

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** April 20, 2016

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: Brent Wade, Deputy Director
Office of Waste

Subject: Docket No. 2015-1448-RUL / Project No. 2015-019-326-WS
Highlight/Double Strikeout Version of Documents Listed Below

The attached document contains revisions identified in highlight/double strikeout and is provided as *REVISED BACK-UP MATERIAL* to the documents filed on April 7, 2016, scheduled for your consideration on April 27, 2016.

The proposed definitions for non-hazardous pharmaceutical and trace chemotherapy waste are removed, and the remaining definitions are renumbered accordingly.

Revision is made to adopted new §326.61(a) to remove the terms "non-hazardous pharmaceutical waste" and "trace chemotherapy waste" and the requirement that these waste be incinerated. A new sentence is added to indicate that the executive director may authorize these facilities to store and process other related waste.

Executive Summary

- Page 3 – "Additional staff recommendations ..."
 - replaced "None." with "Revisions to tailor the waste rules for medical waste and remove inapplicable requirements."
- Page 4 – "Public comment:"
 - a grammatical correction was made to replace "was" with "were."
- Page 5 – "Significant changes from proposal:"
 - 5th bulleted item – "72 hours after" was added and "72-hour" and "at" were removed.
 - last bulleted item – added language to explain the removal of two definitions from the rule and struck out the option for future treatment methods.

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Chapter 326 Preamble

- Page 4 & 5 — *§326.3, Definitions*
 - added "The proposed" and "not adopted, and the remaining definitions are renumbered accordingly" to this section; struck out the remaining language in this paragraph; and struck out the entire language in the 2nd paragraph.
- Page 5 — *§326.3, Definitions*
 - renumbered §326.3(43) and (54)(B) to §326.3(42) and (53)(B).
- Page 19 — *§326.61, Applicability and General Information*
 - added language to explain that two terms are removed from the definitions and that a new sentence is added to the rule indicating that the executive director may authorize facilities to store and process other related waste.
 - struck out "non-hazardous pharmaceutical waste and trace chemotherapy waste."
- Page 45 — *Public Comment*
 - removed "The commissioners received several comments in support of the added definitions for "Non-hazardous pharmaceutical waste" and "Trace chemotherapy waste" with the exception that several commenters suggested to add additional treatment methods for each waste."
- Page 52 — *Response to Comment (RTC) on §326.3(27), Non-hazardous Pharmaceutical Waste and §326.3(57), Trace Chemotherapy Waste Definitions*
 - added an explanation that the commission acknowledges United States Environmental Protection Agency's (EPA) proposed rules regarding pharmaceuticals but since the EPA has not adopted the proposed rules the proposed definition for non-hazardous pharmaceutical and trace chemotherapy waste are removed from the proposed Chapter 326 rules. "The commission appreciates the comment" is removed from this paragraph.
- Pages 55 to 57 — *RTC on Non-hazardous Pharmaceutical Waste Definition*
 - replaced initial response with a new response that incineration may not be the only method of treatment for non-hazardous pharmaceutical waste and acknowledges the EPA's proposed definition and treatment for non-hazardous pharmaceutical waste but that federal rules are not adopted and therefore the definition and requirement to incinerate are removed from the proposed Chapter 326 rules.

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- Pages 57 – *RTC on Putrescible Waste Definition*
 - putrescible waste definition is renumbered as §326.3(43).
- Pages 58 & 59 – *RTC on Storage Definition*
 - storage definition is renumbered as §326.3(53).
- Pages 61 & 62 – *RTC on Trace Chemotherapy Waste Definition*
 - adds the comment response that incineration may not be the only method of treatment for trace chemotherapy waste and acknowledges the EPA's discussions on treatment for trace chemotherapy waste but that federal rules are not adopted and therefore the definition and requirement to incinerate are removed from the proposed Chapter 326. Removes the comment response from all of page 61 and first two sentences on page 62.

Chapter 326 Rule

- Pages 104 to 115:
 - Removed §326.3(27) definition, "Non-hazardous pharmaceutical waste" from the rule
 - §326.3(28), Notification, has been renumbered as §326.3(27)
 - §326.3(29), Nuisance, has been renumbered as §326.3(28)
 - §326.3(30), On-site, has been renumbered as §326.3(29)
 - §326.3(31), Operate, has been renumbered as §326.3(30)
 - §326.3(32), Operating hours, has been renumbered as §326.3(31)
 - §326.3(33), Operating record, has been renumbered as §326.3(32)
 - §326.3(34), Operation, has been renumbered as §326.3(33)
 - §326.3(35), Operator, has been renumbered as §326.3(34)
 - §326.3(36), Owner, has been renumbered as §326.3(35)
 - §326.3(37), Permit, has been renumbered as §326.3(36)
 - §326.3(38), Physical Construction, has been renumbered as §326.3(37)
 - §326.3(39), Pollutant, has been renumbered as §326.3(38)

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- §326.3(40), Pollution, has been renumbered as §326.3(39)
- §326.3(41), Processing, has been renumbered as §326.3(40)
- §326.3(42), Public highway, has been renumbered as §326.3(41)
- §326.3(43), Putrescible medical waste, has been renumbered as §326.3(42)
- §326.3(44), Recycling, has been renumbered as §326.3(43)
- §326.3(45), Registration, has been renumbered as §326.3(44)
- §326.3(46), Regulated hazardous waste, has been renumbered as §326.3(45)
- §326.3(47), Rubbish, has been renumbered as §326.3(46)
- §326.3(48), Run-off, has been renumbered as §326.3(47)
- §326.3(49), Run-on, has been renumbered as §326.3(48)
- §326.3(50), Site, has been renumbered as §326.3(49)
- §326.3(51), Site operating plan, has been renumbered as §326.3(50)
- §326.3(52), Solid waste, has been renumbered as §326.3(51)
- §326.3(53), Source-separated recyclable material, has been renumbered as §326.3(52)
- §326.3(54), Storage, has been renumbered as §326.3(53)
- §326.3(55), Surface water, has been renumbered as §326.3(54)
- §326.3(56), Tank, has been renumbered as §326.3(55)
- Removed §326.3(57) definition, Trace chemotherapy waste, from this rule.
- §326.3(58), Transfer station, has been renumbered as §326.3(56)
- §326.3(59), Transportation unit, has been renumbered as §326.3(57)
- §326.3(60), Transporter, has been renumbered as §326.3(58)
- §326.3(61), Trash, has been renumbered as §326.3(59)
- §326.3(62), Treatment, has been renumbered as §326.3(60)
- §326.3(63), Uncompacted waste, has been renumbered as §326.3(61)
- §326.3(64), Unloading areas, has been renumbered as §326.3(62)
- §326.3(65), Vector, has been renumbered as §326.3(63)
- §326.3(66), Water in state, has been renumbered as §326.3(64)
- §326.3(67), Waters of the United States, has been renumbered as §326.3(65)

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- §326.3(68), Wetlands, has been renumbered as §326.3(66)
- Page 157 — §326.61(a)
 - struck out "non-hazardous pharmaceutical waste" and "trace chemotherapy waste" language
 - added, "The executive director may authorize these facilities to store and process other related waste."
- Page 192 — §325.75(b)
 - the reference of §326.3(46) is corrected to §326.3(45) due to the renumbering of definitions.

Attachments:
Executive Summary
Chapter 326

cc: Chief Clerk, 2 copies
Executive Director's Office
Marshall Coover
Erin Chancellor
Stephen Tatum
Jim Rizk
Office of General Counsel
Mario Perez
Gulay Aki
Derek Baxter