

From: Robinson.Jeffrey@epamail.epa.gov
To: Chang.Allen@epamail.epa.gov
Cc: [Rheaume.Thomas](mailto:Rheaume.Thomas@epamail.epa.gov); Barrett.Richard@epamail.epa.gov
Subject: Re: Replacement
Date: Friday, October 05, 2007 11:21:37 AM

Tom:

EPA Region 6 has been discussing the issue of "like-kind" replacement with a couple Regions and OAQPS. We are trying to establish some common ground on whether this is either "construction" or "routine maintenance", with reference to NSR/PSD rules.

One EPA Region we have talked with indicated that no special consideration was given to "like-kind" replacement, with the ERP Rule vacated. Must go through actual to projected actual test along with PSD applicability tests for construction or demonstrate routine maintenance through past guidance for 4 step test (some of this noted in preamble to vacated Rule), i.e., physical change or change in method of operation, significant net emissions increase, or baseline date (PSD applicability); or nature and extent of project, historical practices of industry, repetitive maintenance, and cost of project (4 step test), the Region also indicated that if it is a whole unit replacement, it is construction. If it is components of a unit, it could be routine maintenance, if they demonstrate routine, by the steps above.

When we spoke with OAQPS they also indicated that no special consideration is given to "like-kind" replacement, with ERP Rule vacated. Same position as one of the Regions we spoke with, except does not go so far as position on units vs. components. Also, internal discussions are still ongoing on whether the "routine maintenance" demonstration is applicable to the facility or to the industry. The vote is split on that, and it is still a gray area. They will not sign off on "like-kind" replacement as not construction (i.e., blanket exemption to construction). Must still go through "routine maintenance" 4-factor test/demonstration, per 1988 and 2002 guidances (see attached), or actual to projected actual for PSD applicability if not routine maintenance. 2002 guidance addresses component replacement, and 1998 guidance somewhat addresses whole unit replacement. States cannot just assume non-construction or make policy for non-construction, without demonstrations. They are currently busily filing last briefs on vacated ERP Rule.

Jeff

Allen Chang/R6/USEPA/US

10/05/07 01:23 PM

To "Rheaume, Thomas" <RHEAUME@adeq.state.ar.us>

cc Jeffrey Robinson/R6/USEPA/US@EPA, Richard Barrett/R6/USEPA/US@EPA

Subject Re: Replacement [Link](#)

Hi Tom,

I have found following several guidance documents may be useful regarding the issue you asked. They are found from EPA Guidance and Policy Database. The 9/9/1988 Memorandum has been frequently cited and used in many documents issued later. Other documents also

explained whether the activities in question may require PSD review. If you need more information, please let me know.

Routine Maintenance, Repair or Replacement

9/9/1988

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/wpco2.pdf>

10/14/1988

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/fnaldtrm.pdf>

11/05/2001

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/20011105.pdf>

5/23/2000

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/detedisn.pdf>

Like-Kind Replacement

4/1/1999

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/pse&g.pdf>

10/21/1999

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/culley.pdf>

3/10/2002

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/linden.pdf>

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"Rheume, Thomas"
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09/20/2007 12:17 PM

To Jeffrey Robinson/R6/USEPA/US@EPA, Richard
Barrett/R6/USEPA/US@EPA, Allen Chang/R6/USEPA/US@EPA

cc

Subject Replacement

I received the attached.

This seems to be a common occurrence across the country. Is there any guidance on whether or not this is PSD?

The argument that ADEQ allows it is misleading.

Thank you

Thomas Rheaume
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[attachment "Centerpoint.pdf" deleted by Allen Chang/R6/USEPA/US]