

Signed 2-10-98

Mr. Robert C. Shinn, Jr.
Commissioner
State of New Jersey Department
of Environmental Protection
CN 402
401 East State Street
Trenton, NJ 08625-0402

Dear Commissioner Shinn:

This is in response to your December 22, 1997 letter regarding our objection of two proposed Title V permits for Redpack Foods, Inc. and Nabisco, Inc. First, I would like to thank you for your attention to this matter and your staff's cooperation in working with us to seek a solution to this issue. We have reconsidered certain aspects of our objection based on discussions with your staff, EPA staff in other Regions, and the suggestions provided by you in your letter. We are pleased to inform you that we agree with your suggestions for minor emission units where the calendar-year fuel limit was not taken to avoid Major NSR and/or PSD. However, we still find that where the calendar-year fuel limit approach for fuel combustion units results in the source avoiding PSD or Major NSR, then the fuel usage limit must conform to EPA's June 13, 1989 guidance entitled "Guidance on Limiting Potential to Emit in New Source Permitting"[hereinafter June 89 Guidance]. In other words, the time over which the fuel limit extends should be as short as possible and generally should not exceed one month. For sources whose operation varies over time, it is acceptable to have a limit extend over a longer time period if it is a rolling limit, but cannot exceed an annual limit rolled on a monthly basis.

Therefore, where the fuel usage limit is not necessary for the source to avoid a federal applicable requirement such as PSD or NSR, then the EPA agrees that New Jersey can use its judgement to decide if calendar-year limits are acceptable. We also agree that the following conditions suggested in your letter must be included as part of the permit as well as a statement that the limit is not used to avoid a federal applicable requirement:

- a. A requirement that fuel consumption is monitored with a fuel flow analyzer device;
- b. A requirement for monthly recordkeeping of fuel usage;

- c. A requirement to report within three days if fuel usage exceeds the allowable limit; and
- d. A statement that the fuel use limit cannot be used to avoid a federal applicable requirement.

We expect that many of the fuel limitations for smaller boilers such as boilers at schools and hospitals are likely not to have been taken in order for the source to avoid PSD or Major NSR. In fact, we can remove our objection to the issuance of the Nabisco, Inc. Title V permit, which includes a calendar-year fuel limitation, if the above conditions are included in the permit.

If the fuel usage limit is necessary for the source to limit its emissions to avoid PSD, Major NSR or some other federal applicable requirement, then the June 1989 Guidance would apply. A source's potential to emit, in order to not be subject to PSD or Major NSR, must be below major source threshold's or PSD/NSR de minimis levels during any time of the year. A calendar-year fuel limit is not an effective limit to ensure that a source is minor during any time of the year. Consequently, such a source could be subject to EPA or citizen enforcement for failure to have applied for a PSD/Major NSR permit and for failing to have installed control equipment that meets BACT or LAER.

In discussions with your staff, it is our understanding that the fuel limitation for Redpack Foods, Inc. would be necessary for the recently installed boiler to have avoided PSD. Therefore, the fuel cap placed on all boilers at Redpack Foods, Inc. should be a short-term limit or a rolled annual limit calculated no longer than on a monthly basis.

We believe that out of the universe of 500 Title V sources in New Jersey, the number of sources where fuel limits were taken to avoid PSD or Major NSR applicability is not many. Furthermore, New Jersey does not necessarily need to revise the NSR permits to change the fuel limitations to a 12-month rolling limit. This could probably be done through the issuance of the Title V permit. However, this decision will need to be made by the NJDEP Legal Counsel. If you agree to our proposed solution, we can work with your staff on criteria for evaluating when limits were taken to avoid Major NSR or PSD or provide any other assistance in this matter as your office finds necessary. I also understand that our staff have agreed that for larger boilers (i.e., boilers larger than 100 mmbtu/hr), the fuel use limits when taken to avoid a federal applicable requirement will be either a daily limit or a limit rolled daily on a 365-day basis. Furthermore, in order to ensure that New Jersey's task to modify these permits is manageable, this letter only addresses fuel combustion sources. For process units and storage tanks, which do not rely solely on calendar year limits to limit the potential

to emit, there are other short-term parametric monitoring available that can be used to ensure compliance with emission limitations.

I understand that your office has reviewed the above language and agrees to change the Redpack Foods, Inc. permit accordingly. Therefore, upon receipt of revised permits for Redpack Foods, Inc. and Nabisco, Inc., which conform to the above agreed-upon permit conditions, we will withdraw our objection to both permits. My staff will be in touch with your Title V contacts so that we may work together on revising and issuing the final Title V permits. Please call me if you have any questions about this letter or have your staff contact Mr. Ronald J. Borsellino, Chief of the Air Programs Branch, at 212-637-3705.

Sincerely,

Jeanne M. Fox
Regional Administrator

cc: William O'Sullivan, Administrator
Air Quality Permitting Program, NJDEP

Thomas Micai, Chief
Bureau of Operating Permits, NJDEP