



February 21, 2023

Mr. Paul A. Zappi, P.E.  
PO Box 612  
Nome, TX 77629  
Via e-mail

Re: Formal Response to Request for Policy Advisory Opinion Regarding Mechanical Equipment Procurement, Repair, and Replacement; (Policy Advisory Request No. 62)

Dear Mr. Zappi:

The Texas Board of Professional Engineers and Land Surveyors (Board) met in public session on February 16, 2022, and approved this response to your request, dated November 22, 2022.

**Request:**

You seek guidance on the following issues:

- What is the extent of the exemption for repairing and replacing mechanical equipment with in-kind replacements at public water and wastewater facilities and how does this work fit into the exemptions for public utilities and mechanical, electrical, or other equipment?

**Response:**

Portions of Subchapter B of the Texas Engineering Practice Act (Act), relating to Exemptions, contain information relative to this question. Specifically, Section Section 1001.055 of the Act, relating to Mechanical, Electrical, or Other Equipment, provides guidance on the issue at hand.

Section 1001.055 states:

- (a) A person is exempt from the licensing requirements of this chapter if the person is installing, operating, repairing, or servicing a locomotive or stationary engine, steam boiler, diesel engine, internal combustion engine, refrigeration compressor or system, hoisting engine, electrical engine, air conditioning equipment or system, or mechanical, electrical, electronic, or communications equipment or apparatus.
- (b) This exemption does not permit a person to:
  - (1) sign an engineering plan or specification if the person is not an engineer; or
  - (2) use the term “engineer” or “engineering” in any manner prohibited by this chapter.

Our understanding of the request is that it relates to repairing or replacing existing equipment that happens to be at a public works system. As such, Section 1001.055 is the guiding portion of the statute as it relates to repairing and servicing any mechanical equipment.

As stated in this section, one does not have to be a licensed professional engineer to engage in the repair and service of mechanical equipment. While the Legislature has not defined “in-kind replacement” within the Act, the Board has held that replacing existing equipment with substantially equivalent equipment falls under the service and installation exemption in Section 1001.055. The replacement does not have to be an identical piece of equipment from the same manufacturer, but must serve an equivalent purpose and not necessitate any design changes to the overall system to be considered service and installation.

If the replacement of equipment necessitated evaluation and or design changes to the system as a whole, the replacement would not fall under the exemption found in Section 1001.055 and would meet the definition of the practice of engineering found in Section 1001.003 of the Act.

**Conclusion:**

No new Policy Advisory Opinion will be developed for this request as the question is addressed by the Act.

If you have any further questions, please contact Mr. Michael Sims, P.E., Director of Compliance & Enforcement at 512.440.7723.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance Kinney". The signature is fluid and cursive, with the first name "Lance" and last name "Kinney" clearly distinguishable.

Lance Kinney, Ph.D., P.E.  
Executive Director

LK:MZS:asm