



# *Permit Shield Guidance*

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# What is it?

- **Permit Shield** — Unless precluded by the Administrator of the US EPA, compliance with all emission limitations in this operation permit is considered to be compliance with all emission limitations established under ss. 285.01 to 285.87, Wis. Stats., and emission limitations under the federal clean air act, that are applicable to the source if the permit includes the applicable limitation or if the Department determines that the emission limitations do not apply. The following emission limitations were reviewed in the analysis and preliminary determination and were determined not to apply to this stationary source:

# Look like...

- **Turbines B25 and B26** are not subject to the new source performance standards for gas turbines (s. NR 440.50, Wis. Adm. Code) because they were installed prior to October 3, 1977, pursuant to s. NR 440.50(1)(b), Wis. Adm. Code.
- **Boilers B21 and B22** are not subject to NR 445, Wis. Adm. Code LAER requirements for arsenic because waste oil usage has been restricted so that potential arsenic emission levels that are below de minimis applicability values.
- **Boilers B11, B12, and B14** are not subject to the biennial compliance emission test for sulfur dioxide required by s. NR 439.075(3)(b), Wis. Adm. Code, because these emissions are monitored by continuous emission monitors (CEMs).
- **Boilers B17 and B18** are not subject to the coal sampling requirements of s. NR 439.085(2), Wis. Adm. Code, because these units meet the exception for doing coal sampling in s. NR 438.085(1)(a) and (c), Wis. Adm. Code.
- **Boilers B10 and B11** are not subject to the new source performance standards for fossil fuel steam generators of ss. NR 440.19 and NR 440.20, Wis. Adm. Code because they were constructed before August 17, 1971.



## *In the Past...*

- *Based on info in app*
- *Reiteration of PD*
- *Inconsistent review*



## *Mid-2000s...*

- *Issues discovered*
- *Errors found*
- *Significant legal implications, for both WDNR and permittees*



## *Around 2008...*

- *Drafted guidance to Permit Writers:*
  - *no auto carry-overs without review*
  - *only at request of permittee*
  - *never for NR 405, 408, 440*
  - *require diligent review*
- *AMT approved guidance, but asked:*
  - *define 'diligent review' (never done)*



## *In 2011...*

- *WDNR actions re. Permit Shield policy was questioned*
- *Re-reviewed past guidance (discovered not finalized)*
- *Discovered we can't prohibit entirely*
- *Developed definition of 'diligent review'*



# *Finalized Existing Guidance*

- 1. Must be based on a diligent review*
- 2. Only when requested by permittee*
- 3. Documentation of basis (PD)*
- 4. No auto carry-overs*
- 5. Diligent review should include.....*
- 6. Diligent review supplied by applicant*



# *'Diligent Review' (as applicable)*

- *Description of project*
- *Four-factor Analysis*
  - *Nature and Extent*
  - *Purpose*
  - *Frequency*
  - *Cost*
- *Analysis of PSD/NSR applicability*
- *Analysis of NR 406 applicability*
- *List of exemptions*
- *Analysis of NSPS applicability*
- *List of relevant USEPA/WDNR opinions/decisions*



# Notes

- *Not included under permit shield does not mean the unit isn't exempt.*
- *If nothing's been done, then just say so. The diligent review is not intended to be a requirement for proof of the negative.*
- *Guidance open to future modification based on feedback*
- *Already know of useful instances:*
  - *Where clarification to EPA is helpful (MACT)*