

cement factory or coal for a boiler) with a new one of a different type because both new and old equipment serve the same purpose (even if the characteristics of the ground material would be different before and after the replacement).

- Replacing existing spray paint nozzles with new ones that might atomize the spray better or have a higher transfer efficiency because the “before” and “after” nozzles serve the same function.

At the same time, there are numerous activities that occur at facilities that may fall within the bounds of the cost threshold percentage, basic design parameters, and other backstop features of today’s rule, but nevertheless cannot qualify for the RMRR exclusion on the grounds that the equipment is neither identical nor functionally equivalent. An example of this would be a chemical processing facility where the owner or operator makes a physical change that allows the production of a new end product that physically could not have been manufactured with the previous equipment using the same raw materials as used before in the same amounts as before. This would not be a functionally equivalent replacement activity because the facility is able to produce an end product after making the change that the facility was not capable of making before the change. Consequently, this activity would not qualify as RMRR under today’s ERP.

Several commenters said the equipment replacement provision will streamline the major NSR applicability analysis. A number of commenters believed the ERP would be easier to implement than the proposed annual maintenance, repair and replacement allowance approach. One commenter said that allowing identical replacements to be excluded from major NSR will codify existing industrial practices, where replacement has no impact on emissions and would clearly represent RMRR.

Many commenters expressed support for the ERP, but recommended certain changes that they felt needed to be made to improve the proposal. One commenter supported the ERP in combination with a capacity-based option, on the assumption that repair and maintenance is to be excluded as well as equipment replacement.

One commenter attempted to collect data from turbine customers and found that achieving a level of data collection necessary for the ERP was far from simple, because the cost of maintenance activities is affected by such things as variability in engine model, package technology, and type of maintenance

contract. Another commenter gave an example of the benefit that the ERP may provide. Without the ERP, the commenter said the source is limited to some fraction of boiler tubes allowed to be replaced at a given time, whereas with the ERP, replacement of all boiler tubes would, in the commenter’s opinion, rightfully be considered routine. Another commenter said the ERP will remove regulatory burdens for types of equipment replacements that are in their view “routine,” such as replacement of tubes in industrial boilers. They added that, without a clearer understanding of which activities are RMRR, they may be inclined to delay conducting such replacements.

Many other commenters generally opposed any change to the RMRR exclusion, including one based on equipment replacement. Some of these commenters believed the ERP was problematic because it would allow a source to replace an entire process unit over time. Two of the commenters opposed the ERP because they felt it would create disincentives for the implementation of Plantwide Applicability Limits (PAL) and Clean Unit provisions from the recently finalized rule.

One commenter said that from an engineering standpoint, for a power plant, the difference between routine maintenance and a major plant refurbishing project is clear. To further clarify, the commenter made the following points. According to the commenter, routine maintenance is frequent and follows a predictable pattern. The commenter characterized routine maintenance at power plants as: repair of leaking pipes, pumps, valves, and fans; cleaning and lubrication of components; and inspections. The commenter added that permanent staff do this work either while the plant is operating or during only brief periods of downtime. The commenter further expressed that activities that are not routine require long plant or process unit shutdowns, are done infrequently, and are major capital projects for which special funding is set aside as a result of years of planning and design work.

One commenter said the proposal will allow emissions increases that will be difficult to offset through other regulations. One commenter objected to the ERP for a number of reasons: (1) The provision does not prevent replacement with different equipment; (2) it does not promote efficiency improvements or application of good air pollution controls; and (3) it would allow replacements that would significantly increase emissions. This commenter

said replacement of air pollution controls should trigger best available control technology (BACT) or lowest achievable emission rate (LAER) requirements. Two local air pollution control agencies in California noted that they currently already exclude all replacements with identical equipment from major NSR when certain conditions are met.

Commenters generally had similar viewpoints on allowing both identical and functionally equivalent equipment replacements to qualify as RMRR. However, some commenters expressed greater concern related to excluding the replacement of equipment with functionally equivalent equipment. Primarily their concerns were rooted in the fact that a functionally equivalent replacement component could lead to increases in operational efficiency or productivity, and these commenters asserted that these sorts of process enhancements should not be excluded as RMRR.

We agree with the commenters who felt identical and functionally equivalent replacement activities generally should be excluded as RMRR. We also agree with the commenters who believe that this provision will streamline the major NSR applicability process and will bring clarity. The provision we are finalizing will allow a source to make a simple determination as to whether a replacement piece of equipment qualifies as identical or functionally equivalent. This type of determination will be straightforward and easier for the source to implement than the current case-by-case analysis required to determine a replacement falls within the RMRR exclusion. We support the air pollution agencies that have already excluded these types of changes from NSR.

We disagree with those commenters who believe that this provision will create disincentives for sources to accept a PAL or have emission units designated as Clean Units. A PAL offers a source to bring on entirely new emissions units with no Federal preconstruction permit, as long as emissions caps are not exceeded. A PAL or a Clean Unit designation allows a source to make modifications without performing a major NSR applicability test. These advantages will still be the driving force for sources to elect to use the PAL or Clean Unit provisions, and we do not believe this final rule will significantly detract from their appeal.

We also believe that there is substantial value in facilitating equipment replacements to a greater degree than our current approach permits and draws a cleaner and more