


Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** May 29, 2026

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: Beth Seaton, Director 
Office of Waste

Docket No.: 2025-1339-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 328, Waste Minimization and Recycling
House Bill 4413 Implementation
Rule Project No. 2025-026-328-WS

Background and reason(s) for the rulemaking:

The rulemaking is needed to implement House Bill (HB) 4413 passed by the 89th Texas Legislature, 2025.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

The rulemaking will implement HB 4413 by expanding the purpose of 30 Texas Administrative Code (TAC) Chapter 328, Subchapter L (Third-Party Certification Systems for Mass Balance Attribution) to include the identification of renewable chemicals in §328.301, adopting new and amended terms related to mass balance attribution of renewable chemicals in §328.302, and amending §328.304 to include mass balance attribution of renewable chemicals to recycled products.

B.) Scope required by federal regulations or state statutes:

HB 4413 amended Texas Health and Safety Code (THSC), Chapter 361, Subchapter N (Waste Reduction Programs, Disposal Fees) by adding definitions for “renewable biomass” and “renewable chemical,” and requiring the Texas Commission on Environmental Quality (TCEQ) to adopt rules to identify third-party mass balance attribution certification systems for the purpose of identifying renewable chemicals.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

The rule change will be adopted under the statutory authority of Texas Water Code, §5.013 (General Jurisdiction of Commission), §5.102 (General Powers), §5.103 (Rules), §5.105 (General Policy), and THSC, §361.011 (Commission’s Jurisdiction: Municipal Solid Waste), §361.0151 (Recycling), §361.017 (Commission’s Jurisdiction: Industrial Solid Waste and Hazardous Municipal Waste), §361.022 (Public Policy Concerning Municipal Solid Waste and Sludge), §361.023 (Public Policy Concerning Hazardous Waste), §361.024 (Rules and Standards), §361.041 (Treatment of Post-use Polymers and Recoverable Feedstocks as Solid Waste), §361.078 (Maintenance of State Program Authorization Under Federal Law), §361.119 (Regulation of Certain Facilities as Solid Waste Facilities), §361.421 (Definitions), §361.4215 (Mass Balance Attribution), §361.425 (Governmental Entity Recycling), §361.426 (Governmental Entity Preference for Recycled Products), and §361.427 (Specifications for Recycled Products).

Re: Docket No. 2025-1339-RUL

Effect on the:

A.) Regulated community:

The rulemaking does not create new requirements or obligations for the regulated community but may incentivize the use of more biomass materials in manufacturing processes, diverting these materials from disposal in landfills.

B.) Public:

The rulemaking does not create a group of affected persons who were not impacted previously. The public is not expected to be affected by this rulemaking.

C.) Agency programs:

The agency programs affected by this rulemaking include the Waste Permits Division and External Relations Division. No fiscal impacts are anticipated.

Stakeholder meetings:

No stakeholder meetings were held, however, a public hearing to collect oral comments was held on January 27, 2026.

Public Involvement Plan

A public involvement plan is required.

Alternative Language Requirements

Spanish language documents are required for this statewide rulemaking.

Public comment:

The commission held a public hearing on January 27, 2026. The comment period closed on February 2, 2026. Oral and written comments were received from Air Alliance Houston, oral comments were received from Environment Texas, and a written comment was received from one individual. Commenters advocated for changes that are outside the scope of the rulemaking. Specifically, some comments discouraged the adoption of mass balance systems that encourage chemical recycling such as free allocation and advocated for adoption of systems that accurately account for post-consumer waste such as the rolling average allocation method.

Significant changes from proposal:

None.

Potential controversial concerns and legislative interest:

Representative Dennis Paul authored the legislation. No controversial concerns are anticipated.

Will this rulemaking affect any current policies or require development of new policies?

This rulemaking will not affect current policies or require the development of new policies.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

The Waste Permits Division has not identified alternatives to rulemaking. TCEQ is required by statute to adopt rules necessary to implement the changes in law.

Key points in the adoption rulemaking schedule:

Texas Register proposal publication date: January 2, 2026

Anticipated *Texas Register* adoption publication date: July 3, 2026

Commissioners
Page 3
May 29, 2026

Re: Docket No. 2025-1339-RUL

Anticipated effective date: July 9, 2026
Six-month *Texas Register* filing deadline: July 2, 2026

Agency contacts:

Jarita Sepulvado, Rule Project Manager, Waste Permits Division, (512) 239-4413
Matt Hopper, Staff Attorney, Environmental Law Division, (512) 239-5771
Vanessa Onyskow-Lang, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-0682

Attachments:

HB 4413 (Enrolled)

cc: Chief Clerk, 2 copies
Executive Director's Office
Patrick Lopez
Jessie Powell
Kevin Patterson
Office of General Counsel
Jarita Sepulvado
Matt Hopper
Gwen Ricco