

## Therriault, John

**From:** McCambridge, Michael  
**Sent:** Thursday, December 20, 2012 2:35 PM  
**To:** 'Westefer.Gary@epamail.epa.gov'  
**Cc:** Burke, Jennifer; Therriault, John; Brown, Don; Robertson, Daniel  
**Subject:** RE: R 13-15

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Pollution Control Board

Pct# 2

Thank you. Just keep them coming.

John Therriault: Please add this to the e-mail-based public comment from Mr. Westefer in reserved docket R13-15 only.

Michael J. McCambridge  
Attorney  
312-814-6924 (M-Th, 9:00 a.m.-7:00 p.m.)  
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**From:** Westefer.Gary@epamail.epa.gov [mailto:Westefer.Gary@epamail.epa.gov]  
**Sent:** Thursday, December 20, 2012 2:12 PM  
**To:** McCambridge, Michael  
**Cc:** Mikalian.Charles@epamail.epa.gov; Marvel, Todd  
**Subject:** RE: R 13-15

Mike: Here is the whole ball of wax on ORC's review of approximately 60 rules:

The first 6 are those that you have already received. The second group (three) are not required to be repaired, but you may wish to visit them as they aren't 100% identical in substance (I am sure these were unintentional) and the third group, A & B have non-delegable areas that are delegated in your rule, and C is a less stringent rule. In summary, groups one and three need to be repaired, and group 2 probably should be, but that is at Illinois' discretion.

### Comments on Illinois' ARA 8 – Comments to IPCB for Rule Corrections

***The following rule corrections are probably unintentional typographic errors considering the rules are governed by the Identical in Substance Statute, but could be interpreted as rendering your program as less stringent. Therefore the IPCB needs to make these corrections:***

A. Checklist 154 (59 FR 62896; 12/06/1994): 725.1090(g)/265.1090(g): federal regulation includes cross references to 265.1085(l) and 265.1086(g), state regulation only references 725.1085(l). A reference to 725.1086(g) needs to be added to the Illinois rule at 725.1090(g).

B. Checklist 212 (70 FR 59402; 10/12/2005): 726.200(b)(4) / 266.100(b)(4) State regulation omits the reference to 63.1217(e) found in federal regulation. Please add this reference.

C. Checklist 212 (70 FR 59402; 10/12/2005): 703.241(a)(3)/270.32(b)(3) the federal regulation cites to 40 CFR 63EEE, 264 and 266. State regulation cites to 40 CFR 63 EEE, 724 and 725. As this cite involves permit conditions, it deals with 40 CFR 264 and 266 (Boilers and Industrial Furnaces) rather than 265 which deals with interim status only. Therefore the correct state cite should be 35 IAC 724 and 726.

D. Checklist 154.3 (60 FR 50426; 9/29/1995): 724.989(i)(2)(B) /264.1089(i)(2)(ii)(record keeping) concerns containers. State regulation says "tanks" instead of "containers" on line 3; same problem (word "tank is inserted instead of "containers") occurs again in 724.989(i)(3)(B), line 3.

E. Checklist 163 (62 FR 64636; 12/08/1997): 265.1085(f)(3)(i)(D)(4)/725.985(f)(3)(A)(iv) references (f)(4)(D)(due to state codification issues, IPCB couldn't do another level of subdivision). Therefore, IPCB moved federal (f)(3)(i)(D)(4) to state (f)(3)(d)). Since Illinois' cross reference to (f)(4)(D) is wrong, it renders the state regulation partially unenforceable. Please change your cross reference to (f)(3)(d).

F. Checklist 154 (59 FR 62896; 12/06/1994): In 40 CFR 264.1030 - note following (c): Federal regulations delete the reference to 262.34 in the note (this deletion also occurs in the note following 264.950). The state regulation properly deletes it in the 724.950 note but does not make this deletion in 724.930. The result is the State might exempt more entities than the federal equivalent. Please delete the note in 724.930.

***The following comments do not need to be addressed in this application, but the IPCB will likely wish to address them. The 415 ILCS 1022 statute requires the Illinois program to be identical in Substance, not more stringent. The following issues would make the program more stringent, although one may argue that the last two could be Broader in Scope. They are probably unintentional typos given the writers are aware of the requirements of the statute and have been very conscientious in following it.***

#### Potentially More Stringent

A. Checklist 163 (62 FR 64636; 12/08/1997): (Subpart CC), 724.989(f)(1)/264.1089(f)(1): Federal regulation cross-references 6 exemptions in 264.1082(i-vi); the Illinois regulation only cross-references 5 exemptions 724.982(c)(2)(a)-(c)(2)(e), even though the underlying state regulation has all 6 exemptions.

B. Checklist 163 (62 FR 64636; 12/08/1997): 725.990(a)/265.1090(a): this federal regulation was changed to add cross references to 265.1090(i) and (j). In this subsection, a facility is required to maintain air emission control equipment design documentation for at least 3 years except for the information in paragraphs (i) and (j). In the Illinois regulation, the information in paragraph (i) and (j) is correct, but the exception reference is wrong, excepting only 725.990(j) and not excepting 725.990(i).

C. Checklist 142A (60 FR 25492; 5/11/1995): 722.111(d)/262.11(d) Federal regulation offers generators exclusions in Part 261(exclusion offers cover 261, 264, 265, 266, 267, 268, 273); state regulations do not offer the exclusions in Part 721 (exclusion offers cover 722, 724, 725, 726, 727, 728, 733).

#### ***These rules are less stringent and authorization cannot be granted until they are fixed:***

A. Checklist 162 (62 FR 64504; 12/05/1997): Much of the export rules cannot be delegated. In our case section 268.44(a) is approvable only if "Administrator" stays in the state regulations and is NOT replaced with a state term. But, State replaced "Administrator" with "Board". Please replace Board with Administrator as this is a non-delegable rule.

B. Checklist 210 (70 FR 53420; 9/08/2005): Much like the situation in checklist 162, in 727.140 (267.150), you need to replace "Agency" with U.S. EPA Headquarters.

C. Checklist 152(61 FR 16290; 4/12/1996): The following issues clearly render this less stringent.

262.10(e) [722.110 d/e]: EPA added new 262.10(d) and renumbered old (d) to new (e). The state revised old (d) to match the new EPA (d) but did not keep the state equivalent to 262.10(e), thereby excusing entities from the generator requirements.

262.80(a) [722.180(a)]: State regulation is missing the word "or" in 2nd line from bottom

Checklist 152, 262.85(g) [722.185(g)]: Checklist and rule preamble says to keep the federal citations 2.203(b) and 260.2. State replaced the federal citations with State citations. Please retain the Federal citations.