



## TESTIMONY FOR HB 949

January 30, 2022

Virginia Agriculture Chesapeake and Natural Resources Committee

Dear Delegates:

Thank you for taking up this life-saving legislation to restrict the use of coal tar pavement sealers in the State of Virginia.

My name is Tom Ennis and I helped Austin, TX pass, defend and implement the nation's first coal tar sealer ban. I have supported many others across the US since then and **I support this bill as well.**

This is **a bill that is ripe for passage.**

**The SCIENCE is clear.** Over 26 research institutions have found that coal tar sealers are a danger to humans and the environment.<sup>1</sup> That's why the AMA supports the elimination of this product.<sup>2</sup>

It is also why Morgan State University found that Chesapeake Bay oysters are affected by the chemicals from this product and said,

*This study's results provide evidence that PAHs entering an aquatic ecosystem from runoff from road surfaces have the potential to inhibit oyster reproduction by negatively impacting three critical processes in the early life cycle of the Eastern oyster.<sup>3</sup>*

**The PUBLIC needs this.** The role of good government is to protect people from unscrupulous practices and this one spreads industrial-level, potent mutagenic and carcinogenic chemicals onto unsuspecting playgrounds, businesses and homes.

**The SUPPLY is ready.** Non-toxic sealers are numerous and similar in quality and price.<sup>4</sup>

In 2007 Home Depot and Lowes stopped selling coal tar products because of their liability.<sup>5</sup> I hope that Virginia will heed the advice of a local official: *"If coal tar sealers are not good enough for the shelves of Home Depot and Lowes, then it isn't good enough for the paved surfaces of our community."*

Attached are responses to typical claims made by industry in opposition to this legislation.

If I can answer any of your questions, please don't hesitate to reach me at [coaltarfreeamerica@gmail.com](mailto:coaltarfreeamerica@gmail.com).

Sincerely,

Thomas E. Ennis, PE, LEED AP

<sup>1</sup> <https://www.scribd.com/doc/282979737/Hyperlinked-Coal-Tar-Sealer-Research-2015>

<sup>2</sup> <https://www.ama-assn.org/press-center/press-releases/ama-urges-legislation-ban-dangerous-coal-tar-sealcoats>

<sup>3</sup> <https://rosap.nrl.bts.gov/view/dot/24488>

<sup>4</sup> <https://coaltarfreeusa.com/p/>

<sup>5</sup> <https://coaltarfreeusa.com/2017/02/top-5-business-reasons-to-stop-the-use-of-coal-tar-sealers/>

*Dedicated to researching, educating, and advocating  
for the ban and elimination of toxic coal tar sealants from our parking lots, homes, and environment.*



**Over 44 million Americans  
Have coal tar bans!**

INTERIM MEETING

## Public health concerns prompt physician policy

NOV 16, 2016



**Troy Parks**  
News Writer  
American Medical Association  
[Full Bio](#)

### Banning dangerous coal-tar sealcoats



Studies show that individuals with lifelong exposure to coal-tar sealcoat-treated pavements and playgrounds have a 38-fold higher risk of cancer. Already, Washington, Minnesota, Washington, D.C., and counties, townships and municipalities in many other states, including Michigan, have banned the use of coal-tar sealcoats. Alternatives to coal-tar-based sealcoats, including asphalt, acrylic or latex sealcoats, have low or no polycyclic aromatic hydrocarbons (PAH) and are available at a similar cost.

The AMA adopted new policy aimed at reducing or ending the use of common coal-tar-based sealcoats that are used and applied on pavement and playgrounds across the country. The new policy advocates for legislation either to ban the use of pavement sealcoats containing PAHs or to require the use of sealcoat products with minimal PAH. According to the International Agency for Research on Cancer, PAH compounds have been proven to be carcinogenic, mutagenic and teratogenic to humans.

“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, MD. “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.”

# Answers to Common Coal Tar Sealcoat Industry Claims

By Tom Ennis, PE, LEED AP

## Coal Tar Free America

### Industry Claims Damage Done to Sealcoat Industry

Industry says that a ban will do irreparable harm to business.

However this is not what a recent market research company found. They confirmed what one CEO of a sealer company said a few years ago: ***bans really won't hurt the sealcoat business.***

In the projected period through 2024, the industry is expected to experience “moderate growth” but:

*“rising bans on coal tar-based sealers, the improved performance of asphalt-based sealers, and competitive pricing are expected to result in the increased consumption of bitumen and asphalt sealers...”*

*“Transparency Market Research projects that the sealers market in North America will rise from a value of US\$405.7 million in 2015 to US\$609.3 million by 2024...”*

<http://www.transparencymarketresearch.com/north-america-sealers-market.html>

### Industry Claims No Health Effects for Sealcoat Workers

The sealer industry is fond of saying how safe their product is for worker safety. No evidence, no claims, no one harmed.

Every year these statements have continued. Our position has been that it is faulty logic to claim a statement as true without any comprehensive analysis to support it. And there are plenty of cases of harm.

In 2014 a law firm from Buffalo, New York dispelled that myth in their quarterly newsletter. The firm garnered a “substantial settlement” for the heirs of a man who worked for 34 years making coal tar containing pavement products. He died a year after discovering he had lung cancer.

Here's the link to read the entire sad story: <https://www.lipsitzponterio.com/newsroom-newsletter-item-27.html>

I know of a case of an applicator of coal tar who died of cancer, but demanded an autopsy upon his death. The physician said his chest smelled like creosote when he opened him up.

USA Today even wrote about one area sealcoater who had to switch to a non-coal tar product after experiencing dizziness and panic attacks. His symptoms improved after switching products.

<https://www.usatoday.com/story/money/business/2013/06/16/toxic-driveways-cities-states-ban-coal-tar-pavement-sealants/2028661/>

Other cases I have heard of is skin burns, PAH-related eye swelling (like pink eye), and even bleeding from the eyes. Yes these are anecdotal, but without a comprehensive study that is all we have.

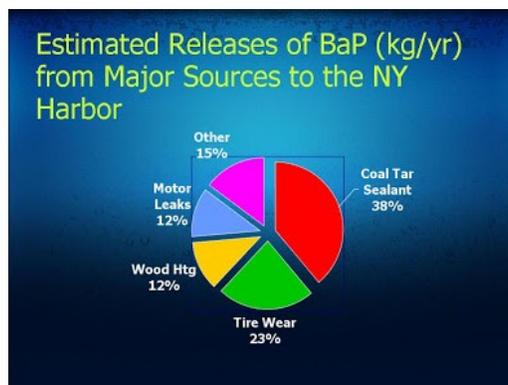
We also know that PAH exposure can affect sperm count in men.

By the way, did you know that the many retired United Steelworkers are tested for cancers after being exposed to coal tar? <https://m.usw.org/publications/usw-at-work/pdfs/SOAR-Spr12web.pdf>

### Industry Claims PAHs are not a Problem in Local Water Quality Reports

Industry wants to avert the attention away from the heart of the problem: the greatest exposures take place in and near a sealed surface, not at some distance away. The risk to children playing on a sealed surface is about the same as exposure to secondhand smoke. The further away from the source, the more dilute and less risk.

Also Morgan State University found that Chesapeake Bay oysters are affected by the chemicals from this product and said,



*This study's results provide evidence that PAHs entering an aquatic ecosystem from runoff from road surfaces have the potential to inhibit oyster reproduction by negatively impacting three critical processes in the early life cycle of the Eastern oyster.*

<https://rosap.nrl.bts.gov/view/dot/24488>

They also cited the New York Academy of Sciences Harbor Study to show that PAHs are not a problem. However they didn't mention that same study found that 38% of the most toxic PAHs come from coal tar sealers.

### Industry Claims Coal Tar Sealers are Not Classified as a Carcinogen

This is completely misleading. Ruling bodies like the International Agency for Research on Cancer (IARC) typically classify chemicals as carcinogens, not products. Sealers are mixtures of chemicals and inert ingredients—a product. Coal tar is a known human carcinogen.

However a cancer researcher, Dr. Robyn Fuchs-Young stated at a public hearing on coal tar sealers:

*"These coal tar sealers are essentially big buckets of carcinogen..."*

*"The increased cancer risk associated with coal-tar-sealed asphalt likely affects a large number of people in the US,"*

says E. Spencer Williams, PhD, assistant research scientist at Baylor University's Center for Reservoir and Aquatic Systems Research (now with the CDC).

<https://www.sciencedaily.com/releases/2013/03/130328125236.htm>

### **Industry Claims Wine is Worse for You than Coal Tar Sealers**

Strange that industry would cherry-pick an analysis from Environment Canada where the ultimate recommendation was to ban the product. More precisely they found after they reviewed the entirety of the literature that coal tar sealers meet the legal threshold to ban the product.

Industry was caught citing this study by the Village President of Wilmette a few years ago. When asked why they didn't quote the conclusion and only this analysis they said because they don't agree with it. Here's the statement they ignored:

*"The MOE [risks] associated with ingestion of house dust by children is considered potentially inadequate to protect these susceptible subpopulations."*

Here is their concluding statement:

*"Overall the evidence appears to support your conclusions that coal tars and their distillates meet the criteria under paragraph 64c of CEPA and they are entering the environment in a quantity or concentration or under conditions that may constitute or may constitute a danger in Canada to human life or health."*

This MOE value will take a little more analysis in the future but these facts remain:

1. Canada found sufficient grounds to ban coal tar sealers
2. Cancer is not the only problem caused by PAHs from sources like coal tar sealers. They cause birth defects, learning disorders, behavior problems and trigger asthma. Not exactly safe.
3. **Consuming alcohol is a voluntary choice, but being exposed to coal tar sealers is not.**

Here is a link to the Canadian study: <http://www.ec.gc.ca/ese-ees/default.asp?lang=En&n=E34B0A52-1>

### **Industry Claims Studies are only Done on Individual PAHs**

This is a complete fabrication. There are literally thousands of studies on the health effects PAHs as mixtures. The first one was done over 100 years ago by painting coal tar on the ears of rabbits. After putting coal tar on the ears of 101 rabbits every 3 days, they all had cancer in 5 months.

<http://cancerres.aacrjournals.org/content/jcanres/3/1/1.full.pdf>

# Sealant Research

