

Transcript

January 27, 2026, 3:26PM

GR **Gwen Ricco** 4:01

Good morning. Welcome to this public meeting today.

One moment, please.

So thank you for joining us today. We appreciate your participation in this rulemaking project for House Bill 4413 Implementation, Rural Project number 2025-026328 WS. My name is Gwen Rico and I'd like to welcome you to this informal Q&A session prior to the start of the formal public.

Hearing at 10:00 AM. The Q&A session is open 30 minutes prior to the formal public hearing and it's an informal process and comments during this time will not be considered as formal comments for this rulemaking package. Please mute your mic if you don't have any questions for staff during the Q&A and if you do have questions, please ask them between 9:00.

30 and 10:00 AM and we ask that you be mindful of others and take turns remembering to turn off your mic when not speaking. You can also use the Q&A chat function to ask your questions and we'll read them aloud and get those answered for you.

We have TCQ staff available today to answer any questions that are part of the program team and we just want to remind you that if it is silent sometimes during this Q&A session, it's just because nobody is asking any questions. So we'll be here for until 10:00 AM to available to ask your questions. So if you have any, please go ahead and unmute your microphone now or raise your hand or ask them using the Q&A chat function.

Yes, Malachi, do you want to unmute your microphone and ask your question?

MK **Malachi Key** 6:30

Yes, hi. Can you hear me OK?

GR **Gwen Ricco** 6:32

Yes.

MK **Malachi Key** 6:33

OK. I wanted to ask what general metrics or I guess methods are being used to evaluate specific mass balance attribution systems? I know there's a lot to pick from when it comes to House Bill 4413.

But I just wanted to ask, you know, I made this be covered in the presentation, but how specifically are y'all measuring which Uh systems are being considered I guess?

GR **Gwen Ricco** 6:54

Excuse me.

 **Jarita Sepulvado** 7:06

Hi Malachi, my name is Jarita Sepulvado, Waste Permits Division and I'm the rural project manager. We are not doing any.

Evaluation of the mass balance systems we.

Aren't. We don't have that capability. We just need to identify them for the purpose of using them for manufacturers.

Does that answer your question?

MK **Malachi Key** 7:39

I suppose it does. I I I guess my question is just from what I've seen, there's a lot of variance in terms of how accurate some of these are in terms of measuring the actual amount of recycled content or PCR, so.

If there's no evaluation of the systems, my question would be how can we ensure their accuracy when it comes to?

How much consumers are able to tell whether an item has the recycled content that it says that it does?

 **Jarita Sepulvado** 8:13

So that's the basis of the third-party certification and we can't certify that. We don't have the capacity to. TCEQ is not in the business of certifying manufacturing or um the components that go into

To recycled products. And that's why our task was just to identify the third party certification systems that would make that claim.

MK **Malachi Key** 8:39

Yes.

OK. Uh, will the third party certification systems that are being considered, is that gonna be covered in the presentation?



Jarita Sepulvado 8:53

There's no presentation today.



Malachi Key 8:56

OK.



Gwen Ricco 8:57

Yeah. So public hearings are just to receive oral testimony from the public. So that's why there's no presentation. It's just to receive your oral comments and have like informal Q&A if there was any additional questions you had before providing your comments.



Malachi Key 9:15

OK, noted.



Gwen Ricco 9:20

Jen, yes, you can go ahead and unmute your microphone.



Jen Hadayia 9:23

Good morning, everyone. I have a follow-up question to the conversation that was just happening and I apologize. I joined a few minutes after 9:30, so if this was already addressed in another Q&A, just tell me to the previous speaker's point, I fully understand that TCQ is not.

Not creating a certification program of its own, but it is selecting a third party certification program. Will it be possible for staff to share what criteria they will be using to evaluate those certification programs?

So that they we know how it will be selected by TCQ.



Jarita Sepulvado 10:08

Hi, Jen. Thank you for your question. I'm sorry if it wasn't clear. We're not actually selecting the third party certification systems. Our task was to identify them and so. We are just identifying the third party certification systems that provide this service,

this third party certification of mass balance attribution in this case for this bill and rulemaking implementation specifically for renewable chemicals.

 **Jen Hadayia** 10:38
Yes.

 **Jarita Sepulvado** 10:41
We aren't evaluating them in any way. Umm We We aren't able to to provide that evaluation. So we're just identifying them as available to manufacturers.
To.
conduct mass balance attribution of their renewable chemicals.

 **Jen Hadayia** 11:05
That that makes sense. I see. So there's no criteria for the identification. It's simply going to be any and all third parties that are available, and then each facility will choose their own. Correct me if I'm wrong.

 **Jarita Sepulvado** 11:18
Yes, yes, that's correct.

 **Gwen Ricco** 11:19
OK.

 **Jen Hadayia** 11:24
And you may not be able to answer this question, but has there been any consideration to consistency across facilities and making claims to mass balance if they're all using potentially a different certification program?

 **Jarita Sepulvado** 11:45
I'm not aware of any.
We don't actually have any contact with the manufacturers that are using these the mass balance.
And that wasn't a part of what we were asked to.
Provide in our rulemaking. So I I'm just not aware of that.

JH Jen Hadayia 12:10

I see. OK, all right. I think I understand. So the intent of the rulemaking is to generate a list of available mass balance, third-party mass balance, attribution certification programs.

But and then no regulatory oversight beyond that.

 **Jarita Sepulvado** 12:30

Correct. We are not. We don't have regulatory oversight over the manufacturers in fact.

JH Jen Hadayia 12:33

7.

That actually clarifies quite a bit. Thank you so much.

GR Gwen Ricco 12:52

Yeah. Thank you for your question. Yeah. So if there's any continuing questions, you can feel free to unmute your microphone and ask them, raise your hand or use the Q&A chat. Otherwise we will be available until 10:00 AM before we start taking the formal oral testimony.

OK.

We've about 10 minutes left in this Q&A session before we start our formal testimony, so if you have any additional questions, please ask them now or else just bear with us for another 10 minutes and then we'll start this formal oral testimony process.

Just a few more minutes. We start this formal testimony. If you have not already signed up to provide oral testimony, then just go ahead and let us know by putting your name in the Q&A chat or by emailing us at rurals@tceq.texas.gov and we'll be able or just raise your hand during.

During the formal testimony and we'll be able to call on you in order of registration and you can state your public testimony. So we'll go ahead in two more minutes, we'll get that started. But if you have not already signed up yet, just feel free, let us know in the chat, e-mail us or raise your hand and we'll get you added to that list.

OK, the time is now 10:00 AM.

At this time we will stop the informal QA process.

And get started with the begin the formal process of the hearing to receive formal testimony on this project for House Bill 4413 Implementation Rule Project number 2025026328 WS if you have opted to provide formal oral comments at this meeting. Please mute your mic until I call on you and I will call each commenter in order of registration.

We'd like to welcome everyone to this public hearing being conducted by the Texas Commission on Environmental Quality. My name is Gwen Ricco and I'm a coordinator with the General Law Division. We're here this morning to receive oral testimony on the rulemaking project to implement House Bill 4413, Rule Project #2025-026328 WF.

If you intend to present oral testimony and haven't already signed up, please, like I mentioned, put your name in the chat, raise your hand, or e-mail us at rules at tceq.texas.gov and we'll get you added to that list. We will continue to accept written comments on this proposed rule until 11:59.

PM on February 3rd, 2026.

This hybrid, virtual and in-person meeting is structured strictly for the receipt of oral comments. Open discussion during the formal session of this meeting is not allowed. However, if anyone has additional questions or informal comments regarding the rulemaking package, there will be another opportunity after the meeting to have your informal questions answered.

We will now begin receiving testimony in the order in which you've registered. Once I call your name, please unmute your mic and state your name, who you represent, and then present your testimony. Upon conclusion of your testimony, please mute your mic to allow the next participant the opportunity to comment.

So our first registered commenter is Jennifer Hedaya and Jen, if you would like to unmute your microphone and and present your testimony.

JH **Jen Hadayia** 36:16

Thank you, Gwen. You said it perfectly. Good morning and thank you for the opportunity to comment on this rulemaking. My name is Jennifer Hedaya. I am the Executive Director of Air Alliance Houston. We are the longest running advocacy nonprofit in the Houston area that is singularly focused on.

GR **Gwen Ricco** 36:20

Oh, good.

JH **Jen Hadayia** 36:36

Air quality. Our interest in commenting on this rulemaking is related to our goal of reducing air pollution sources in the Houston area, including from waste management systems. Truly, thanks to today's informal Q&A period, I have a much better understanding of this rulemaking. I understand that the intent is.

Not to put forth a preferred mass balance attribution method, but to simply identify those methods that are in existence. I believe my concerns remain valid, however, because not all certification methods are created equal. Some mass balance attribution methods are more.

Or less accurate in predicting the amount of post-consumer waste in a recycled product. Some mass balance attribution methods incentivize or de-incentivize, as the case may be certain methods for single-use plastic waste management because they can promote inaccurate claims as to the amount of recycled content.

Therefore, we encourage TCEQ to identify only those methods that are known to accurately predict the amount of post consumer waste in a recycled product. For example, we recommend either the segregation and controlling blending method or the rolling average percentage allocation.

Method. Other states such as Colorado have addressed the same issue and found again that some mass balance attribution methods are more or less accurate and specifically have identified the two I just mentioned as the most accurate and to have the least possibility of false recycling content claims.

Again, we thank you for the opportunity to provide this input and we look forward to reviewing the final proposal. We will follow up these verbal comments with a written comment as well.

GR **Gwen Ricco** 38:28

Thank you, Jen. Our next commenter is one moment while I pull that up.
Malachi Key.

MK **Malachi Key** 38:41

Hello. Can you hear me OK?

GR **Gwen Ricco** 38:43

Yes, we can.

MK

Malachi Key 38:45

OK, great. Yeah, I talked a little bit earlier, but my name is Malachi Key. I am the Climate Justice Coordinator with Air Alliance Houston and my primary role focuses very heavily on advocacy around.

Air quality related to plastic production, plastic production, plastic recycling. So I'm very interested in this particular rule making and I think y'all have done a a great job so far of.

Describing how TCQ is approaching this. However, similarly to Jennifer, I wanted to voice concerns about mass balance attribution systems. As I understand, a lot of these systems tend to have a wide variety.

Variety of the way that they calculate the amount of post consumer recycled content tends to vary widely depending on which system is used. There have been multiple different groups, including the National Resource.

Defense counsel and.

The Colorado Department of Public Health and Environment that have looked into these systems as well as the Environmental Research Group CE Delft, a large portion of them have accuracy issues and we just wanted to express concerns both that consumers are able to trust their recycling system so.

You know, we we live in a time in which people are already dealing with a lot of waste management issues, especially here in Texas. So when they're being told that their products that they're recycling are actually being recycled or that they're buying a product that says it's recycled, we want them to know that that's actually true. So. We would encourage TCEQ to use only systems that have been proven by a wide variety of groups, third party groups, government research groups, nonprofits, etc. And that would include the rolling average percent allocation method, which I understand to be the most accurate.

Includes provisions for feedstock fluctuations. It is generally considered best when it comes to determining PCR within recycled products and we would like to discourage adopting mass balance credit schemes, especially those with fuel exclusion methods as these are considered.

Both inaccurate and favorable to systems such as chemical recycling, which by and large does not pass the muster when it comes to more accurate systems. Chemical recycling, for example, would not pass or be considered recycled content under more accurate mass balance.

Systems. So we just want to see transparency when it comes to this and that matters a lot when it comes to air quality because non transparent systems tend to favor methods that are not producing truly recycled content and those systems also tend to cause a lot of air pollution.

Um, but yeah, this will be followed up on further with a larger public comment letter that's gonna go into more of our concerns. But I appreciate the time to weigh in today. And uh, yeah, I just encourage TCEQ to.

You know, do the research when it comes to these systems because I think Texans deserve recycling systems that are transparent and accurate.

GR **Gwen Ricco** 42:18

Thank you, Malachi. And if and I'll leave a moment here just in case anybody has not registered it and they would like to provide formal comments, you can raise your hand and we can get to those. I'll also be putting in the chat.

The public comment link so you can share the you can submit those comments online.

And it'll just be tcq.commentinput.com and it is just the let me make sure actually I have the figured correct link.

And you'll you'll see the HB 4413 project on there.

So if there's no.

There's no further comments than this formal. Oh uh, Gabriella, yes.

If you want to unmute your microphone.

G **Gabriela Hamdiah - Environment Texas** 43:19

Yes, can you hear me?

GR **Gwen Ricco** 43:22

Yes, we can.

G **Gabriela Hamdiah - Environment Texas** 43:23

Perfect. Sorry, I I thought I registered already, but I also just wanted to thank you for holding this space and just sort of reemphasize the comments made by.

GR **Gwen Ricco** 43:26

It.

G **Gabriela Hamdieh - Environment Texas** 43:39

Malachi and Jennifer. My name is Gabriella and I'm a policy associate at Environment Texas. I'm currently working on a range of issues, but one of them is advocating against chemical recycling and systems that would incentivize chemical recycling. So I would also like to officially recommend that TCQ adopt the rolling average percent allocation method for mass balance attribution. It's considered by major research and environmental organizations to be the most accurate in determining determining PCR within recycled products.

Feedstock fluctuations and adopting inaccurate mass balance credit schemes under HB4413 would misrepresent certain products as having PCR when they do not and cannot. Particular free credit allocation has been widely criticized, including even by the plastics industry.

Because it is deceptive to the public and primarily serves to create competitive advantage for chemical recycling. And again, like like previous commenters have said before, Texans deserve a robust recycling program that actually works and is.

Most accurate to the systems that it incorporates and hopefully TCQ can adopt the rolling average percentage allocation method to comply with HB4413.

GR **Gwen Ricco** 45:08

Thank you. Well, with that, then we have no further comments. This formal session of this meeting is now closed and we appreciate your comments and we thank you for participating in this public meeting. Well, we'll stay on the line for a little bit longer in case anyone has any additional questions and I'm on the screen.

Screen. Let me put up as well the different methods of providing the written comments.

So we'll be continuing to accept written comments on this rulemaking package until 11:59 PM on February 3rd, 2026. You can provide them electronically at

tceq.commentinput.com. You can fax them to fax4808@tceq.texas.gov or you can.

Mail them to our offices and that address is up on the screen for you.

So we'll stay on the line for, like I mentioned, a few more moments to if you if anyone else has any further questions or informal comments that they want to talk over with the staff, now would be the time to do that. And you can raise your hand, unmute your mic, ask in the Q&A chat.

You can also e-mail us afterwards if you if you think of any other questions, also put

our.

Rules e-mail in there. Um.

And and yeah, so if if anyone has any further questions, now would be the time.

And we do appreciate everyone's participation in this public meeting and hope everyone's staying safe and warm at at home. And yeah, and if if anyone needs any other information from us, like I mentioned, you can always e-mail us at rules at TCQ dot texas.gov to ask questions and I can get those over to the correct individuals to answer those questions.

Questions. We will continue to accept these written comments until February 3rd next. Is that already next week? Yes, next Tuesday at 11:59 PM, February 3rd.

And if that, if there is no further questions, we can let everybody go and we really appreciate your participation in this rulemaking matter today and we look forward to your.

To your comments that you said you'll be submitting. So we thank everyone for your time and hope you stay continue to stay safe and warm at home today. Thank you.

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