

Issue Paper Number 01-023



- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

PROPERTY TAX RULE 122.5, *FIXTURES*

I. Issue

Should the Board authorize publication of staff's proposed amendment to Property Tax Rule 122.5, *Fixtures* (Section 122.5, Title 18 of the California Code of Regulations) adding an example which defines permanently annexed wind machines as fixtures, and what should the rule include with respect to the example?

II. Staff Recommendation

Staff recommends that the proposed amendment to Property Tax Rule 122.5 on Attachment 1 be authorized for publication and submitted to the Office of Administrative Law for publication in the California Regulatory Notice Register.

III. Other Alternative(s) Considered

The Board could adopt the amendment proposed by the Madera County Assessor's office that revises language in the attached Property Tax Rule 122.5, as shown in Attachment 2 under the heading of "Madera County Proposal."

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IV. Background

Under Government Code section 15606, subdivision (c), the Board is given the authority to prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing. The Administrative Procedures Act, codified by Government Code section 11340.6, prescribes a procedure by which any interested person may petition a state agency to request the adoption, amendment or repeal of a regulation. Pursuant to that procedure, the California Citrus Mutual requested that the Board amend Property Tax Rule 122.5 to add an example that states that wind machines used for frost protection of crops, trees and vines are properly classified as fixtures for property tax assessment purposes.

California Citrus Mutual asserts in its petition that the absence of any statutory or regulatory authority regarding classification of wind machines has resulted in inconsistent treatment among counties, with some counties classifying them as structures and other counties classifying them as fixtures. These differences in property classification, California Citrus Mutual argues, result in large differences in assessed value of wind machines.

Improvements to real property that are classified as structures, including permanently affixed wind machines, are assessed together with the assessee's other real property as an appraisal unit at the lower of fair market value or factored base year value. As a result, if a permanently affixed wind machine classified as a structure declines in value to a point below its factored base year value, but the current fair market value of the total appraisal unit (i.e. land and improvements) on the lien date exceeds the total factored base year value due to an increase in land value, the assessment of the total property will be the adjusted base year value despite the decline in value of the wind machine.

On the other hand, if a permanently affixed wind machine is classified as a fixture, it is not assessed as part of the real property appraisal unit for purposes of decline in value determinations. Property Tax Rule 461, *Real Property Value Changes*, provides in subsection (e) that fixtures and other machinery and equipment, classified as improvements, constitute a separate single appraisal unit for purposes of determining declines in value. Therefore, even though the land-and-improvement appraisal unit may be increasing in value and is assessed at the factored base year value, fixtures that have declined in value are assessed at the lower current fair market value.

At its meeting held on February 15, 2001, the Board granted the petition and directed staff to draft proposed language to amend Property Tax Rule 122.5 to include an example for agricultural wind machines. Consistent with this direction, staff drafted proposed amendments to Property Tax Rule 122.5 and disseminated a draft to interested parties.

Staff worked with the California Citrus Mutual, California Farm Bureau, California Assessors' Association (CAA), and other interested parties to arrive at rule language. Staff and the Madera County Assessor's office were unable to reach agreement on the proposed amendment. Staff's proposed amendments as compared with the Madera County's proposed amendments are in Attachment 2. The CAA opposes staff's recommended language for the rule amendment; however, they did not submit alternative language.

V. Staff Recommendation

Adopt staff's recommended language for the proposed amendment to Property Tax Rule 122.5 to add an example stating that agricultural wind machines are classified as fixtures.

A. Description of the Staff Recommendation

Staff's language for the proposed amendment adds Example 10 to Property Tax Rule 122.5. Example 10 specifies that wind machines used for frost protection of crops, trees and vines are properly classified as fixtures for property tax assessment purposes. Permanently affixed wind machines meet the criteria for a fixture set forth in Rule 122.5 as follows:

- Physical annexation (manner of annexation): The types of wind machines described by Example 10 are physically attached to the land by foundations.
- Constructive annexation (adaptability): Wind machines are a working part of the realty necessary for frost protection.
- Intent (indefinite annexation): The physical attachment coupled with the agricultural purpose indicates that wind machines are intended to remain annexed indefinitely.

B. Pros of the Staff Recommendation

The staff's recommended language:

- Is consistent with the Board's direction in February to add an example specifying that certain agricultural wind machines are properly classified and assessed as fixtures.
- Will clarify that wind machines are properly classified as fixtures and thereby promote uniformity in treatment for assessment valuation purposes. Inconsistency in treatment among counties has resulted from the absence of specific statutory or regulatory direction.
- Results in wind machines being treated as a separate appraisal unit for purposes of determining declines in value, along with other fixtures and machinery and equipment classified as improvements.

C. Cons of the Staff Recommendation

The Madera County Assessor's office contends that:

- It improperly classifies wind machines as fixtures, rather than structures. Wind machines should be classified and assessed as structures because they are permanently annexed to the land, they contribute value to the land-and-improvements appraisal unit and are bought and sold as real property.
- If classified as fixtures, property owners will be burdened with the requirement of annually reporting wind machines for each of the secured parcels on which they are located. Thus, the owner of a vineyard or orchard comprised of several dozen parcels with wind machines would be required to file that number of property statements.
- Classifying wind machines as fixtures would likely increase the number of mandatory audits conducted pursuant to Revenue and Taxation Code section 469 due to the consequent increase in the value of the business personal property and fixtures.

The California Assessors' Association contends that:

- The discretion and judgement relative to proper classification should be left to the assessor because of a variety of circumstances that may exist with regard to the intent and purpose in placement of wind machines.

D. Statutory or Regulatory Change

Action by the Board on the attached Property Tax Rule will amend Section 122.5, Title 18 of the California Code of Regulations.

E. Administrative Impact

There will be a onetime administrative impact on the county assessor's offices that currently classify agricultural wind machines as structures. Currently 13 of the 17 counties that have agricultural wind machines classify them as structures. It is anticipated that Assessors' staffs can absorb the increase in workload required to reclassify wind machines as fixtures. The proposed amendment will not have an administrative impact in the counties that currently classify wind machines as fixtures because their current assessment practices are consistent with staff's proposed amendment.

F. Fiscal Impact

1. Cost Impact

There is no cost impact to the State Board of Equalization. A cost impact is anticipated for the county assessors' offices that currently classify wind machines as structures. Costs will largely result from mailing and processing of additional Property Statements for the parcels upon which the wind machines are situated. The impact, however, does not appear significant and it is anticipated that it can be absorbed by Assessors' existing staffs. There will be no cost impact to the remaining county assessors' offices that currently classify these wind machines as fixtures.

2. Revenue Impact

The proposal will result in a revenue impact for the counties that currently classify agricultural wind machines as structures. (See the attached Revenue Estimate.) There will be no revenue impact in the remaining counties as their assessment practices are consistent with staff's proposal to classify wind machines as fixtures.

G. Taxpayer/Customer Impact

Assessed values of agricultural wind machines would decrease in the counties that currently classify them as structures. However, taxpayers would be required to file additional property statements and may be subject to mandatory audits. There is no taxpayer/customer impact in the remaining counties.

H. Critical Time Frames

The lien date is January 1 for the assessment year July 1 through June 30. In order for assessors to have this guidance for the processing of the 2002-03 roll, the Property Tax Committee should authorize publication of amendments to the rule at its meeting on August 1, 2001.

VI. Alternative 1 (Madera County Assessor's Proposal)

Adopt the Madera County Assessor's proposed language for the amendment to Property Tax Rule 122.5, which provides that certain agricultural wind machines are classified as structures. (Proposed language is shown in Attachment B, under the heading of Madera County Proposal.)

A. Description of the Alternative

The alternative language for the proposed amendment adds Example 10 to Property Tax Rule 122.5. However, it specifies that wind machines that are affixed to the real property are properly classified as structures rather than fixtures for property tax assessment purposes. The proposal is based on the following arguments:

- Wind machines are permanently attached to land in a manner similar to a building and, except for routine maintenance, typically have permanent attachment.
- The only function of a wind machine is to put the real property to use by protecting growing crops, vines and trees from frost damage. Thus, permanently attached wind machines are an integral part of the real property appraisal unit.

The Madera County Assessor also believes that this alternative is consistent with Board staff guidance regarding classification of other types of permanently attached personal property. This is based on recommendation 16 contained in the 1989 Madera County Assessment Practices Survey, which states:

It is the Board's position that television dish antennas that are affixed to a concrete slab on the ground or are bolted to a wooden platform that is installed on the roof are assessable as real property improvements and should be assessed as new construction when installation is completed.

Based on the fact that the manner of attachment of wind machines is identical to that of dish antennas, the alternative reflects that a wind machine is assessable as an improvement because it is an accession to the real property appraisal unit.

B. Pros of the Alternative

The Madera County Assessor provided the following arguments in support of his alternative:

- It recognizes that permanently attached wind machines are properly classified as structures because the manner of attachment is similar to that of other structures, such as buildings and fences.
- It follows long-standing appraisal practice in a majority of counties with wind machines. 76% of the 17 counties in the state that have agricultural wind machines classify and assess them as structures.
- It recognizes that permanently attached wind machines should be assessed as part of the real property appraisal unit.
- It is consistent with the Board's guidance on television dish antennas that are affixed to a concrete slab, as stated in recommendation 16 of the 1989 Madera County Assessment Practices Survey.

C. Cons of the Alternative

Staff contends that:

- It is not consistent with the Board's direction in February 2001 to add an example to Rule 122.5 stating that permanently affixed wind machines, for agricultural use, are classified as fixtures.
- It improperly classifies wind machines as structures, rather than fixtures. In staff's opinion, wind machines satisfy the criteria for fixtures set forth in Rule 122.5, that is, physical attachment or constructive annexation based on exclusive agricultural use with the intent that the wind machine remain annexed indefinitely.
- If wind machines are classified and assessed as structures, assessment may not reflect their actual decline in value due to depreciation since they are included in the real property appraisal unit for decline in value determination.

In response to the Madera County Assessor's assertion with regard to the 1989 Assessment Practices Survey and classification guidance, the Board's recommendation advised the county to classify television dish antennas as "improvements." Revenue and Taxation Code section 105 states in part, that the term "improvements" includes both structures and fixtures. Thus, the statutory definition of improvements does not support the Madera County Assessors' assertion that, based on the recommendation, wind machines should be classified as structures.

D. Statutory or Regulatory Change

Action by the Board on the attached Property Tax Rule will amend Section 122.5, Title 18 of the California Code of Regulations.

E. Administrative Impact

There will be a onetime administrative impact on county assessors' offices that currently classify agricultural wind machines as fixtures. Currently 4 of the 17 counties that have agricultural wind machines classify them as fixtures. It is anticipated that the Assessors' staffs can manage the increased workload required to reclassify wind machines as structures. The proposed amendment will not have an administrative impact in the counties that currently classify wind machines as structures because their current assessment practices are consistent with the alternative proposed amendment.

F. Fiscal Impact

1. Cost Impact

This proposal will not result in additional costs for the State Board of Equalization. The proposal will cause a cost impact to county assessors' offices that currently classify wind machines as fixtures. The impact would result from transferring the workload from the assessor's business property to real property section. It is anticipated, however, that assessors' existing staffs can absorb the onetime increase in workload. There is no anticipated cost impact to the remaining county assessors' offices that currently classify these wind machines as structures.

2. Revenue Impact

The proposal will result in a revenue impact for the counties which currently classify agricultural wind machines as fixtures. There will be no revenue impact in the remaining counties for their assessment practices are consistent with the Madera County Assessor's proposal to classify these wind machines as structures. (See the attached Revenue Estimate.)

G. Taxpayer/Customer Impact

Assessed values of agricultural wind machines would increase in the counties that currently classify them as fixtures. The increase would be due to the fact that these wind machines, if classified as structures, would be included in the real property appraisal unit and not included with other fixtures and qualifying machinery and equipment as a separate appraisal unit for purposes of decline in value determinations. There is no taxpayer/customer impact in the remaining counties.

H. Critical Time Frames

The lien date is January 1 for the assessment year July 1 through June 30. In order for assessors to have this guidance for the processing of the 2002-03 roll the Property Tax Committee should authorize publication of amendments to the Rule at its meeting on July 31, 2001.

Prepared by: Property Taxes Department; Policy, Planning, and Standards Division
Legal Division; Property Taxes Section

Current as of: July 9, 2001



BOARD OF EQUALIZATION
REVENUE ESTIMATE

ISSUE #01-023

Property Tax Rule 122.5, Fixtures

Staff Recommendation

Under the staff's recommendation, Property Tax Rule 122.5 would be amended adding an example which defines permanently annexed wind machines as fixtures.

Alternative

Under the alternative proposed by the Madera County Assessor, Property Tax Rule 122.5 as amended would provide that certain agricultural wind machines are classified as structures.

Background, Methodology, and Assumptions

The affected wind machines are used for frost protection of crops, trees, and vines. Most of the seventeen counties that report having wind machines classify agricultural wind machines as structures. Currently only four counties report that they classify them as fixtures.

For the purposes of decline in value determinations, fixtures and other machinery and equipment constitute a separate appraisal unit while improvements to real property that are classified as structures are assessed together with other real property. Therefore, fixtures that have declined in value are assessed at their current fair market value instead of their factored base year value. Structures, on the other hand, are assessed together with the assessee's other real property as an appraisal unit at the lower of the units current market value or factored base year value. Typically, the factored base year value of a real property appraisal unit is less than its current market value. The impact under either proposal hinges on the difference between the factored base year values of the wind machines when classified as structures and their current market values when classified as fixtures.

Based on information provided by thirteen counties that currently classify these wind machines as structures, it is estimated that the current assessed value of these machines in the thirteen counties amounts to \$313.5 million and their current fair market value is about \$182.9 million. Under the staff recommendation, the assessed value of these wind machines would decrease by \$130.6 million (\$313.5 million - \$182.9 million). Assuming that these represent at least 80 percent of all wind machines currently classified as structures yields the following estimate:

$$\text{\$130.6 million} / (100 \text{ percent to } 80 \text{ percent}) = \text{\$130.6 million to } \text{\$163.3 million decrease}$$

Based on information provided by four counties that currently classify these agricultural wind machines as fixtures, it is estimated that the current assessed value of wind machines in those counties is about \$3.1 million and that their factored base year values would total \$15.3 million.

Under the Madera County proposal, the assessed value in the four counties would increase by \$12.2 million (\$15.3 million - \$3.1 million). Assuming that these represent at least 75 percent of all wind machines currently classified as fixtures yields the following estimate:

$$\$12.2 \text{ million} / (100 \text{ percent to } 75 \text{ percent}) = \$12 \text{ million to } \$16.3 \text{ million}$$

Revenue Summary

Under the staff recommendation, the estimated decrease in annual revenues at the basic one percent property tax rate amounts to \$130.6 million to \$163.3 million x 1 percent, or \$1.3 million to \$1.6 million, in those counties that currently classify agricultural wind machines as structures.

Under the Madera County proposal, it is estimated that the annual revenues at the basic one percent property tax rate would increase by \$12.2 million to \$16.3 million x 1 percent, or \$122,000 to \$163,000, in those counties that currently classify these machines as fixtures.

Preparation

This revenue estimate was prepared by Aileen Takaha Lee, Research and Statistics Section, Agency Planning and Research Division. The estimate was reviewed by Mr. David Hayes, Manager, Research and Statistics Section, and Mr. Richard Johnson, Deputy Director, Property Tax Department. For additional information, please contact Ms. Lee at 445-0840.

Current as of July 17, 2001.

Rule 122.5 FIXTURES.

Reference: Sections 105, 107, Revenue and Taxation Code.

(a) DEFINITION.

(1) A fixture is an item of tangible property, the nature of which was originally personalty, but which is classified as realty for property tax purposes because it is physically or constructively annexed to realty with the intent that it remain annexed indefinitely.

(2) The manner of annexation, the adaptability of the item to the purpose for which the realty is used, and the intent with which the annexation is made are important elements in deciding whether an item has become a fixture or remains personal property. Proper classification, as a fixture or as personal property, results from a determination made by applying the criteria of this rule to the facts in each case.

(3) The phrase "annexed indefinitely" means the item is intended to remain annexed until worn out, until superseded by a more suitable replacement, or until the purpose to which the realty is devoted has been accomplished or materially altered.

(b) PHYSICAL ANNEXATION.

(1) Property is physically annexed if it is attached to, imbedded in, or permanently resting upon land or improvements in accordance with Section 660 of the Civil Code, or by other means that are normally used for permanent installation. If the property being classified cannot be removed without substantially damaging it or the real property with which it is being used, it is to be considered physically annexed. If the property can be removed without material damage but is actually attached, it is to be classified as a fixture unless there is an intent, as manifested by outward appearance or historic usage, that the item is to be moved and used at other locations.

(2) Property may be considered physically annexed if the weight, the size, or both are such that relocation or removal of the property would be so difficult that the item appears to be intended to remain in place indefinitely.

(3) Property shall not be considered physically annexed to realty solely because of attachment to the realty by "quick disconnect" attachments, such as simple wiring and conduit connections.

(c) CONSTRUCTIVE ANNEXATION.

(1) Property not physically annexed to realty (including fixtures) is constructively annexed if it is a necessary, integral, or working part of the realty. Factors to be considered in determining whether the property is a necessary, integral, or working part of the realty are whether the nonattached item is designed and/or committed for use with specific realty, and/or whether the realty can perform its desired function without the nonattached item.

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(2) Property connected to the realty by quick disconnect conduits which contain power or electronic cable, or allow for heating, cooling, or ventilation service to the connected property is constructively annexed only if it satisfies one of the factors in paragraph (c)(1).

(d) INTENT.

(1) Intent is the primary test of classification. Intent is measured with--not separately from--the method of attachment or annexation. If the appearance of the item indicates that it is intended to remain annexed indefinitely, the item is a fixture for property tax purposes. Intent must be inferred from what is reasonably manifested by outward appearance. An oral or written agreement between parties, such as a contract between lessor and lessee, is not binding for purposes of determining intent.

(2) The phrase "reasonably manifested by outward appearance" means more than simple visual appearance. A reasonable knowledge of the relationship of the item being classified to the realty with which it is being used is required to determine whether physical or constructive annexation has occurred.

(3) Historic usage of a property may be considered in determining whether or not a property is intended to remain annexed indefinitely. "Historic usage" means the normal and continuing use of the property as an item that is annexed either indefinitely or only temporarily.

(e) EXAMPLES. The following examples are illustrative of the foregoing criteria. The classification in each example is based only on the limited description offered. Classification of an actual property must be based on all the relevant facts concerning that property.

(1) A stair and a walkway that are bolted to a large machine (the machine is a fixture) to facilitate operation and routine maintenance of the machine are fixtures because they are physically annexed by the bolts and they are necessary for the normal operation of the machine. A stair and a walkway that are bolted to a machine to facilitate a major overhaul of the machine and that will be removed and used elsewhere after the overhaul is completed are personal property because the physical attachments are clearly temporary.

(2) A printing press that weighs several tons, is held in place by gravity, and which because of its size cannot be removed from the building without substantial damage to the building is regarded as physically annexed and is a fixture. A free-standing safe, although of considerable weight, is personal property if it is movable without damage to itself or to the real property wherein it is located and the real property was not designed or constructed specifically to accommodate the safe.

(3) Headsets and special stools designed to be used with a telephone switchboard (the switchboard is a fixture) are not physically annexed, but they are constructively annexed because they are designed specifically for use with the switchboard, the switchboard cannot be used properly without them, and they are not usable or only marginally usable

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independently of the switchboard. Ordinary office chairs used with a switchboard remain personal property because their design makes them fully usable for other purposes.

(4) A special tool, die, mold, or test device is constructively annexed to a fixture if it is specifically designed for and is in use or has been used on or in conjunction with the particular fixture and the intended use of the fixture would be impaired without the item. A common hand tool or general-purpose test device is personal property even if in practice the item is used only on the fixture.

(5) A crane that operates on rails but is too large or too heavy for ordinary railroad tracks or cannot be operated off the property because the rails are not connected to railroad tracks is constructively annexed to the rails.

(6) A floating dry dock that is designed for use with adjacent shore facilities at a single location is a fixture even though the dry dock is occasionally moved to facilitate dredging under the dry dock. A floating dry dock that is used at several locations is personal property even though it is used primarily at one location in conjunction with special shore facilities.

(7) Computer hardware components are fixtures if extensive improvements, such as a building (or portion of a building), air conditioning, emergency power supply, and a fire suppression system are constructed specifically to accommodate the components, and the improvements are not useful or are only marginally useful other than as housing and support of the components. A computer is personal property if it can be moved without material damage or expense and it is not essential to the intended use of the real estate. A computer is constructively annexed to a fixture if it is dedicated to controlling or monitoring the fixture and is otherwise necessary for the intended use of the fixture.

(8) Machines that are not physically annexed to the realty and that do not operate interdependently with the realty are personal property even though special flooring, conduits, and/or overhead racks are installed to accommodate wiring from a power source to the machines, because special accommodations for wiring are normal features of an industrial building and the building is fully usable for its intended purpose (as an industrial building) without the particular machines.

(9) An automated teller machine (ATM) typically consists of a safe, monitor, keypad, central processing unit, magnetic card reader, cash dispenser, printer/transaction record dispenser and deposit receptor. An ATM installed as a free-standing or counter-top unit within a building, such as a bank, supermarket or other retail establishment, is personal property. However, an ATM installed in a structure that was built primarily for the purpose of housing the ATM is a fixture because the realty cannot perform its desired function without the ATM. An ATM installed in the wall of a building is a fixture because the portion of the realty containing the ATM was designed or extensively modified for the specific purpose of housing the ATM and cannot perform its desired function without the ATM.

(10) A wind machine consists of a large fan mounted on a tower, a motor to drive the fan, a fuel tank or electrical hookup and related equipment necessary for its operation. Wind machines are

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used for agricultural purposes in the protection of crops from adverse weather conditions. When a wind machine is physically annexed to the realty with the intent that it be annexed indefinitely as provided in this rule, it is properly classified as real property and assessed as a fixture. A wind machine which is a fixture is an improvement to realty as defined in Revenue and Taxation Code section 105 and Rule 122, but it is not a building, a structure or a fence. In a typical application, a wind machine is physically annexed to the realty because it is attached to, imbedded in or permanently resting upon land or improvements as provided in subsection (b)(1) of this rule with the intent that it remain “annexed indefinitely” as that phrase is defined in subsection (a)(3) of this rule. A wind machine that is attached to or resting on a truck bed or other movable equipment is personal property and not a fixture because it is not intended to remain annexed indefinitely to realty.

For property tax assessment purposes, wind machines that are defined as fixtures shall be appraised in accordance with subsection (e) of rule 461, which subsection provides that, for purposes of decline in value determinations, fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit.

ATTACHMENT 2 - ISSUE PAPER 01-023
LANGUAGE DIFFERENCES REGARDING EXAMPLE 10 FOR AGRICULTURAL WIND MACHINES

Staff Recommendation (as shown in Attachment 1)	Alternative (Madera County Proposal) (proposed to replace text in Attachment 1)
<p>An agricultural wind machine consists of a large fan mounted on a tower, a motor to drive the fan, a fuel tank or electrical hookup and related equipment necessary for its operation. Wind machines are used for agricultural purposes in the protection of crops from adverse weather conditions. When a wind machine is physically annexed to the realty with the intent that it be annexed indefinitely as provided in this rule, it is properly classified as real property and assessed as a fixture. A wind machine which is a fixture is an improvement to realty as defined in Revenue and Taxation Code section 105 and Rule 122, but it is not a building, a structure or a fence. In a typical application, a wind machine is physically annexed to the realty because it is attached to, imbedded in or permanently resting upon land or improvements as provided in subsection (b)(1) of this rule with the intent that it remain “annexed indefinitely” as that phrase is defined in subsection (a)(3) of this rule. A wind machine that is attached to or resting on a truck bed or other movable equipment is personal property and not a fixture because it is not intended to remain annexed indefinitely to realty.</p> <p>For property tax assessment purposes, wind machines that are defined as fixtures shall be appraised in accordance with subsection (e) of rule 461, which subsection provides that, for purposes of decline in value determinations, fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit.</p>	<p>A wind machine consists of a large fan mounted on a tower <u>which resides upon a concrete base attached in like manner as a building upon the land</u>, a motor to drive the fan, a fuel tank or electrical hookup and related equipment necessary for its operation. Wind machines are used for agricultural purposes in the protection of crops from adverse weather conditions, <u>and are typically permanently stationed except for routine maintenance</u>. When a wind machine is physically annexed to the realty with the intent that it be annexed indefinitely as provided in this rule, it is properly classified as a <u>fixture real property</u>. A wind machine which is a fixture is an improvement to realty as defined in Revenue and Taxation Code section 105 and rule 122, but it is not a building, a structure or a fence. <u>real property due to the similarity of permanency found in buildings, structures, or fences</u>. In a typical application, a wind machine is physically annexed to the realty because it is attached to, imbedded in or permanently resting upon land or improvements, as provided in subsection (b)(1) of this rule with the intent that it remain “annexed indefinitely” as that phrase is defined in subsection (a)(3) of this rule. <u>Such annexation is dissimilar from the "physical annexation" as provided in subsection (b)(1) of Rule 122.5</u>. A wind machine that is attached to or resting on a truck bed or other movable equipment is personal property and not a fixture because it is not intended to remain annexed indefinitely to realty.</p> <p><u>Wind machines have no other use that in conjunction with putting real property to use, and when mounted on a tower, are part of the real property.</u></p> <p>For property tax assessment purposes, wind machines that are defined as fixtures shall be appraised in accordance with subsection (e) of rule 461, which subsection provides that, for purposes of decline in value determinations, fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit.</p>