



## U.S. Environmental Protection Agency Applicability Determination Index

**Control Number: M040015**

**Category:** MACT  
**EPA Office:** OECA  
**Date:** 09/22/2003  
**Title:** Stationary Gas Turbines  
**Recipient:** Mark Landa  
**Author:** Michael Alushin  
**Comments:**

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**Subparts:** Part 63, YYYY, Stationary Gas Turbines

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**References:** 63.2  
63.6090

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**Abstract:**

Q: Is a turbine at the Wisdom Generating Station near Spencer, Iowa, that commenced construction prior to the proposed date of the Turbine Maximum Achievable Control Technology (MACT), subpart YYYY, considered an existing source?

A: Yes, the facility is an existing facility if construction was "commenced", as defined in section 63.2, prior to the date the rule was proposed.

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**Letter:**

Mr. Mark Landa  
Sullivan & Ward, P.C.  
801 Grand Avenue, Suite 3500  
Des Moines, Iowa 50309-2719

Re: Applicability Determination for the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Gas Turbines (40 CFR Part 63, Subpart YYYY)-Wisdom Combustion Turbine Project

Dear Mr. Landa:

This letter is in response to your request, dated May 23, 2003, for an applicability determination regarding the applicability of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Gas Turbines (Subpart YYYY) to a stationary gas turbine, herein referred to as the Wisdom Combustion Turbine Project at the Wisdom Generating Station near Spencer, Iowa. Specifically, your May 23, 2003, letter requests an applicability determination as to whether the Wisdom Combustion Turbine Project would be considered a new or existing source under NESHAP Subpart YYYY. Based on the information provided in the May 23, 2003, request, a conference call on June 18, 2003, and follow-up information received on June 23, 2003, and July 17, 2003, EPA finds that Wisdom Combustion Turbine Project is an existing source as defined in NESHAP Subpart YYYY.

On September 28, 2001, two electric generation and transmission cooperatives, the Corn Belt Power Cooperative (Corn Belt) and the Basin Electric Power Cooperative (Basin Electric), whom you represent, entered into an agreement to construct and operate a single cycle combustion turbine generating unit known as the Wisdom Combustion Turbine Project. The Wisdom Combustion Turbine Project is intended to provide relief to the region from future power capacity deficiencies forecast by the two cooperatives. The stationary gas turbine selected for the Wisdom Combustion Turbine Project is a General Electric (GE) 7EA with a capacity of approximately 80 Megawatts. On January 9, 2003, Corn Belt/Basin Electric signed a construction contract with The Industrial Corporation (TIC)/Utility Engineering Corporation (UE) Corn Belt Joint Venture to install the turbine at the Wisdom Generating Station near Spencer, Iowa.

NESHAP Subpart YYYY, Section 63.6090, states that you are an existing stationary combustion turbine if you "commenced construction or reconstruction of the stationary combustion turbine on or before January 14, 2003." Consistent with the definition in the general provisions, "commenced" means:

...with respect to construction or reconstruction that an owner or operator has undertaken a continuous program of construction or reconstruction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or reconstruction.

40 CFR Section 63.2

Construction is defined in the general provisions as "the on-site fabrication, erection, or installation of an affected source." 40 CFR Section 63.2.

On July 23, 2003, you submitted to EPA, on behalf of Corn Belt/Basin Electric, a copy of an on-site construction contract for the Wisdom Combustion Turbine Project. The contract is between Corn Belt/Basin Electric and TIC/UE Corn Belt Joint Venture dated January 9, 2003. The contract is a binding agreement such that Corn Belt/Basin Electric would be charged a significant cancellation fee should they break the contract. Furthermore, you have indicated that as of the date of this letter, the Wisdom Combustion Turbine Project is on schedule and approximately 60% complete. Therefore, EPA finds that the Wisdom Combustion Turbine Project has satisfied the above requirements for commencing construction prior to the proposed date of the NESHAP Subpart YYYY, and therefore is an existing affected source as defined in Section 63.6090.

Please note that NESHAP Subpart YYYY was signed by the EPA Administrator on August 29, 2003, and is scheduled to be published in the Federal Register in October 2003. Therefore, this applicability determination is based on the regulatory requirements in the August 29, 2003, regulation and assumes no legal challenges to the regulation upon promulgation that would affect this determination.

If you have any questions concerning this determination, please contact Gregory Fried at (202) 564-7016.

Very Truly Yours,

Michael S. Alushin, Director Compliance Assessment and Media Programs Division Office of Compliance

cc: Mindy Bowman, Kansas Department of Health and Environment Lisa Hanlon, EPA Region 7 Andrew Gordon, Office of General Counsel Richard Biondi, Office of Enforcement and Compliance Assurance Mamie Miller, Office of Enforcement and Compliance Assurance