

# General Disclaimer for this Presentation:

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***The information within this presentation is slated to facilitate discussions on various existing and potential regulatory mechanisms. No final decision regarding this information is expressed or implied.***

***Any pictures or trade names of equipment, companies, or services should not be construed to indicate an endorsement by the New Jersey Department of Environmental Protection of any product or service derived from same.***

***Please note this meeting will be recorded.***



# Welcome to the NJDEP Stakeholder Meeting for P.L. 2021, c. 391



## New Jersey's Recycled Content Law:

- An Act concerning the use of postconsumer recycled content in certain containers and packaging product

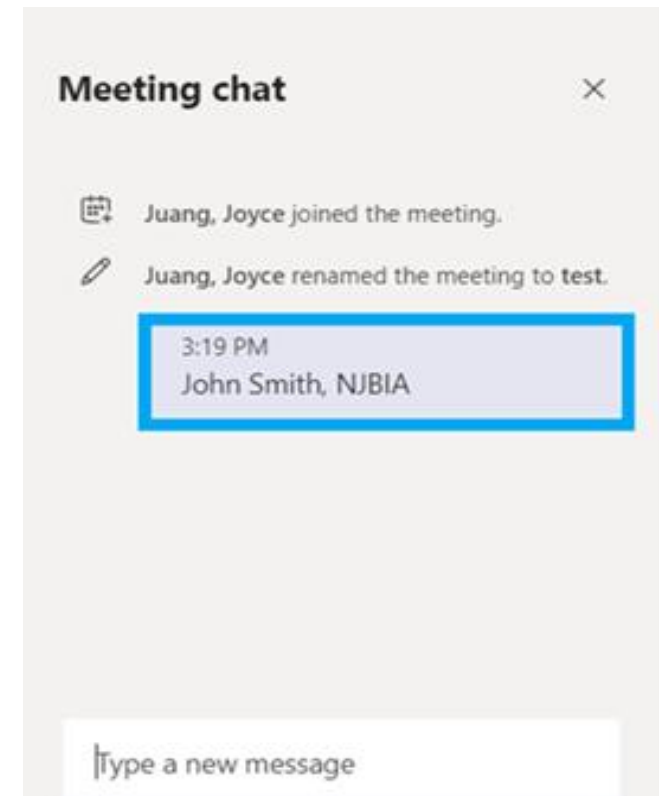
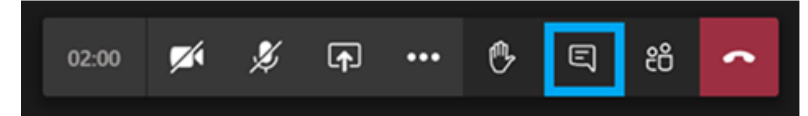
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January 26th, 2023

1 pm - 4 pm

# In-House Rules Friendly Reminder

- **Attendance:**
  1. Please enter your first and last name and organization you represent in the chat box in lieu of sign-in sheet.
  2. ***If you have dialed into the meeting, please email [recycledcontent@dep.nj.gov](mailto:recycledcontent@dep.nj.gov). We are unable to identify the names of dialed in attendees.***



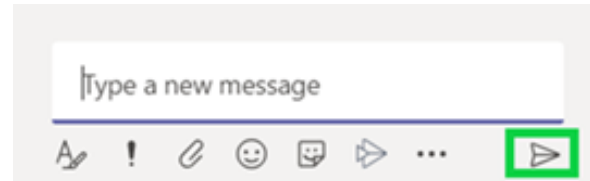
# In-House Rules Friendly Reminder

- **Questions/Speaking Etiquette:**

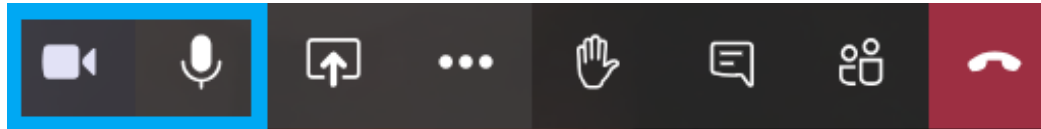
1. Please make sure your microphone is muted and your camera is off.



2. To request the opportunity to ask a question, please enter your name and affiliation in the chat box.



3. When called on to speak, you may un-mute yourself and, if you would like, turn on your camera.



4. When you have finished speaking, please re-mute yourself and turn off your camera.



# NJDEP Rulemaking Team

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1. Assistant Commissioner's Office, Contaminated Site Remediation & Redevelopment Program
  - Judith Andrejko, Esq., Regulatory Officer / Facilitator
2. Bureau of Solid Waste Planning and Licensing
  - Chris Mikulewicz, Environmental Specialist & Rulemaking Manager
  - Seth Hackman, Bureau Chief
  - Jill Aspinwall, Section Chief
  - Dylan O'Brien, Environmental Specialist
  - Nell Henry, Program Specialist Trainee
3. Bureau of Sustainability
  - Robin Heston-Murphy, Environmental Scientist 4
4. Division of Waste UST Compliance & Enforcement
  - Sonya Silcox, Standards & Procedures Technician 2



# Opening Remarks- Goals for Stakeholder Meetings

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1. Discuss calculation methodology for recycled content in covered products.
2. Discuss Recycled Content Certification Report requirements.
3. Gain input and feedback for rulemaking and program development.



# Agenda Outline

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1. Recycled Content Calculations (Section 2)
  - Overview of Statutory Language
  - Discussion
2. Compliance Certification Report (Section 14)
  - Overview of Statutory Language & Requirements
  - Discussion
3. Conclusion



# Overview of Recycled Content Calculation Statutory Language





# Calculation of Postconsumer Recycled Content

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Per Section 2 of P.L. 2021, c.391:

- “A manufacturer shall achieve compliance with the postconsumer recycled content requirements of this act based on the **average amount of postconsumer recycled content, by weight or another metric, as determined by the department, contained in its products.**”



# State vs. National Data

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- “A manufacturer shall calculate the average amount of postconsumer recycled content contained in its products using data specific to products sold or offered for sale in New Jersey, if such data are available.
- If a manufacturer demonstrates to the department that State-specific data are not available or feasible to generate, then the manufacturer may utilize national data to calculate the average amount of postconsumer recycled content contained in its products.
- The calculation of averages may be based on a manufacturer's entire product line or separated into product sub-lines, provided that all of the manufacturer's products are accounted for in the calculations.”



# State vs. National Data (cont.)

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- If a manufacturer relies on national data to calculate the average amount of postconsumer recycled content contained in its products, the manufacturer shall:
  - 1) Prorate the national data based on market share or population, to ensure that the percentage of postconsumer recycled content calculated for products sold in New Jersey is the same percentage as calculated for the nation; and
  - 2) Document the methodology used to prorate the national data



# Discussion Topic 1: Recycled Content Calculation Methods



# Discussion Topic 1 – Recycled Content Calculations

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- What data and information is already collected regarding recycled content utilization?
- How is postconsumer recycled content calculated and tracked across products?
  - Is there a standard format or methodology?
  - How is recycled content measured (i.e., pounds, other measurement units)?
- How might recycled content calculations differ between materials (i.e., plastic vs. glass vs. paper)?
- How can the Department further clarify how to calculate recycled content?



# Discussion Topic 1 – Recycled Content Calculations

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**“The calculation of averages may be based on a manufacturer's entire product line or separated into product sub-lines, provided that all of the manufacturer’s products are accounted for in the calculations.”**

- What do you consider a ‘product sub-line’ to be and how does it relate to recycled content calculations?
- What are some examples of a ‘product line’ relative to a manufacturer’s products sold or offered for sale?



# Discussion Topic 1 – Recycled Content Calculations

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**“If a manufacturer demonstrates to the department that State-specific data are not available or feasible to generate, then the manufacturer may utilize national data to calculate the average amount of postconsumer recycled content contained in its products.”**

- Do manufacturers intend to provide national, regional, or State-specific data?
- What documentation could be provided to demonstrate State-specific data is not available for or feasible to generate?



# Discussion Topic 1 – Recycled Content Calculations

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“A manufacturer shall achieve compliance with the postconsumer recycled content requirements of this act based on the **average amount of postconsumer recycled content, by weight or another metric, as determined by the department, contained in its products.**”

- What would be considered another metric that can be used to calculate postconsumer recycled content, aside from weight?





# Discussion Topic 1 – Recycled Content Calculations

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- What methods for calculating recycled content are Manufacturers currently using?
  - What are the pros and cons for the various methods?
- How might third-party certification services be used to verify recycled content calculations?



# Overview of Statutory Compliance Certification Report Requirements



# Compliance Certification

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- Annually, each manufacturer shall certify, in writing, to the department whether or not their covered products, as applicable, sold, offered for sale, or used in association with the sale or offer for sale of a product in the State, are in compliance with the postconsumer recycled content requirements of the Act, or are otherwise exempt or have been approved for a waiver from the requirements.
- If the manufacturer claims an exemption from the requirements of this act, **the manufacturer shall set forth the specific basis upon which the exemption is claimed and submit such proof as the department determines necessary.**



# Compliance Certification (cont.)

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- The certification shall be signed by an authorized representative of the manufacturer.
- **The certification shall include the amount, in pounds, of virgin plastic, glass, or paper and the amount, in pounds, of postconsumer recycled material** used by the manufacturer for any products subject to the requirements of this act, and any other information as the department deems necessary.



# Compliance Certification (cont.)

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- Please be advised that the Department may audit or investigate a Manufacturer, at any time, to assess the Manufacturer's compliance with the requirements of the Act
- For this reason, it is important to be forthcoming regarding manufacturer capabilities surrounding recycled content data collection to better inform the Department on what Manufacturer's can provide.



# Discussion Topic 2: Compliance Certification Report Requirements



## Discussion Topic 2 – Compliance Certification Reports

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- What should the Department be aware of when collecting compliance data?
- For companies already incorporating recycled content, what are some preferred methods to substantiate recycled content utilization?
- What type of verification do manufacturers have to document that they are meeting requirements of the Law?
  - What kind of record keeping is conducted to demonstrate recycled content utilization?
  - How would Manufacturers prefer to demonstrate compliance?



## Discussion Topic 2 – Compliance Certification Reports

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**The certification shall include the amount, in pounds, of virgin plastic, glass, or paper and the amount, in pounds, of postconsumer recycled material** used by the manufacturer for any products subject to the requirements of this act, and any other information as the department deems necessary.

- Will the ‘in pounds’ requirement be problematic for manufacturers?





## Discussion Topic 2 – Compliance Certification Reports

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- Is it possible for manufacturers to provide a breakdown of recycled content data by brand rather than covered product category?
- What information shared with the Department would be considered proprietary?
- How can the Department make the certification process simple and as least burdensome as possible?



# General Questions

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- How have supply chain issues affected business operations and procurement of recycled content?
- Do manufacturers foresee a return to normal operations in the near future?





**Additional Comments?**

# Moving Forward

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- The Department welcomes examples of recycled content calculations
  - Interested parties can submit examples to [recycledcontent@dep.nj.gov](mailto:recycledcontent@dep.nj.gov)
- If you have any additional thoughts, questions, or comments please email them to the address above.



# Closing Remarks

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- Email: [recycledcontent@dep.nj.gov](mailto:recycledcontent@dep.nj.gov) or call 609-984-4250
- Visit <https://www.nj.gov/dep/dshw/recycled-content/index.html> to:
  1. Review the Law,
  2. Read the FAQ's
  3. Learn about registration and to register with the Department
  4. View additional resources

Thank you!

