

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Energy and Environment

Testimony

Maryland House Bill 0077

Environment-Driveway Sealers-Prohibitions (Safer Sealant Act of 2021)

Position: Support

Presented before the Senate Health, Education, and Environmental Affairs Committee by:

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District of Columbia Department of Energy and Environment (DOEE)

The Honorable Paul G. Pinsky

Chair, House Environment and Transportation Committee

House Office Building Room 251

6 Bladen Street

Annapolis, MD 21401

Subject: District of Columbia Support for HB 0077: Environment-Sale and Application of Coal Tar and Coal Tar Pavement Products-Prohibition

Good afternoon. My name is Lillian Power and I am an Environmental Protection Specialist for the District of Columbia's Department of Energy and Environment (DOEE), working in the Watershed Protection Division. I would like to extend the District's support for Maryland House Bill 0077. A statewide prohibition of Coal Tar and other pavement sealant products is an achievable goal in the ongoing effort to protect human health and reduce toxic pollution into our waterways throughout Maryland, the District, and the larger Chesapeake Bay watershed. The District has successfully implemented a coal tar ban since 2009, and expanded the ban to additional sealant products high in toxic Polycyclic Aromatic Hydrocarbons that threaten the health of our waterways in 2019.

Polycyclic Aromatic Hydrocarbons (PAHs) are established toxic contaminants and known threats to human health. A multitude of studies has connected coal tar sealants, high in concentrations of toxic PAHs, to PAH contamination in waterways and elevated cancer risk in humans, particularly children. One PAH compound, Benzo(a)pyrene, is confirmed by the EPA as a carcinogen and is found in high-PAH and coal tar pavement sealants, entering our communities as dust created from friction by tires on properties sealed by high-PAH products.

The EPA has listed 16 PAHs, again found in pavement sealant products, as priority pollutants. The issue is very much a local one. Alongside the Anacostia River here in the District, Baltimore Harbor has one of the highest reported levels of PAH contamination in the entire Chesapeake Bay watershed. PAHs are one of the most common organic chemical contaminants that can be found across the entirety of the Chesapeake Bay watershed and in the Bay itself.

The data was clear, and in collaboration with both Montgomery County, MD and Prince George's County, MD, the District passed a ban on coal tar pavement products in 2009. The District's experience with its coal tar sealant ban demonstrates it is a practical, administratively feasible, and cost-effective way to reduce the toxic pollution in our waterbodies. DOEE has not received complaints from sealant

applicators or property owners since the law's passing about the quality of available compliant products, of which there are many. Further, DOEE inspectors have not encountered a single lot sealed with coal tar for over 6 years—a testament to the success of the ban, but also a warning as new, high-PAH content products have entered the market.

I would also like to call attention to the District's 2018 legislation that built upon the coal tar ban by prohibiting the sale and use of new high-PAH sealant products that have entered the market since our coal tar ban was passed in 2009. The 2018 legislation added a PAH threshold of 0.1%, regulating new ethylene cracker residue (ECR)-based sealant products that have been found in the District. These products contain levels of PAHs similar to those of coal tar sealants. To date, 0.1% PAH bans have been passed in 17 townships in southern Michigan along the Huron River watershed, Austin, TX, and Montgomery County, MD. The Wisconsin State Assembly is considering a coal tar and 0.1% PAH limit law that was proposed in February. Awareness of the emerging threats of these new products is growing, and Maryland is one of many jurisdictions considering joining the District in setting PAH-limit laws.

As with any new law, we have experienced some challenges in implementation. PAH concentrations are not available on sealant MSDS sheets or on product labels and are either not tested or are considered proprietary information by sealant manufacturers. DOEE, with funding from the EPA Chesapeake Bay Program and in collaboration with researchers, regulators, and experts from across the nation, including both Montgomery County's Department of Environmental Protection and the Maryland Department of the Environment, has spearheaded efforts to standardize methods for testing PAHs in pavement sealants. By the end of 2021, DOEE will make a standard protocol publicly available for use by any regulator, lawmaker, stakeholder, or resident interested in making environmentally safe decisions when sealing their properties. This protocol is the first of its kind in the nation. In addition, the project will use the protocol to test a wide range of products on the market to make a list of low-PAH products that meet 0.1% or 1% thresholds, again to be made publicly available. With this project due to be completed well in advance of the effective date of the proposed bill, implementation of PAH-limit requirements will be well-supported and attainable.

As a signatory partner to the Chesapeake and the Anacostia Watershed Agreements, we support all efforts to restore these vibrant ecosystems. We urge the State of Maryland to join the District in banning coal tar and high-PAH sealants, as doing so will help protect both states' waterways. Together, we can provide an example of cross-jurisdictional policy collaboration to protect the health of our residents and natural resources.

Thank you.

References

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