

Elita Castleberry

Harris County Pollution Control Services respectfully submits the comment letter as a PDF.



April 27, 2026

Vanessa Onyskow-Lang
Texas Commission on Environmental Quality
Office of Legal Services, MC 205
P.O. Box 13087
Austin, Texas 78711-3087

Re: Comments for Stakeholders Rule Project Number 2025-031-328-WS

Dear Vanessa Onyskow-Lang,

Harris County Pollution Control Services (PCS) respectfully submits the following comments as requested by the Texas Commission on Environmental Quality (TCEQ) regarding the proposed new Subchapter M to Chapter 328 to implement HB 3229 and establish the reporting, financial assurance, and recordkeeping requirements for owners of renewable energy component recycling facilities.

PCS inspects facilities in Harris County for compliance with environmental laws and regulations, reviews permit applications and submits comments to the TCEQ on permitting actions. PCS also works closely with TCEQ's Houston Region 12 office, which refers a substantial number of environmental complaints, including nuisance complaints, from Harris County citizens. PCS then investigates these complaints and, when appropriate, issues Violation Notices and refers cases to the Harris County Attorney's Office or District Attorney's Office for civil or criminal enforcement.

Below is a list of comments and concerns identified by PCS.

- 1. Per the rule discussion, components in the proposed Subchapter M will be subject to other local, state, or federal requirements, such as municipal solid waste, industrial solid waste, or hazardous waste management regulations, including universal waste.**

The proposed rule language for 30 TAC §328.411(b) specifically states "Compliance with provisions of this subchapter does not exempt nor exclude the applicability of other local, state, or federal solid waste laws."

Pollution Control Services

Jesse Dickerman, Interim Executive Director



PCS Comment/Recommendation

PCS is concerned that there is no mention that the operation of the site might also trigger additional requirements to comply with applicable local, state, or federal water, air, or other regulations. This could include state regulations to acquire Texas Pollutant Discharge Elimination System (TPDES) permits, stormwater permits, air new source permits, petroleum storage tank registration, etc. Local laws and regulations may include engineering permits, fire marshal permits, fire plans, pretreatment requirements, etc. For example, PCS inspects used and scrap tire management facilities and regularly documents non-compliance with applicable federal, state, or local rules and regulations.

The discussion on the proposed rules notes that facilities regulated under Subchapter M may also be subject to other local, state, or federal waste regulations. The proposed rule specifically mentions “solid waste laws.”

PCS requests that the proposed rule language be broader by noting “other local, state, or federal rules, regulations, or laws may apply.”

- 2. Per the rule discussion, the definition of owner is proposed to clarify who is responsible for reporting under Subchapter M. The facility owner is the person who holds title to the real property on which the recycling facility is located, including fixtures and appurtenances ... The commission solicits comments on limiting the report submission requirement to only the recycling facility owner, or if an operator of a recycling facility may submit annual reports and obtain financial assurance.**

§328.421(3) proposes the following Owner definition - The person who has title to the real property on which a recycling facility is located.

Per 30 TAC §328.53, the Scrap tire Owner is defined - The person or company who owns the facility or part of a facility.

PCS Comment/Recommendation

During PCS inspections of tire and other recycling facilities, it is common to find that facility owners and/or operators are leasing the real property on which the recycling facility is



located. In some cases, the real property owners are often unaware of the nature of the business or the regulatory compliance the facility is subject to.

PCS requests that the proposed language of the rules be revised to specify the “owner of the facility,” similar to the scrap tire rules, which defines the owner as the facility owner, not the property owner, by default.

- 3. Per the discussion, the new rule proposes “The commission solicits comments on limiting the report submission requirement to only the recycling facility owner, or if an operator of a recycling facility may submit annual reports and obtain financial assurance.”**

Per the proposed rule 30 TAC §328.431 Reporting Requirements, “Using forms prescribed by the executive director, the owner of a recycling facility that has accepted unrecycled components for recycling shall submit a report to the executive director no later than January 15 of each year that includes:(1) - (3)”

Per the rule discussion for Reporting Requirement, “The commission solicits comments on requiring the owners of recycling facilities to submit the annual report on an agency prescribed form.”

Per 30 TAC §328.59 Storage of Used or Scrap Tires or Tire Pieces (b) requires the “owners and/or operators” to fulfill the general requirements.

PCS Comment/Recommendation

PCS is concerned that the proposed owner definition designates the real property owner as the responsible party for reporting requirements. However, as previously noted, it is not uncommon that the facility owner and/or operator are leasing the real property on which the recycling facility is located. In fact, the real property owner is often unaware of the nature of the business or the regulatory compliance the facility is subject to.

PCS requests that the TCEQ require the inclusion of language designating the facility owner and/or facility operator as the responsible party for submitting required reports, financial assurances, and other operating requirements, similar to the TCEQ scrap tire rules.



4. Per the rule discussion, “The commission solicits comments on the definition of closure.”

The proposed definition in 30 TAC §328.421(2) for Closure, “The act, outside of daily operations, of collecting all components accepted from a wind turbine generator, a solar energy device, or a battery energy storage system, including any components the recycling facility has taken title to or assumed control of regardless of whether the components are located at the recycling facility, and properly recycling or disposing of the components.”

Per 30 TAC §335.1(36), Closure is defined as “The act of permanently taking a waste management unit or facility out of service.”

Per 30 TAC §328.53(5), Closure is defined as “The cessation of acceptance of used or scrap tires or tire pieces for processing and/or storage which results in taking the facility out of service.”

PCS Comment/Recommendation

The proposed closure definition is confusing, with multiple examples of components, the location of the components, daily operations, control of the components, etc., and does not mention taking the facility out of service or any requirements for doing so.

PCS requests that the definition of Closure be “The act of collecting all components accepted by the recycling facility, and properly recycling or disposing of the components, which results in taking the facility out of service.” As currently written, the proposed definition would allow facilities to continue to have ownership of components after the recycling facility is closed.

5. Per the rule discussion, “The activities contained in the cost estimate are common items that are required in cost estimates prepared for other recycling programs, including scrap tire (30 TAC §328.71), municipal solid waste (30 TAC §328.5(c)). The commission solicits feedback on the activities that must be accounted for in cost estimates prepared under Subchapter M.”



30 TAC §328.431(3) proposes to require a written cost estimate for hiring a third-party to recycle or dispose of the unrecycled components, prepared by an independent, third-party Texas licensed professional engineer, in current dollars, that includes:(A) – (C)

PCS Comment/Recommendation

PCS is concerned that the recycled material may contain metals (lead, lithium, copper, etc.), fluids (lube, oil, grease, etc.), or other pollutants that may spill onto the ground and pollute the environment. PCS is additionally concerned that the cost estimate does not include soil remediation, stormwater cleanup, excavation of contaminated media, facility decontamination, transportation of hazardous substances, etc., that may be needed to consider the recycling facility closed. Failure to include these costs may result in a threat to the environment and thus result in remediation costs being passed on to the state, local government, or property owners.

PCS requests that remediation and decontamination be accounted for and included as part of the cost estimate.

- 6. 30 TAC §328.441(e) proposes the following language: “Unless subject to a contrary provision of an order of the commission or an order of a court of competent jurisdiction, the owner of a recycling facility must perform closure: (1) – (5)”**

The Financial Assurance discussion section notes, “The commission solicits comments on proposed Subsection (e) and the requirements when a recycling facility must perform closure.”

PCS Comment/Recommendation

The proposed rule refers to “unrecycled components” multiple times. As noted above, PCS is concerned that remediation and decontamination resulting from recycled components contaminating the environment may not be covered as part of the cost estimates and financial assurance.

PCS requests that remediation and decontamination be accounted for and included for recycled components that may contaminate the environment, be part of the cost estimate, and financial assurance.



7. **In the Rural Community Impact Assessment, “The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect.**

The amendments would apply statewide and have the same effect in rural communities as in urban communities.”

A review of the location of wind turbines in <https://turbine.com> revealed that the majority of wind turbines are located in rural locations. The same is true of solar panels per <https://energy.usgs.gov/uspvdb/viewer>.

Per the proposed 30 TAC §328.431(3)(C), the cost estimate must include “the cost for transporting unrecycled components offsite to an authorized recycling or disposal facility.”

PCS Comment/Recommendation

PCS is concerned that renewable energy recycling facilities may adversely affect rural communities that are not aware of rules and regulations, speculative accumulation, TPDES permits, groundwater contamination, etc. This may require increased availability of staff from the Small Business and Local Government Assistance, as well as multimedia permit writers and regional office inspectors. Additionally, the cost of transporting components to recycling or disposal facilities may increase the price of cost estimates used for closure of recycling facilities.

PCS requests that the TCEQ provide staff training and be prepared for increased delays in permit reviews and inspections. PCS also requests that staff reviewing cost estimates take into account the increased transportation costs of recycling in rural areas.

8. **The Recordkeeping Requirements discussion notes “While new THSC Chapter 376 is silent on and does not establish specific recordkeeping requirements, the commission proposes required recordkeeping in accordance with the commission’s general statutory authority to ensure recycling facilities maintain accurate and verifiable documentation of recycling and disposal activities. The commission solicits comments on the inclusion and necessity of recordkeeping requirements.”**



The proposed rule 30 TAC §328.451 notes, in addition to other applicable recordkeeping requirements under local, state, or federal law, the owner of a recycling facility must maintain records for activities conducted under this subchapter for a minimum of three years including but not limited to manifests, bills of lading, records of quantities of components recycled onsite or offsite, records of waste disposal, and any documentation used to establish the information reported to the executive director under §328.431 (relating to Reporting Requirements). The owner of the recycling facility must furnish to the executive director, upon request and within a reasonable time, records maintained under this section.

PCS Comment/Recommendation

There is no mention of training, inspections, logs, site operating plans, fire plans, the location of the records, etc., similar to what is found in the record-keeping rules for scrap tire storage or transfer stations.

PCS requests that the TCEQ expand the recordkeeping requirements to include other records, including training, inspections, plans, location of the records, etc.

- 9. The rule discussion section for Financial Assurance Requirements notes, the rule “...establishes financial assurance requirements for recycling facilities to ensure adequate funds are available for the commission to properly recycle or dispose of unrecycled components in the event that the owner fails to do so... The commission specifically solicits comments on the requirement that the executive director review and approve cost estimates, the review and approval described above, and the yearly adjustment processes described above... New THSC Chapter 376 is silent on whether the executive director may receive and spend funds to perform closure by removing unrecycled components in the event that the owner of the recycling facility fails to do so. Therefore, the commission proposes subsection (f) in accordance with the commission’s general statutory authority and solicits comments on proposed subsection (f).”**

30 TAC §328.441(f) proposed language states “The executive director is authorized to receive and spend funds as a beneficiary of financial assurance established in this subchapter.”



PCS Comment/Recommendation

PCS has documented a significant number of generators, transporters, and scrap tire facilities that lack the required authorization to operate. As a result, some used and scrap tire management properties end up with abandoned used and scrap tires, potentially providing harborage for rodents and creating nuisance conditions. PCS is concerned that a similar situation could occur if unrecycled material is abandoned by a recycling facility, potentially leading to abandoned wind turbines, solar panels, batteries, and other components. However, the proposed 30 TAC §328.441(f) would allow the executive director to receive and spend funds that could be used to clean up an abandoned recycling facility.

PCS requests that the TCEQ implement a fee program associated with the financial assurance fund or yearly adjustment process to create a fund for the cleanup of future abandoned or unauthorized renewable energy recycling sites.

Thank you for the opportunity to provide these concerns regarding the proposed new Subchapter M to Chapter 328 to implement HB 3229. Should you have any additional questions or concerns, please contact Elita Castleberry at (713) 274-6236 or by email at elita.castleberry@pcs.hctx.net.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jesse Dickerman', followed by a long horizontal line extending to the right.

Mr. Jesse Dickerman
Interim Executive Director

cc: Mikayla Panariello - Harris County Judge's Office
Sarah Utley - Harris County Attorney's Office
Nicole Bealle - TCEQ Region 12

EBC/lw