

Adopting U.S. EPA's Generator Improvement Rule in California

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Timeline

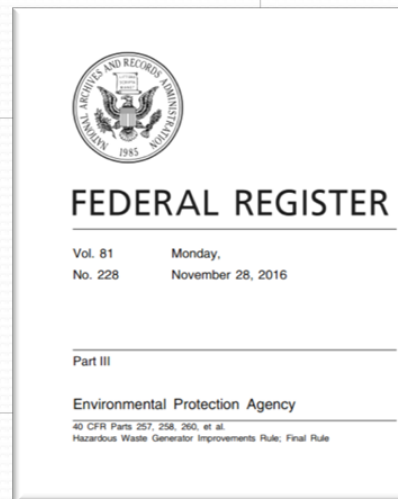
Signed
October 28, 2016

Codified
May 30, 2017

September 15, 2015
Proposed rule

Published in
federal register
November 28, 2016

Authorized
States must
Adopt more
Stringent
requirements
By July 1, 2018
(or July 1, 2019,
If change in law
Is required)



• Major Rule Provisions

1. Reorganization
2. Hazardous Waste Determinations (§ 262.11)
3. Hazardous Waste Counting (§ 262.13)
4. VSQG Requirements
 - Episodic Generation (part 262 subpart L)
 - Consolidation of VSQG Waste at LQGs (Same Company) (§§ 262.14 & 17)
5. Marking and Labeling (throughout generator regulations)
6. Satellite Accumulation Areas (§ 262.15)
7. SQG Re-notification (§ 262.18)
8. Drip pads and containment buildings (§ 262.16)
9. Emergency planning & preparedness (§ 262.16 & part 262 subpart M)
10. 50-foot waiver (§ 262.17)
11. Reporting and Recordkeeping (§ 262.41)
12. Closure (§ 262.17)
13. Additional Clarifications

1. Reorganization of Generator Regulations

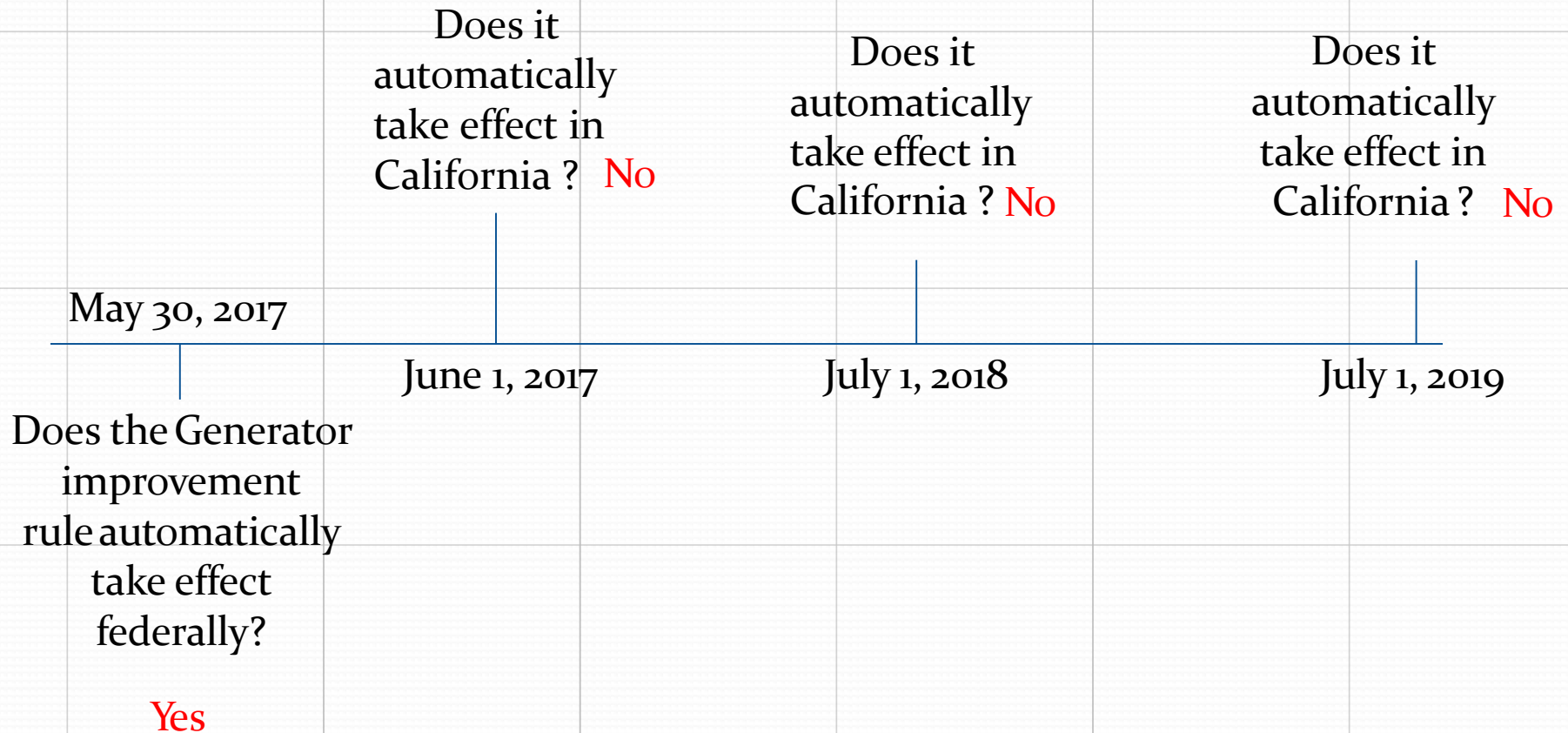
| Provision | Existing Citation | Final Citation |
|--|--------------------------------|----------------|
| Generator Category Determination | § 261.5(c)-(e) | § 262.13 |
| VSQG Provisions | § 261.5(a), (b), (f)-(g) | § 262.14 |
| Satellite Accumulation Area Provisions | § 262.34(c) | § 262.15 |
| SQG Provisions | § 262.34(d)-(f) | § 262.16 |
| LQG Provisions | § 262.34(a), (b), (g)-(i), (m) | § 262.17 |

As part of this reorganization, the Agency made conforming changes to citations that reference § 261.5 and § 262.34

Major Changes of Final Rule by Generator Category

| New Provision | VSQG | SQG | LQG |
|--|------|-----|-----|
| Reorganization | X | X | X |
| LQG Consolidation of VSQG wastes | X | | X |
| Episodic Generation | X | X | |
| 50-foot Waiver | | | X |
| Marking & Labeling | | X | X |
| Marking RCRA Waste Codes | | X | X |
| SQG Re-notification | | X | |
| Contingency Plan Quick Reference Guide | | | X |
| Closure Notification | | | X |
| Closure as Landfill if Can't Clean Close | | | X |
| BR Reporting by Recyclers Who Don't Store* | | X | X |

Timeline



Maintaining Authorization

- To retain authorization, State programs must be fully equivalent to, and no less stringent than, the Federal program. States may also impose requirements that are “broader in scope” or “more stringent” than the Federal program.
- “No less stringent” signifies that each aspect of the State regulations must be at least as stringent.
- US EPA has categorized all hazardous waste generator improvement rule requirements as either (1) more stringent, (2) less stringent, or (3) neither less or more stringent

Stringency of Final Rule

- More stringent:
 - SQG re-notification
 - Identifying hazards of wastes being accumulated & labeling
 - Notification of closure
 - Closure as a landfill for LQGs accumulating hazardous wastes in containers that cannot meet closure performance standards
 - Biennial reporting for whole year, not just months the generator was an LQG
 - Biennial reporting for recyclers who don't store prior to recycling
 - Quick Reference guide for contingency plans
- Less stringent:
 - VSQG consolidation
 - Episodic generation
 - Waiver from 50-foot rule

To Summarize

- The hazardous waste generator improvement rule does not take effect in California until DTSC adopts it
- To retain state authorization, DTSC is required to adopt those provisions within the rule that are more stringent
- DTSC may adopt provisions that are less stringent or neither less nor more stringent, but is not required to

What rules apply in California?

- California Code of Regulations, title 22, division 4.5, chapter 12 (California's hazardous waste generator rules).
- What about rules in chapter 12 that reference rules in Code of Federal Regulations, title 40, part 262 that have been moved?
 - Those rules in chapter 12 still apply

Biennial Reporting

- **Summary of revisions:** Throughout the years the data elements have been modified by changing the report instructions but not updating regulations. The change formalizes the process by referencing 8700-13A/B.
- Where is it located in title 40?
 - Section 262.41(a) and (b)
- Direct counterpart in T22?
 - Section 66262.41(b)
- Are revisions required to be adopted by DTSC? No

Emergency Preparedness and Planning

- **Summary of revisions:** Creates flexibility, including to eliminate unnecessary employee personal information in the contingency plan (for LQGs) and to determine the most appropriate locations for emergency equipment.
- Where is it located in title 40?
 - Section 262.16(b)(8) and (b)(9) and section 262.17 (a)(6) and (a)(7) which references part 262, subpart M (new section for LQGs)
- Direct counterpart in T22?
 - Chapter 15, article 3 and 4
- Are revisions required to be adopted by DTSC? No

Satellite Accumulation Areas

- **Summary of revisions:** This provision makes 9 total regulatory changes to the SAA requirements, including adding special requirement for incompatibles and exceptions for keeping containers closed.
- Where is it located in title 40?
 - Section 262.15
- Direct counterpart in T22?
 - Section 66262.34(e) and H&S code, section 25123.3
- Are revisions required to be adopted by DTSC? No

SQGs using drips pads and containment buildings

- **Summary of revisions** – Clarified that SQGs can use drip pads and containment building to accumulate hazardous waste
- Where is it located in title 40?
 - Section 262.16 (b)(4) and (5)
- Direct counterpart in T22?
 - None
- Are revisions required to be adopted by DTSC? No

Provision identified by US EPA as more stringent:

- Requires SQGs to re-notify
- Require SQGs/LQGs better identify risks of HWs accumulated
- Require LQGs (1) notify when closing a facility, (2) submit biennial reporting for all months, and (3) update contingency plan to include a quick reference guide
- Requires facilities recycling HW w/o storing to prepare and submit biennial reporting

Enhanced labeling and marking

- **Summary of revisions:** require generators to identify hazards associated with their waste and to place EPA hazardous waste codes on container prior to transport. Inventory logs for tanks to demonstrate its empty.
- Where is it located in title 40?
 - Section 262.15(a)(5), 262.16(b)(6), 262.17(a)(5) and 262.32(b) and (c)
- Direct counterpart in T22?
 - Section 66262.34(f)(3) and section 66262.32(b)(2)
- Are revisions (or parts thereof) required to be adopted by DTSC? Yes

LQG closure regulations

- **Summary of revisions:** Requires LQGs notify US EPA using 8700-12 when their facility or waste accumulation unit is closed and identifies clean close standards. Also expands applicability to containers in Central Accumulation Areas (CAAs).
- Where is it located in title 40?
 - Section 262.17(a)(8)
- Direct counterpart in T22?
 - Chapter 15 (tanks, containment buildings, drips), none for containers
- Are revisions (or parts thereof) required to be adopted by DTSC? Yes

Preparedness, Prevention and Emergency Procedures

- **Summary of revisions:** requires SQGs and LQGs attempt to make contact with local responders and requires LQGs develop a quick reference guide that summarizes their contingency plan.
- Where is it located in title 40?
 - Section 262.16(b)(8)(vi) and section 262.256 and section 262.262(b) and (c) for quick reference.
- Direct counterpart in T22?
 - Chapter 15, article 3 and 4 (None for quick reference guide)
- Are revisions (or parts thereof) required to be adopted by DTSC? Yes

Biennial Reporting

- **Summary of revisions:** requires LQGs submit reporting for all hazardous waste generated in the calendar year and requires recyclers complete biennial reporting.
- Where is it located in title 40?
 - Section 262.41(a)
- Direct counterpart in T22?
 - Section 66262.41(b)
- Are revisions (or parts thereof) required to be adopted by DTSC? Yes

Provisions identified by US EPA as less stringent

- Allows vSQGs to voluntarily send HW to LQGs
- Allows LQGs to apply for a waiver from local fire to accumulated HW within the 50 foot facility boundary
- Allows vSQGs and SQGs to maintain existing regulatory status if they have an episodic event

Next steps?

- Rulemaking process for more stringent requirements
- How?
 - Section 100; or
 - Full rulemaking process
- Objective: maintain authorization
- Rulemaking process for less stringent and neither less or more stringent requirements.
- How????
- Objective: identify provisions that will help California's HW generator program be more user friendly, clearer, address safety gaps and be more flexible while maintaining environmental protections

Questions

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THANK YOU!

