The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts the amendment to §37.931.

Amended §37.931 is adopted without changes to the proposed text as published in the March 27, 2026, issue of the *Texas Register* (51 TexReg 2009) and, therefore, will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

The adopted rules implement House Bill (HB) 3229 passed by the 89th Texas Legislature, 2025. HB 3229 amended Texas Health and Safety Code (THSC) by adding new Chapter 376, Renewable Energy Component Recycling Facilities, which establishes new reporting, financial assurance, and penalty requirements for recycling facilities that accept, process, and repurpose components to recover valuable materials from wind turbine generators, solar energy devices, and battery energy storage systems. THSC, Chapter 376 requires owners of recycling facilities that recycle renewable energy components (henceforth called recycling facilities) to submit an annual report, by January 15, containing an inventory of unrecycled renewable energy components (including unrecycled components located offsite that the facility has taken control or ownership of), an estimated timeline to recycle these materials, a cost estimate to recycle or dispose the materials prepared by an independent, third-party professional engineer licensed in Texas, and evidence of financial assurance for the cost estimate provided.

Adopted amendments to 30 TAC Chapter 37 are limited to implementing requirements specific to the financial assurance mechanisms authorized for these recycling facilities. While no other amendments are adopted to Chapter 37, recycling facilities impacted by this rulemaking will

also be subject to existing rules in Chapter 37, including 30 TAC §§37.61, 37.141, 37.151, and Chapter 37, Subchapter J (Financial Assurance for Recycling Facilities).

As part of this rulemaking, the commission is adopting revisions to 30 TAC Chapter 328, Waste Minimization and Recycling, concurrently in this issue of the *Texas Register*.

Section by Section Discussion

§37.931, Financial Assurance Mechanisms

The commission adopts new §37.931(3) to specify the authorized financial assurance mechanisms for recycling facilities subject to the financial assurance requirement in THSC, Chapter 376, and as adopted in 30 TAC Chapter 328, Subchapter M in this rulemaking. The commission amends §37.931 by adding a new paragraph (3) to implement THSC, §376.003(c) as established by HB 3229.

THSC, Chapter 376 allows the owner to demonstrate financial assurance using a parent company guaranty with a minimum investment grade credit rating for the parent company issued by a major domestic credit rating agency. A parent company guaranty is a type of corporate guarantee. A corporate guarantee may be used to demonstrate financial assurance under existing financial assurance rules in 30 TAC Chapter 37. Under Chapter 37, a corporate guarantor must be a direct or higher-tier parent corporation or a firm with a substantial business relationship with the owner or operator. The adopted rules allow an owner or operator to use a corporate guarantee to demonstrate financial assurance for recycling facilities but limit the guarantor to a parent company in accordance with THSC, §376.003(c).

The commission recognizes that THSC, Chapter 376 requires the owner of a recycling facility that accepts, processes, and repurposes components from renewable energy systems to submit evidence of financial assurance to the commission. The commission understands that the legislature intends for the commission to be the beneficiary of the financial assurance and to be able to access and use any funds from the financial assurance to recycle or dispose of all unrecycled components in the event that the owner or operator of the recycling facility fails to do so. Accordingly, the adopted rulemaking requires owners or operators of recycling facilities to provide financial assurance in accordance with 30 TAC Chapter 37 to ensure that adequate funds are available to properly recycle or dispose of unrecycled components at a recycling facility. The commission's financial mechanisms (corporate guarantee, letter of credit, and payment bond) correspond to the financial assurance that may be included as acceptable forms of financial assurance in THSC, §376.003(c). The wording and requirements for the financial assurance mechanism in adopted §37.931(3) must conform to the applicable requirements for financial assurance administered by the agency in Chapter 37.

Final Regulatory Impact Determination

The commission reviewed the adopted rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the action is not subject to Texas Government Code, §2001.0225 because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The adopted amended rules implement HB 3229

from the 89th Texas Legislature, Regular Session, 2025. HB 3229 requires the owner of a recycling facility that accepts, processes, and repurposes components from a wind turbine generator, a solar energy device, or a battery energy storage system to submit a report to the agency that includes evidence of financial assurance. The adopted rules implement HB 3229 by establishing the requirements for the financial assurance. Financial assurance provides a source of funding to the agency to perform closure of a facility in the event that the owner fails to do so. The financial assurance requirement will apply to the owner of a recycling facility under THSC Chapter 376 in the absence of these rules. Because the adopted rules implement financial assurance requirements, the adopted rules do not change any existing requirements that protect the environment or reduce risks to human health from environmental exposure, nor do the adopted rules affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

As defined in the Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The adopted rules do not exceed a standard set by federal law. The adopted amendments do not exceed an express requirement of state law or a requirement of a delegation agreement. These rules were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and TWC, that

are cited in the statutory authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments were received regarding the Draft Regulatory Impact Analysis Determination.

Takings Impact Assessment

The commission evaluated the adopted rulemaking and performed an analysis of whether Texas Government Code, Chapter 2007, is applicable. The adopted amended rules implement HB 3229 from the 89th Texas Legislature, Regular Session, 2025. The adopted amended rules in Chapter 37 do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the adopted rules. The adopted rules in Chapter 37 establish financial assurance requirements for the owner of a recycling facility that accepts, processes, and repurposes components from a wind turbine generator, a solar energy device, or a battery energy storage system, as required by HB 3229. Consequently, this rulemaking action does not meet the definition of a taking under Texas Government Code, §2007.002(5). Therefore, this rulemaking action will not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC

§29.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. There were no comments received regarding the CMP.

Public Comment

The commission offered public hearings on April 23, 2026, and April 27, 2026. The comment period closed on April 27, 2026. No comments were received related to 30 TAC Chapter 37 amendments. The commission received comments related to amendments made in this rulemaking to 30 TAC Chapter 328, Waste Minimization and Recycling, from Harris County Pollution Control Services (HCPCS), one individual (IND), and the Lone Star Chapter of the Sierra Club (LSCSC). One commenter was in support of the rules, no commenters were against the rules, one commenter requested clarification of the rules, and two commenters suggested changes to the proposed rules. For the response to comments received related to 30 TAC Chapter 328 amendments, see the *Response to Comments* section of the adopted preamble for 30 TAC Chapter 328, Waste Minimization and Recycling, in this issue of the *Texas Register*.

SUBCHAPTER J: FINANCIAL ASSURANCE FOR RECYCLING FACILITIES

§37.931

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; Texas Health and Safety Code (THSC) §361.011, which confers the commission responsibility for the management of municipal solid waste; THSC §361.017, which confers the commission responsibility for the management of industrial solid waste and hazardous municipal waste and provides authority to control all aspects of the management of industrial solid waste and municipal hazardous waste by all practical and economically feasible methods consistent with its powers and duties under THSC Chapter 361 and other law, and THSC Chapter 376 which establishes requirements for renewable energy component recycling facilities.

The adopted rules implement House Bill (HB) 3229, 89th Texas Legislature, Regular Session, 2025, and THSC Chapters 361 and 376.

§37.931. Financial Assurance Mechanisms

Owners and operators subject to this subchapter may use any of the financial assurance mechanisms as specified in Subchapter C of this chapter (relating to Financial Assurance

Mechanisms for Closure, Post Closure, and Corrective Action) to demonstrate financial assurance for closure except:

(1) a pay-in trust fund may not be used;

(2) a surety bond guaranteeing performance may not be used unless the owner or operator is required to provide financial assurance under §332.47 of this title (relating to Permit Application Preparation); and

(3) for recycling facilities subject to Chapter 328, Subchapter M (relating to Requirements for Renewable Energy Component Recycling Facilities), a corporate guarantee, a letter of credit, or a surety bond guaranteeing payment must be used. For the purpose of §37.261 and §37.361 of this title (relating to Corporate Guarantee and Corporate Guarantee), a corporate guarantor must be a parent company with a minimum investment grade credit rating for the parent company issued by a major domestic credit rating agency.