 1B
Specific target organ toxicity — Repeated exposure, Category 1

2.2. Label elements

GHS-US labelling

Hazard pictograms (GHS-US)



GHS07

GHS08

Hazard statements (GHS-US) : May cause an allergic skin reaction. Causes serious eye irritation. May cause genetic defects. May cause cancer. May damage fertility or the unborn child. Causes damage to organs through prolonged or repeated exposure.

Precautionary statements (GHS-US) : Obtain special instructions before use. Do not handle until all safety precautions have been read and understood. Do not breathe dust/fume/gas/mist/vapours/spray. Wash hands thoroughly after handling. Do not eat, drink or smoke when using this product. Contaminated work clothing should not be allowed out of the workplace. Wear protective gloves/protective clothing/eye protection/face protection. If on skin: Wash with plenty of soap and water. If skin irritation or rash occurs: Get medical advice/attention. If in eyes: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. If eye irritation persists: Get medical advice/attention. Take off contaminated clothing and wash it before reuse. If exposed or concerned: Get medical advice/attention. Store locked up. Dispose of contents and container in accordance with all local, regional, national and international regulations.

2.3. Other hazards

No additional information available

2.4. Unknown acute toxicity (GHS-US)

33 % of the mixture consists of ingredient(s) of unknown acute toxicity.



Technical Data

Pro-Blend Pavement Sealer Concentrate

DESCRIPTION:

GemSeal® Pro-Blend is a premium concentrate, formulated by emulsification of refined coal tar and asphalt resins, designed for application to asphalt pavement surfaces. GemSeal® Pro-Blend extends the service life and enhances the appearance to provide a cost effective preventive maintenance coating.

Conclusion

Therefore, for the reasons stated above the Council should disregard the testimony of Mariani as being incorrect, incomplete, misleading and/or purposefully deceptive.



American Coatings
ASSOCIATIONSM

September 17, 2018

Mary Kay Sigaty, Chairperson
Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043

RE: Bill No. 60-2018 -Ban the sale or use of coal tar and pavement sealing products

Dear Chairwoman Sigaty and Honorable Council Members:

The American Coatings Association (ACA) is a voluntary, nonprofit trade association that represents the paint and coatings industry and the professionals who work in it. ACA membership includes paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA membership companies collectively produce some 95% of the total dollar volume of architectural paints and industrial coatings produced in the United States. As a result, ACA and its members are tracking the development of this bill very closely.

Bill No. 60-2018 proposes to ban the sale or use of certain coal tar and similar pavement sealing products in the County. Pavement sealers are used to protect and extend the life of asphalt. The ban is premised on the false assertion that refined tar-based pavement sealer is the source of high percentages of Polycyclic Aromatic Hydrocarbons (PAHs) found in lakes, streams, and storm water retention ponds, even though studies show that wood burning from fireplaces and stoves are actually the largest source of PAHs at about 30%.¹ By contrast, pavement sealant contributes less than 1% of the total. Moreover, Maryland's Clean Water Act Section 303(d) reports found no instance of PAHs identified as a cause of impairment of water quality anywhere in the state. Furthermore, there is no evidence of any negative health impacts directly attributable to refined tar. Instead, refined tar can be found in soaps, shampoos and creams approved for over-the-counter sales to treat skin disorders.

¹ Valle, S., M. A. Panero, and L. Shor, 2007, Pollution Prevention and Management Strategies for Polycyclic Aromatic Hydrocarbons in the New York/New Jersey Harbor, Industrial Ecology, Pollution Prevention and the NY/NJ Harbor Project of the New York Academy of Sciences, New York, New York, New York Academy of Sciences.

This proposed ban is a draconian response to false, unscientific assertions that would have a major negative impact on the refined tar industry. For all of these reasons, ACA urges the Howard County Council to reject Bill No. 60-2018.

**For more information contact:
Richard A. Tabuteau, Esq.
410.244.7000**

Habicht, Kelli

From: Feldmark, Jessica
Sent: Friday, September 14, 2018 4:36 PM
To: Sayers, Margery; Habicht, Kelli
Subject: For legislative file -- CB60-2018
Attachments: FW: CB60-2018

Jessica Feldmark
Administrator
Howard County Council
410-313-3111
jfeldmark@howardcountymd.gov

Habicht, Kelli

From: Knight, Karen on behalf of Fox, Greg
Sent: Friday, September 14, 2018 4:04 PM
To: Feldmark, Jessica
Subject: FW: CB60-2018

We just received. Didn't see you copied.
Karen

*Karen Knight ~ Special Assistant to Greg Fox
Howard County Council, District 5
3430 Court House Drive
Ellicott City, MD 21043
410-313-2001*

From: Chris Mariani [mailto:cmariani@gemsealproducts.com]
Sent: Friday, September 14, 2018 3:21 PM
To: Weinstein, Jon <jweinstein@howardcountymd.gov>
Cc: Ball, Calvin B <cball@howardcountymd.gov>; Terrasa, Jen <jterrasa@howardcountymd.gov>; Sigaty, Mary Kay <mksigaty@howardcountymd.gov>; Fox, Greg <gfox@howardcountymd.gov>
Subject: CB60-2018

Dear Councilman Weinstein:

My name is Chris Mariani and I am the Southern Regional GM for Gem Seal Pavement Products. Our company has one of nine production facilities located at 10300 Pulaski Highway in White Marsh to which CB60-2018, as proposed, would be detrimental if passed. The Maryland legislature once considered a similar bill roughly 7 years ago and it failed to pass out of committee. I have spent most of my life since age 14 working in the paving industry, my entire career at Gem Seal (38 years).

I would much like the opportunity to meet with you and I will be attending the hearing on Monday. I am very much concerned about CB60-2018 because this ordinance, pushed by interests out of DC, threatens our ability to operate as it slowly creeps toward Baltimore County where our operation and two other producers are located. I respectfully ask that you keep an opened mind and consider the following before deciding on this bill.

The bill as written would be detrimental to the businesses (Gem Seal, Sealmaster, Seaboard) represented in Maryland:

- Nearly 70-75% of our volume is shipped out of state. The bill as written, if passed in Baltimore County, would prevent us from selling coal tar sealer to contractor beyond Maryland. Our out of state contractor clients would purchase coal tar sealer products from one of several out of state competitors. We could never survive a drop in volume of that magnitude.
- The bill is modeled after a local municipal ordinance in Michigan where the local governing entity (Lake Huron River Watershed Auth.) consulted with ONE manufacturer to who influenced the language to their favor at the expense of their competitors.
- Sales of pavement sealer of any type have declined over 40% in the Austin TX area, the first municipality to pass a ban in 2007.

- The bill specifically eliminates alternative sealers that have low PAH content and have been approved for use in Austin TX.
- This bill potentially eliminates certain brands of asphalt based sealers at .1% PAH level.

The bill claims that exposure to coal tar sealer increases cancer risk 38 times is a completely false claim:

- Coal tar sealer is not listed as a carcinogen by IARC or any other organization.
- The mission of the USGS does not include determining the carcinogenicity of any product or substance. The USGS (Mahler and Van Metre) never conducted any study to determine the carcinogenicity of coal tar sealer.
- In the nearly 15 years that USGS has been targeting coal tar sealers, they have never established a link to human cancer or adverse health effects from coal tar sealer, likely because.....
- In the 60+ years that coal tar sealers have been commercially available, there is absolutely no history of human cancer or adverse health effects from this product to the general public, or by those who manufacture sealer, manufacture the raw material, or apply coal tar sealers. The statement is based on a model that makes numerous assumptions. Historical human health records both medical and OSHA related do support this claim.

What was missed in the student's research report:

- There was no effort to interview at least one of 3 of the local sealer manufacturers, a contractor, or a producer of RT-12 about coal tar sealers and PAHs
- There was no effort to interview any of the scientists that peer reviewed the USGS research and found it to be deeply flawed.
- There was no effort to consult one of many independent researchers who have done multiple studies (all peer reviewed) on coal tar sealers and PAHs like Dr. Kirk O'Reilly (geochemist), Dr. Robert DeMott (toxicologist), Dr. Tom Gauthier (environmental geologist), Dr. Brian Magee (toxicologist specializing in PAH toxicology and risk assessment), or Dr. Sung Woo Ahn (environmental scientist)
- **There was no balanced or objective approach.**

I hope you will consider these facts in the days ahead. We have been in business since 1957 and have had a safe operating record. The same is true for our industry. If you have any questions, my contact information is listed below my signature.

Most Respectfully,

Chris Mariani

Gem Seal Pavement Products
 Southern Regional GM
cmariani@gemsealproducts.com
 813-630-1695 office
 727-422-8021 cell

Chris Mariani

Gem Seal Pavement Products
 Southern Regional GM

cmariani@gemsealproducts.com

813-630-1695 office
727-422-8021 cell

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Wednesday, September 12, 2018 1:50 PM
To: victorjr44@gmail.com
Subject: Bill (CB60-2018)

First Name: Victor

Last Name: Davis

Email: victorjr44@gmail.com

Street Address: 1377 long corner rd.

City: Mount Airy

Subject: Bill (CB60-2018)

Message: I am opposed to CB60-2018 This would be detrimental to my business.

There are limits to school building capacities, according to school board policy. Defined as a target utilization, the policy limits a school building capacity to be between 90 percent and 110 percent occupancy. As of 2017, 35 schools were outside the target utilization.

The key concerns PTAs have with options for relief are equity, safety and potential disruption to the learning experience, according to Brent Loveless, president of the Parent Teacher Association Council of Howard County.

The council is deferring an official position on the options to give an opportunity for the individual school associations to advocate on the local level, Loveless said.

Centennial's association also has not taken a position on options, Berry said. "While we got nine portables [temporary classrooms], that helps ... but does nothing for your basic elements which is your gym, your auditorium and your lunchroom," Berry said. "[There's] no longer a winter pep rally because you can't fit everyone in the gym."

An option to open a ninth-grade academy at the Faulkner Ridge Center in Columbia "makes no sense" to Berry. The academy would first place Howard High School freshmen at the center but could be expanded as a countywide program.

"Makes no sense to me to spend tax dollars to update a facility that isn't meant to be a school," Berry said. "There is no discussion of sports and activities and band or how anything they [students] do with ninth grade factors in."

Caroline Bodziak, a parent of three students at Ellicott City's Mount Hebron See **SCHOOLS**, page 6

Near the turn of the 20th century, an undeveloped 5-acre plot in Woodbine known as "The Wilderness" was given by a patriarch of a prominent Howard County family to his son as an early wedding gift.

After Joshua Warfield Sr. bestowed the parcel on Joshua Warfield Jr. and his fiancée, Mary Nicodemus — who also hailed from a prominent Howard County family — the couple built the Victorian farmhouse in 1907 and dubbed the property Wilderness Farm.

In its 113-year history, the stately home listed on the Howard County Historic Sites Inventory of the Maryland Historical Trust has had just three owners. After Mary Nicodemus died in 1972, her nephew, Howard Nicodemus, inherited the property, then sold it two years later.

Now, the 5.4-acre estate at 3366 Jennings Chapel Road is home to 13 designers and artisans, who are transforming its 4,500 square feet into the 32nd annual Decorator Show House presented by Historic Ellicott City Inc.

A preview party for the annual show house will be held Thursday, and the home will be open to visitors with paid admission beginning Friday and continuing through Oct. 21.

Joan Becker, president of Historic Ellicott City Inc., said the nonprofit volunteer organization, which was formed in 1972 to assist with recovery from Hurricane Agnes, will donate proceeds from the show house to Ellicott City flood relief efforts through grants administered by Preservation Maryland.

Several flood-damaged historic district businesses were given space to sell their wares in the home, which will feature an



Joan Becker, left, president of the show house, and Ed Buffington, right, a board member, work in the kitchen at the 32nd annual Decorator Show House of Historic Ellicott City.

eclectic mix of contemporary and traditional decor.

"We wanted to help displaced Main Street vendors such as Shoemaker Country, The Artists' Gallery and Georgia Grace Café," said Becker, a real estate attorney.

"It's exciting to walk through the house and see what's possible," she said of the transformed spaces, "and to see each designer's stamp of individuality."

Carroll Frey of Carroll Frey Interiors serves as design chair for the show house — and is also tackling the foyer. He is creating a music and art room in the grand entrance space, which has marigold walls and "an exuberant color scheme," he said.

A 1905 Knabe grand piano made of rosewood will grace one corner of the foyer, and artwork ranging from abstract to 19th-century prints will adorn the walls, including a piece he painted, Frey said.

Serenity is what designer Tracey Davidson of Woodside Home is aiming for in the master bedroom, which features a blush pink ceiling and accents. A pastoral mural in shades of warm beige and gray by Lisa Brown Malveaux of Studio Malveaux dominates the space.

"This room has such a great view, anyone would love to wake up in here," Davidson said of the bedroom, which is focused on See **SHOW HOUSE**, page 6



From left, Howard County Council members Greg Fox, Mary Kay Sigaty, Calvin Ball, Jen Terrasa and Jon Weinstein.

Lines drawn in effort to ban coal-tar coating

Health hazards of sealants disputed, debated by County Council and students

BY JESS NOCERA
Baltimore Sun Media Group

A Maryland-based coal-tar sealant manufacturer is girding to battle Howard County's efforts to ban the sale and use of certain coal-tar and similar pavement sealants.

Tom Decker, who has been president of SealMaster-Baltimore, a coal-tar manufacturer for 21 years, said he needs "somebody to tell me what the benefit is," in banning the sealants.

"I breathe this stuff [coal-tar], I've had it

on my skin, my head, my face, arms and legs ... [and] I'm in pretty good shape, pretty good health," Decker said.

Coal-tar sealcoat, a thick, black liquid, maintains and protects driveways and asphalt pavement, according to the Environmental Protection Agency. The sealant contains up to 35 percent of coal tar pitch, a carcinogen, according to the U.S. Geological Survey.

Councilman Jon Weinstein introduced legislation to ban coal-tar at a County Council meeting last week. In June, a group of Centennial Lane Elementary fifth-graders presented a case for a ban to Weinstein, who represents Ellicott City where the school is located.

Coal-tar sealcoat is broken down into a See **COATING**, page 6

Baltimore Sun
9/16/18

realized she was "way out in the boonies."

"Wade lived nearby on Hipsley Mill Road, which was unpaved, so he decided to take us to the house a roundabout way on Georgia Avenue," she recalled with a chuckle.

"When we entered the home for the first time, the seller was leaning against the fireplace mantel in the foyer and I saw the

leaded glass in the window and the beautiful staircase and I fell in love," she said.

Gallagher, 77, is a retired pastoral counselor who is an active volunteer along with her husband, a 78-year-old retired attorney.

She has mixed feelings about putting the house up for sale after nearly half a century

and raising the couple's three children there, although she said the time is right to downsize.

"I will miss being able to sit on the front porch in a swing and watch our cat chasing butterflies and see all the deer," she said.

Gallagher has many memories of Wilder-

City Inc.

ness Farm, but never encountered the ghosts that supposedly live in the home's eaves.

"A house painter swore to us that he saw them," she said, "so who can say for sure?"
janeneholzberg76@gmail.com

County Council debates merits of seal-coating

COATING, From page 1

fine dust by vehicle tires and snowplows, which requires the sealant to be reapplied every two to five years. The dust becomes airborne and can contaminate water, soil and house dust, according to the Geological Survey.

Coal-tar exposure in an occupational setting has been associated with an increase in skin cancer and other cancers such as, bladder, lung, kidney and digestive tract, according to the National Institutes of Health. People can be exposed to coal tars in environmental contaminants or through use, as coal tar can be used to treat skin disorders, including eczema, dandruff and psoriasis.

Coal-tar sealants are banned in Anne Arundel, Montgomery and Prince George's counties and Washington.

"These counties have banned it without any evidence ... [and] scare people that they will get cancer," if exposed to coal-tar, Decker said.

Decker previously testified against the ban in Anne Arundel County. When asked if he would testify against the potential ban in Howard County, he said "I have to."

"One of my problems is if they ban it in Howard County they will talk to Baltimore County, and [if it's banned] in Baltimore County, there goes my business," Decker said.

Most use of coal-tar sealants is on private

property in Howard County, as the Department of Public Works does not use sealants. Alternatives to coal-tar sealcoat are paver systems, permeable asphalt and pervious concrete, according to the EPA.

"These sorts of bans [on coal-tar sealcoat] are solutions to problems that don't exist," said Anne LeHuery, executive director of the Pavement Coatings Technology Council. "I would challenge the county to look at their data."

The trade group advocates for the effective and safe use of pavement coatings. In Maryland, the council represents Gem-Seal, SealMaster, and Seaboard Asphalt Products Co., all product manufacturers.

At the County Council's legislative public

hearing this week, the former Centennial Lane students are expected to testify in support of the ban and give their original presentation again, according to Gary Smith, a special assistant in Weinstein's office.

"The students make a complete case for how this is an environmental safety and public health measure," Smith said.

LeHuery said the students have "missed something in the research they have."

"Kudos to the fifth-graders for doing the research, but they did not get both sides of the story," she said.

If the legislation advances, a vote could be as soon as Oct. 1.
jnocera@baltsun.com

Some parents wary of changes in the schools

SCHOOLS, From page 1

High School, is president of the school's parent-teacher association. The high school has four portable classrooms on its campus to alleviate crowding, according to school data.

"Ideally I would like to see an overcrowding solution impact as few families as necessary," Bodziak said.

If students are relocated to different high schools, as some options suggest, Bodziak — speaking on her own behalf and not for the association — said she would stress the importance of "once a child starts at a high school, they should be allowed to finish there."

"In Howard County there is so much

emphasis on college readiness, academics, athletics and extracurricular [activities that] can all be negatively impacted with a forced move during the high school years," Bodziak said.

Padma Sivasailam, president of Long Reach association and also speaking on her own behalf, believes high school students should begin and end at the same school.

"If you are moving the students you have to keep them in whatever school you're moving them to for the four years," Sivasailam said. "I think high school is where they form their affiliation to that school... it's nothing like middle school or elementary school, high school is their life."

Sivasailam, who has two children at Long

Reach, said the association will discuss the options at its Sept. 17 meeting. The Columbia high school has four portable classrooms.

The school board is accepting written testimony until Sept. 18 at 4:30 p.m. and is scheduled to take action Sept. 20.

The JumpStart program, another of the eight proposed options, that provides the opportunity for high school students to earn an associate's degree as they graduate from high school, has helped alleviate crowding at Long Reach, Sivasailam said.

JumpStart students attend River Hill, in Clarksville, or Columbia's Oakland Mills high school before their senior year to take selected classes and then their final year attend Howard Community College.

The Howard and Hammond high school association presidents did not return requests for comment. Howard has 15 temporary classrooms and Hammond has four.

As the overcrowding options discussion progresses, the County Council may take positions but "for now are leaving all options open as details become available," Loveless said.

"This is fast-moving, complicated and detailed initiative and we are looking at all options to make sure we have the best interest of students in mind," Loveless said. "This does affect all of us, we are one school system."

jnocera@baltsun.com
twitter.com/jessmncera

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The Evening Sun

3 TOURS. 2 PURPLE HEARTS. 1 EVICTION NOTICE.

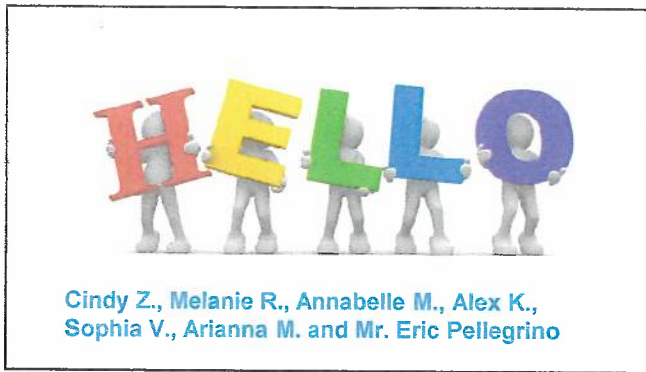
When my landlord found out I had Post-Traumatic Stress Disorder (PTSD), I received an eviction notice. That's when I called HUD for help. If you feel that you've been discriminated against because of a mental or emotional injury or disability, report it to HUD or your local fair housing center.

Visit hud.gov/fairhousing or call the HUD Hotline
1-800-669-9777 (English/Espanol)

FAIR HOUSING
IS YOUR RIGHT. USE IT!



SCAN FOR MORE INFO



What are Coal Tar Sealants?

Coal tar sealants are substances put on driveways, black tops, and parking lots, that are used to extend the life of asphalt. They are also applied because they look very nice. Coal tar sealants contain dangerous chemicals called PAH's.

What are PAHs?

Polycyclic Aromatic Hydrocarbons (PAHs) are the harmful chemicals in coal tar sealants that cause rashes, skin irritations, cancers, mutations, birth defects and even death. They are also toxic to aquatic animals, including fish and aquatic invertebrates. (McIntyre 2017)

This is a benzene compound, a known carcinogen.

Polycyclic Aromatic Hydrocarbons (PAH)

Small text at the bottom: Molecular Weight: 128.17 g/mol, 178.23 g/mol, 194.25 g/mol. Risk to some degree: moderate to high.

PAHs in urban sources

All concentrations in mg/kg (averages of up to 6 studies)

• Fresh asphalt	1.5	Pavement Sealcoat
• Weathered asphalt	3	
• Fresh motor oil	4	• Asphalt Based
• Brake particles	16	~50
• Road dust	24	• Coal tar based
• Tire particles	86	~70,000
• Diesel engine	102	
• Gasoline engine	370	
• Used motor oil	440	

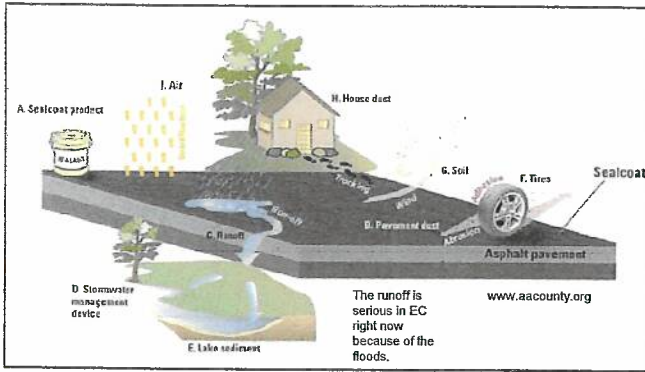
Harmful levels of PAHs in sediment is 22.8 mg/kg!!

USGS

PAHs and the Environment

Coal tar contains 16 PAHs that are classified as U.S. Environmental Protection Agency Priority Pollutants including naphthalene and pyrene (Mahler and VanMetre 2017)

When benthic organisms (bottom-dwellers) are exposed to PAHs they experience problems such as loss of consciousness, inability to reproduce or death, which can disrupt whole food chains. (McIntyre 2017)



House Dust

House dust adjacent to cool tar sealed parking lots contain concentrations of **PAHs 25 times higher** than house dust collected in houses near unsealed or asphalt sealed parking lots. (Williams and Wilbur 2017)

Children crawl and play on floors and put their fingers in their mouths a lot, so they have a higher chance of being affected by PAH's. (Williams and Wilbur 2017)

Household dust with PAHs leads to an elevated cancer risk for children. (Mahler et al 2016)

Runoff into Streams and Lakes

Small streams in Austin, Texas had PAH measurements in the 1000's of mg/kg!!

Cool tar sealants are 10 times more likely to affect fragile species at the bottom of the food chain than asphalt sealants. (Mahler and VanMetre 2017)

Important Numbers of PAH concentrations

- * Cool tar sealants are the largest source of PAHs. (Out of 40 urban lakes tested) (Mahler and VanMetre 2017)
- * The Probable Effect Concentration (PEC) for PAHs in sediment is 22.8 mg/kg. (McDonald et al 2000)

PAHs and Environmental Health

Varying levels of exposure to PAHs from sealants are toxic to human and aquatic health

"Acutely toxic" to fathead minnows and water fleas (Mahler et al 2016)

May be linked to tumors in brown bullhead catfish in the Anacostia and Potomac Rivers. (Pinkney 2013)

These fish are found throughout Maryland, including the Patuxent and Patapsco Rivers. Also, they're found in other major rivers in the Chesapeake Bay watershed.

Tumors of brown bullhead catfish from the Anacostia River, Washington, D.C., are histologically related to elevated PAHs. © 2014 American Fisheries Society, Inc. Photo by J. Pinkney.

Effects on Aquatic Life

Fish embryos that are exposed to low amounts of PAHs can develop eyes with shorter retinas and smaller lenses, misshaped hearts, and abnormal heartbeats.

The arrows are pointing to the gallbladder. Salmon A (top) was exposed to coal tar, Salmon B (bottom) was not. The gallbladder secretes bile which is supposed to be GREEN, as in Salmon B.

Figure 3. Bile from the liver is collected from the water for analysis from the body. Gallbladder transparency due to reduction of bile in fish A versus fish B. The bile of salmon receiving exposure to coal tar was not as green as the bile of the fish that did not receive coal tar. The bile of salmon receiving exposure to coal tar was not as green as the bile of the fish that did not receive coal tar. The bile of salmon receiving exposure to coal tar was not as green as the bile of the fish that did not receive coal tar.


(McIntyre 2017)

Spotted Salamanders




The National Institute of Health (NIH) tested the effects of the toxicity of coal-tar pavement sealants on spotted salamanders. They found that there was a negative effect on swimming. This is concerning because spotted salamanders live here. Also, spotted salamanders' favorite habitats are forests near rivers and streams. Coal tar runoff gets into the rivers and streams and hurt the salamanders.





NATIONAL CANCER INSTITUTE


The National Cancer Institute
The Agency for Toxic Substances and Disease Registry
The US Department of Health and Human Services



These agencies have found out that exposure to PAHs increases risk of cancers in humans and animals, including **skin, lung, kidney, bladder, and stomach cancers.** (Williams and Wilbur *et al* 2017)

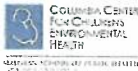
Coal tar sealants cancer risks are approximately **one excess cancer per ten thousand exposed individuals.** (Williams and Wilbur 2017) There are about 6 million people in Maryland. That means 600 excess cancers! However, because of bans in 3 Maryland counties, 2.4 million people are protected.

* This is alarming, considering millions of Americans, including minors, live in communities where coal tar sealants are frequently used.



Columbia University Center for Children's Environmental Health

A 2017 study showed that PAH's can cross the placenta and fetal blood-brain barrier triggering inflammation that is toxic to the developing brain.



Alternatives to Using Coal Tar Sealants



Home Depot Latex-ite Sealant Display

Latex-based sealers and asphalt-based sealers are two alternatives easy to get and priced about the same as coal-tar based sealers.

Henry Asphalt Sealants

- [HE532 Driveway Sealer - asphalt based MSDS](#)
- [HE175 Driveway Sealer - asphalt based MSDS](#)
- [HE130 Driveway Sealer - asphalt based MSDS](#)

Gardner Asphalt Sealants

- [Blackjack Ultra - Maxx 1000 - asphalt based SDS](#)
- [Blackjack Drive - Maxx 700 - asphalt based SDS](#)
- [Gardner Max 10 - asphalt based SDS](#)
- [Gardner Pro 7 - asphalt based SDS](#)
- [Blackjack Black Maxx 600 - asphalt based SDS](#)
- [Blackjack Drive-Kote 500 - asphalt based SDS](#)
- [Blackjack New Black 300 - asphalt based SDS](#)
- [Gardner Drive 5 - asphalt based SDS](#)
- [Blackjack Drive-seal 200 - asphalt based SDS](#)
- [Blackjack Commercial - asphalt based SDS](#)




A Comparison of Driveways...




Can you identify the different sealants??

Company	Phone	Use?	Information do you use?	Comments from the company
RSA Paving	410-730-5177	NO	asphalt-based	
Tosta	301-305-8823	NO	Asphalt-based	
PU's Driveway	301-609-4288	NO	Nepra Force http://www.ecr.com/product/yeds/sealers/nepra-force No coal tar or asphalt - it's water-based petroleum resin	They used to use coal tar but found out that it had carcinogens, so they stopped using it
Aid Paving, LLC	240-442-2404	No	Water-based	
Got paving	410-672-3333	NO	asphalt-based	They don't even try to get it anymore because it's environmentally unfriendly.
EC Home Depot	410-730-2199	NO	Sell Asphalt based sealants	It's an environmental concern, they have a policy not to use it.
EC Lowes	410-889-3140	NO	Latexite	
AC Paving	410-923-6100	NO	Asphalt-based	


The U.S. Department of Energy and the Environment



Jeffrey Seltzer
Associate Director at Department of Energy and the Environment
Washington D.C. Metro Area
Government Administration



DEPARTMENT OF ENERGY & ENVIRONMENT



Zachary Rybarczyk
Environmental Protection Specialist
D.O.E.E
Washington D.C Metro Area

Washington D.C.'s Coal Tar Pavement Sealant Ban

Current legislation, enforcement, and fine structure

- Effective July 1, 2009, it is illegal to sell, use, or permit the use of coal tar pavement products, in the District of Columbia.
- Violators are subject to a daily fine of up to \$2,500 and are required to remediate lots.





Image courtesy of the DOEE coal tar website

@DOEE_DC

Latest Information on the DOEE's inspections

DOEE inspects at least 60 properties per year for compliance with the coal tar ban


- FY 2016 - 2017, 66 properties inspected
- No coal tar was found on any of the properties
- 11 of 66 were sealed
- 6 of those 11 had high PAH's (though they did not use coal tar)
- They were all found to be a new sealant called ECR



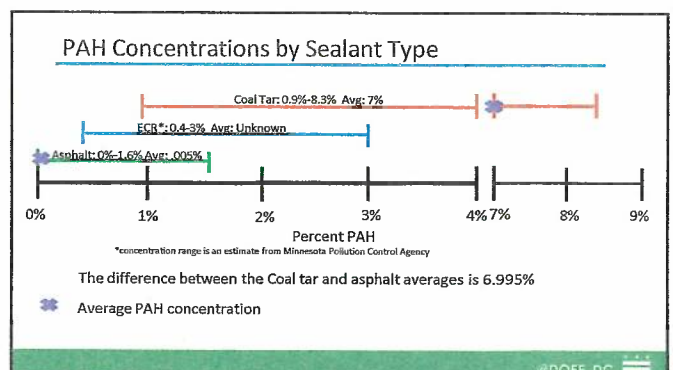
Latest Information on the DOEE's inspections

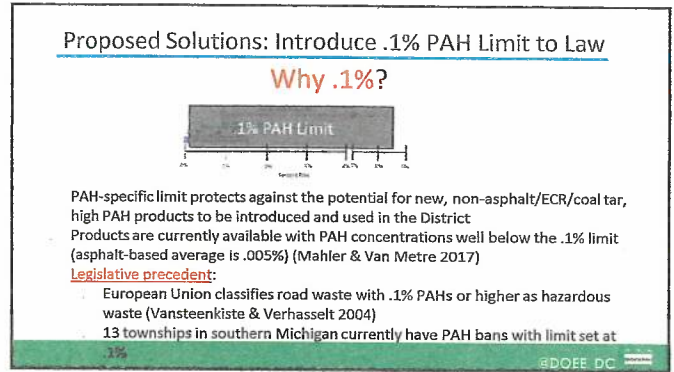
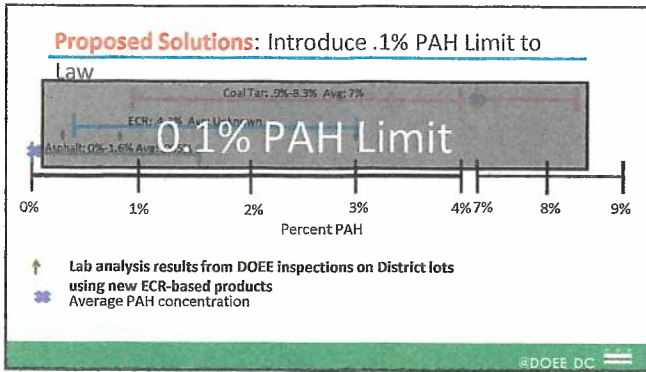
DOEE inspects at least 60 properties per year for compliance with the coal tar ban

- DOEE inspectors reported finding zero lots sealed with coal tar products in FY17
- 11 of the 66 lots inspected between October 2016 and December 2017 were sealed
- 6 (55% of sealed lots) indicated high-PAH levels during field inspection test
- All 6 were found to be new, non-coal tar products containing ethylene cracker residue (ECR)



@DOEE_DC





Proposed Legislation in Other Jurisdictions

State	Year Proposed	PAH Threshold
Illinois	2017	0.1%
Michigan	2017	0.1%
Massachusetts	2015	1%
New York	2017	1%
Maine	2017	1%
Indiana	2018	1%
Virginia (withdrawn)	2018	1%

@DOEE DC

The E.P.A. and the U.S.G.S

Bans in other local areas were helped with research done by the E.P.A. and the U.S.G.S., including [Washington DC \(2009\)](#), [Montgomery County \(2012\)](#), [Prince George's County \(2015\)](#) and [Anne Arundel County \(2015\)](#).
Currently, 40% of all Maryland residents are now under a coal tar ban...why not us???

22.5 million Americans are currently under a Coal Tar Ban!
(www.coaltarfreeusa.com)

List of U.S. State and County Bans

Albertville, MN
Aimont, MI
Annapolis, MD
Ann Arbor, MI
Ann Arbor Township, MI
Anne Arundel County, MD
Austin, TX
Bee Cave, TX
Buffalo, MN
Cannon Falls, MN
Centerville, MN
Circle Pines, MN
Dane County, WI
Dexter, MI
Eden Prairie, MN
Edwards Aquifer Authority, TX
Edina, MN
Elk River, MN
Evanston, IL
coalartfreeusa.com

Falcon Heights, MN
Glenside, WI
Golden Valley, MN
Greenville, SC
Hamburg Township, MI
Hutchinson, MN
HOWARD COUNTY, MD??
Inver Grove Heights, MN
Home Depot Stores
Throughout US
Little Canada, MN
Louisiana
Maplewood, MN
Medina, MN
Milwaukee, WI
Minneapolis, MN
State of Minnesota
Montgomery County, MD
New Hope, MN
Newport, MN
North Barrington, IL
Oakdale, MN

Pittsfield Township, MI
Prior Lake, MN
Prince George's County, MD
Rosemount, MN
Roseville, MN
San Antonio, TX
San Marcos, TX
Scio Township, MI
Shoreview, MN
Shorewood, MN
South Barrington, IL
Spring Lake Township, MI

Suffolk County, NY
Vadnais Heights, MN
Van Buren Township, MI
Waconia, MN
Washington, DC
State of Washington
West Bloomfield Township, MI
White Bear Lake, MN
West St. Paul, MN
Westwood, MA
Wilmette, IL
Winfield, KS
Woodland, MN

The U.S.G.S. Experts (United States Geological Survey)

Dr. Barbara Mahler is a Research Hydrologist and Communications Coordinator for the USGS National Water Quality Program

Peter VanMetre is a lead Research Hydrologist for the USGS National Water Quality Program.

Politicians Who are Helping Us!!



United States Congressman from Austin, Texas, Lloyd Doggett, whose proposed bill helped Austin, TX become the **1st city in the US** to ban coal tar sealants.



Washington State Senator David Frockt, whose proposed bill was passed in the House, 64-32, and the Senate, 36-12 making it the **1st state in the nation** to ban the sale and use of coal tar sealants.





Thank you for continuing to keep Howard County a healthy community!

We hope that you will vote in favor of people, not profits.

Sources : Page 1

North American Lake Management Society Lakeline Magazine Spring 2017
USGS Publications

"Toxicity of Coal-Tar Pavement Sealant to Aquatic Animals" Jennifer McIntyre

"Coal-Tar Based Pavement Sealants- A Potent Source of PAH's" Barbara Mahler and Peter Van Metre" USGS

"Trends and Sources of PAH's to Urban Lakes and Streams" Peter Van Metre and Barbara Mahler

"Human Health Concerns Associated with Exposure to PAH's and Coal-Tar Sealed Pavement" Spencer Williams and William Wilbur

5) "Protecting Urban waters and Sediments in Minnesota and the Great Lakes Region" Al Innes

Sources Page 2:

www.mypavementguy.com

<https://www.ncbi.nlm.nih.gov/pubmed/20440554>

<https://www.sciencedirect.com/science/article/pii/S2214750016300051>

<https://www.watershedcouncil.org/coal-tar-sealants-and-pah-contamination.html>

<http://www.coaltarban.com/>

<https://coaltafreeusa.com/>

<https://www.montgomerycountymd.gov/DEP/contact/coal-tar.html>

<https://www.princegeorgescountymd.gov/678/Coal-Tar-Sealant-Ban>

<https://doee.dc.gov/coalta>

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<http://www.aacounty.org/departments/inspections-and-permits/site-inspections/coal-tar-pavement-ban/>

<https://www.cancer.gov/about-cancer/causes-prevention/risk/substances/coal-tar>

<https://archive.usgs.gov/archive/sites/www.usgs.gov/newsroom/article.asp-ID=3914.html>

<https://ccceh.org/wp-content/uploads/2012/02/perera2006b.pdf>

The bill as written would be detrimental to the businesses (Gem Seal, Sealmaster, Seaboard) represented in Maryland:

- Nearly 70-75% of our volume is shipped out of state. The bill as written, if passed in Baltimore County, would prevent us from selling coal tar sealer to contractors beyond Maryland. Our out of state contractor clients would purchase coal tar sealer products from one of several out of state competitors. We could never survive a drop in volume of that magnitude.
- The bill is modeled after a local municipal ordinance in Michigan where the local governing entity (Lake Huron River Watershed Auth.) consulted with ONE manufacturer who influenced the language to their favor at the expense of their competitors.
- Sales of pavement sealer of any type have declined over 40% in the Austin TX area, the first municipality to pass a ban in 2007.
- The bill specifically eliminates alternative sealers that have low PAH content and have been approved for use in Austin TX.
- This bill potentially eliminates certain brands of asphalt based sealers at .1% PAH level.

The bill claims that exposure to coal tar sealer increases cancer risk 38 times is a completely false claim:

- Coal tar sealer is not listed as a carcinogen by IARC or any other organization.
- The mission of the USGS does not include determining the carcinogenicity of any product or substance. The USGS (Mahler and Van Metre) never conducted any study to determine the carcinogenicity of coal tar sealer.
- In the nearly 15 years that USGS has been targeting coal tar sealers, they have never established a link to human cancer or adverse health effects from to coal tar sealer, likely because.....
- In the 60+ years that coal tar sealers have been commercially available, there is absolutely no history of human cancer or adverse health effects from this product to the general public, or by those who manufacture sealer, manufacture the raw material, or apply coal tar sealers. The statement is based on a model that makes numerous assumptions. Historical human health records both medical and OSHA related do support this claim.

What was missed in the student's research report:

- There was no effort to interview at least one of 3 of the local sealer manufacturers, a contractor, or a producer of RT-12 about coal tar sealers and PAHs.
- There was no effort to interview any of the scientists that peer reviewed the USGS research and found it to be deeply flawed.
- There was no effort to consult one of many independent researchers who have done multiple studies (all peer reviewed) on coal tar sealers and PAHs like Dr. Kirk O'Reilly (geochemist), Dr. Robert DeMott (toxicologist), Dr. Tom Gauthier (environmental geologist), Dr. Brian Magee (toxicologist specializing in PAH toxicology and risk assessment), or Dr. Sung Woo Ahn (environmental scientist)
- **There was no balanced or objective approach.**