



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Martin O'Malley  
Governor

Robert M. Summers, Ph.D.  
Secretary

Anthony G. Brown  
Lieutenant Governor

February 4, 2014

The Honorable Joan Carter Conway, Chair  
Members, Education, Health and Environmental Affairs Committee  
Senate Office Building, Suite 2W  
Annapolis, MD 21401

Re: Senate Bill 359 – *Watershed Protection and Restoration Programs – Imperious Surface - Definition*

Dear Chairwoman Conway and Committee Members:

The Maryland Department of the Environment has reviewed Senate Bill 359, *Watershed Protection and Restoration Programs - Impervious Surface - Definition*, and would like to express our concern with this bill.

Senate Bill 359 would adopt a definition within the section of the Annotated Code that relates to the determination of fees as required under the Watershed Protection and Restoration Program Act (HB 987 – 2012 Legislative Session). This definition would generally exclude gravel surfaces from calculations of impervious area for the purposes of assessing HB 987 stormwater fees.

Maryland's Stormwater Standards and county ordinances treat compacted gravel surfaces that are subject to vehicular traffic as impervious. The runoff characteristic of these surfaces is similar to other impervious surfaces as compaction and consolidation of the substrate occurs over time. This results in surfaces that typically generate significant runoff.

Several counties, including Baltimore County and Baltimore City, have considered gravel surfaces in the development of their stormwater fees and issued guidance to property owners. Baltimore County's guidance states:

*“Gravel surfaces are considered impervious when used in a way that compacts the gravel over time, such as:*

- a storage area for equipment and materials*
- a driveway or road*
- a parking lot for vehicles, boats or trailers*

*However, if the gravel surface meets specific criteria, it may qualify as a BMP and be credited accordingly. The surface must be at least eight inches thick with a layer of geotextile fabric separating the gravel from the ground, covered by at least six inches of number two stone, then at least two inches of number six or seven stone.”*



The Honorable Joan Carter-Conway, Chair

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Baltimore City's fee guidance provides for exemptions where:

*“Gravel used for landscaping, decoration, or ground stabilization, but not compressed by pedestrian or vehicle traffic, Gravel used as ballast for railroads.”*

HB 987 provided the local governments that were required to implement the stormwater fee program with broad latitude and flexibility in crafting fee structures that were tailored to their specific jurisdiction's needs. SB 359 would require many of the affected jurisdictions to incur the additional time and expense associated with changing their fee programs, including adopting new ordinances and changing published guidance, and re-assessing all affected properties. Additionally, this definition change could also potentially reduce revenues to the county stormwater programs.

Thank you for your consideration. I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at [jeffrey.fretwell@maryland.gov](mailto:jeffrey.fretwell@maryland.gov) if I can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey K. Fretwell". The signature is fluid and cursive, with the first name "Jeffrey" being more prominent and larger than the last name "Fretwell".

Jeffrey K. Fretwell

cc: Robert M. Summers, Secretary  
Jay G. Sakai, MDE, Director, Water Management Administration