

Texas Commission on Environmental Quality

Interoffice Memorandum

Date: October 17, 2025

To: Kelly Keel, Executive Director

Thru: Beth Seaton, Director
Office of Waste

From: Charly Fritz, Deputy Director
Waste Permits Division

Subject: Rulemaking Draft Concept and Initiation Memo
Chapter 37, Financial Assurance
Chapter 328, Waste Minimization and Recycling

Suggested short title: House Bill (HB) 3229 Implementation

Introduction and reasons for the rulemaking:

Rulemaking is needed to implement HB 3229 passed by the 89th Texas Legislature, 2025.

HB 3229 amends the Texas Health and Safety Code (THSC) by adding new Chapter 376 and establishing new reporting, financial assurance, and penalty requirements for certain recycling facilities. The bill impacts recycling facilities that accept, process, and repurpose components from renewable energy systems, specifically wind turbines, solar panels, and battery energy storage systems. These impacted recycling facilities must report annually to the Texas Commission on Environmental Quality (TCEQ) and maintain financial assurance. TCEQ must maintain a list of recycling facilities compliant with new THSC Chapter 376 on its website.

To address requirements of HB 3229, TCEQ will conduct rulemaking to amend 30 Texas Administrative Code (TAC) Chapter 37, Financial Assurance, and Chapter 328, Waste Minimization and Recycling.

Scope of the proposed rule:

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

THSC Chapter 376 requires impacted recycling facilities to submit an annual report containing an inventory of components accepted for recycling that have not yet been recycled, an estimated timeline to recycle these components, a cost estimate to recycle or dispose of the components prepared by an independent, third-party professional engineer licensed in Texas, and evidence of financial assurance for the provided cost estimate.

The Waste Permits Division (WPD) intends to adopt the statutory amendments into required rules in 30 TAC Chapters 37 and 328.

B.) Additional staff recommendations:

WPD recommends the inclusion of the following requirements to implement the provisions of the statute.

- Clarify that the financial assurance cost estimate should include costs TCEQ would encounter when conducting proper cleanup of a facility, including costs for: loading material, transporting material, hiring a third-party to conduct the cleanup, and disposal or recycling fees at the destination facility. These requirements would be consistent with the Scrap Tire Program and the Municipal Solid Waste Recycling Program.
- Set December 1st as the date to calculate the inventory of components stored at the facility and stored offsite for which the facility has taken title or assumed control. January 15th remains the deadline to submit the report and financial assurance.

- General requirements that are typically required in other waste permitting rules including maintaining on-site records, using forms prescribed by the executive director, and the applicability of other TCEQ programs.

Potential controversial concerns and legislative interest:

Recycling facilities subject to these new requirements will likely see increased operating costs associated with reporting, hiring a professional engineer, and maintaining financial assurance.

Potential alternatives:

WPD has not identified alternatives to rulemaking. Under THSC Chapter 376, impacted recycling facilities are required to report annually to TCEQ and maintain financial assurance.

Effect on the:

A.) Regulated community:

Impacted recycling facilities are subject to new annual reporting requirements and must maintain financial assurance. The annual report must include an inventory of unrecycled components under the facility's control, a cost estimate prepared by an independent professional engineer, and an estimated timeline for the disposal or recycling of these components. Failure to comply with the requirements could result in an administrative penalty.

B.) Public:

The public is not expected to be adversely affected by this rulemaking.

C.) Agency programs:

The agency programs affected by this rulemaking include WPD, Financial Administration Division, and Office of Compliance and Enforcement.

Proposed schedule and constraints:

Anticipated Proposal Date: February 2026

Anticipated Public Comment Period: March 2026

Anticipated Adoption Date: August 2026

Planned Stakeholder involvement:

WPD sought stakeholder input on the options regarding reporting, closure cost estimate, and financial assurance requirements. There will also be a public comment period and public hearing following the rule proposal.

Public Involvement Plan:

A public involvement plan is required for this rulemaking.

Alternative Language Requirements:

Spanish language documents will be required for this rulemaking.

Statutory authority:

The rule change would be proposed under the statutory authority of Texas Water Code, §5.103 (Rules), §7.052 (Maximum penalty), and THSC Chapter 376 (Renewable Energy Component Recycling Facilities).

Direction and Guidance:

Rule Project number: 2025-031-328-WS

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Attachments:

HB 3229 (Enrolled)

NOTE: *TR will submit electronic notice to the following after ED Briefing:*

Office of General Counsel
Office of Public Interest Counsel