

## August 2023 ARRC Regulatory/Legislative Update

### Buy Clean

#### **CO SB 22-051 Implementation**

- Colorado's [Buy Clean Colorado Act \(SB 22-051\)](#), which takes effect July 1, 2024, provides a tax exemption for "eligible decarbonizing building materials," made of certain materials, including "asphalt and asphalt mixtures." Rod Vanderwall with the [Office of the State Architect \(OSA\)](#), which is charged with creating and maintaining a database of manufacturers and products eligible for the tax exemption, confirmed in 2/2023 that asphalt roofing materials are included in the scope of the law.
- In June 2023, OSA issued [draft maximum GWP thresholds for building materials](#); set a threshold for "asphalt mixtures," but does not set standards for asphalt roofing materials
- CO has put out a request for information on "asphalt mixtures" with a GWP less than 85 kg/CO2 equivalent per metric ton

#### **Proposed Buy Clean Legislation**

- [MA H 3035 / MA S 1981](#)—uses the same language as the federal provisions and applies to "asphalt and asphalt mixtures"; unclear whether that category encompasses asphalt roofing; bills have high likelihood of passage, still in pending
- [DE HB 8](#)—directs state agencies to collaborate on development and implementation of "clean construction preferences" in the award of public works contracts; likely to pass, still in House

### EPR for Packaging

#### **Five states that have enacted Extended Producer Responsibility (EPR) for packaging laws; in various states of rulemaking:**

- [Maine, LD 1541](#) (July 2021)
  - Final rules expected by Summer 2025; first producer payments by 2026
  - definition of "packaging material" suggests it may be limited to consumer goods packaging
  - Issued [Part 1 of EPR Conceptual Draft Rules](#) 9/01/2023 (focuses on reimbursement of municipalities; remaining conceptual draft rules to be released over next month)
  - Held meeting in August on "[alternative collection programs](#)," under which a group of producers can develop and operate an alternative program to collect and manage a type of packaging material
- [Oregon, SB 582](#) (August 2021)
  - Expect draft rules in 2024; Program changes take effect July 2025
  - Issued draft rules on PRO obligations
  - Review of materials indicates a focus on consumer recycling
  - [Here's what cities in Oregon want to see under EPR \(resource-recycling.com\)](#) (mention of building construction recycling)
- [Colorado, HB22-1355](#) (June 2022)
  - PRO Program Plan due by 2/1/2025; Producers must join a PRO by 6/1/2025

- Appointed [Circular Action Alliance](#) as the designated PRO
- Completing a needs assessment
- [California, SB54](#) (June 2022) (fact sheet that uses the language of consumer products)
  - Final regulations expected in 2025
  - Held informal [public workshops](#) on July 24-25
- [Maryland, SB 222](#) (enacted May 8, 2023)
  - “packaging materials” defined as “primary, secondary, and tertiary packaging intended for the consumer market”

**We are following proposed EPR for Packaging bills pending in IL, HI, TN, NY, WA, MA, NC**

**Additional Packaging EPR-Related Bills**

- [Illinois SB 1555](#) (Enacted July 28, 2023)—was introduced as establishing a packaging EPR program, was amended and passed to establish a statewide recycling needs assessment advisory council
- [MA H 833\\*](#)—establishes commission to consider EPRs for leftover paint, electronics, pesticides, household batteries, fluorescent lamps, phone books, carpet, medical sharps, consumer packaging and printed materials, pharmaceuticals, tires and mercury thermostats; still in House
- [NY S 6540](#)—establishes EPR program for designated products (identified in a yearly report by state agency); still in Senate

**Construction & Demolition (C&D) Waste Recycling Bills**

- **New York**—several bills that would require contractors and state agencies to recycle set amounts of waste from C&D sites
  - [NY A 1836](#)—still in Assembly
  - [NY S 4720](#)—still in Senate
  - [NY S 4826](#)—still in Senate
  - [NY S 5160](#)—still in Senate
- **Hawaii**—bills that provide for competitive procurement of state or county C&D services, giving preference to contracts with using the greatest amount of recycled material for construction and recycling the greatest amount for demolition
  - [HI HB 958](#)—still in House
  - [SB 431](#)—still in Senate
- [PA HB 379](#)—amends Pennsylvania Construction Code Act to require deconstruction requirements (systematic dismantling of structure or portion of structure) for primary dwelling structures; must meet documented 85% landfill diversion rate by weight; includes asphalt roofing shingles in list of materials that can be recycled; still in House
- [OH SB 119](#)—would increase state fees by more than 4 times for disposal of construction and demolition debris; now in the House

**C&D Recycling City Ordinance**

- Denver, CO’s [Waste No More](#) ballot initiative approved by voters requires nearly all C&D projects to separate and recycle all readily recyclable concrete, asphalt, clean wood, scrap

metal and corrugated cardboard. Starting June 1, 2023, a recycling and reuse plan must be submitted prior to obtaining a construction or demolition permit.

- Ordinance provides an exemption for projects requiring only a “quick use” permit. Sec. 48-139(d). The city’s [website](#) lists roofing projects as qualifying for quick permits.
- Thus, it is likely that roofing projects are exempt from the Waste No More requirements.

### **Asphalt Recycling Bills**

- [HI HB 1406](#)—requires the DOT to conduct a two-year study on asphalt recycling, including options to maximize usage of recycled asphalt
  - Bill findings cite NAPA’s 2021 survey on amount of RAS put into asphalt mixes and the amount of virgin asphalt binder replaced by recycled binder from RAP and RAS
  - Been treated favorably in Committee
  - In Senate
- [GA SR 308](#)—creates a Senate Study Committee on Recycling Efficiency and Economic Development to consider developing recommendations for proposed legislation
  - Bill findings note that many GA companies and industries depend on recycled materials, including roofing shingles
  - Still in Senate
- [NJ S 3255\\*](#)—This bill was amended to increase the amount of reclaimed asphalt pavement that can be used by contractors for public highway or local road projects, and would require contractors to obtain mix design approval prior to a project; still in Senate