



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 04 1995

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Geoffrey O'Connor
Chief Financial Officer
and Treasurer
Lesaffre Yeast Corporation
433 East Michigan Street
Milwaukee, Wisconsin 53202

Sensient Technologies Corporation
c/o John L. Hammond, Registered
Agent
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

Re: Notice of Violation
Lesaffre Yeast Corporation
& Sensient Technologies
Corporation
Milwaukee, Wisconsin

Dear Gentlemen:

The United States Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Lesaffre Yeast Corporation and its predecessor Sensient Technologies Corporation (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you have been and are violating the Wisconsin State Implementation Plan at what is currently known as the Lesaffre Milwaukee, Wisconsin facility.

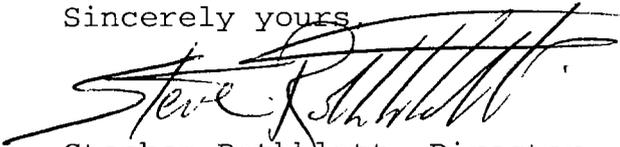
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the NOV.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your company's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Manoj P. Patel. You may call him at (312)353-3565 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours



Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

cc: Thomas P. McElligott, Esq. (for Sensient)
Quarles & Brady
411 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

Lloyd Eagan, Director
Bureau of Air Management
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921
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William Baumann, Chief
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John Melby, Regional Leader
Southeast Region
Wisconsin Department of Natural Resources
2300 North Dr. Martin Luther King Jr. Drive
Milwaukee, Wisconsin 53212

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
Lesaffre Yeast Corporation) **NOTICE OF VIOLATION**
and Sensient Technologies)
Corporation) **EPA-5-05-WI-07**
Milwaukee, Wisconsin)
)
Proceedings Pursuant to)
Section 113(a)(1) of the)
Clean Air Act, 42 U.S.C.)
§ 7413(a)(1))

NOTICE OF VIOLATION

The United States Environmental Protection Agency (USEPA) is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). USEPA finds that Lesaffre Yeast Corporation (Lesaffre) and Sensient Technologies Corporation (Sensient) have been and are continuing to violate the Wisconsin State Implementation Plan (SIP), as follows:

Statutory and Regulatory Background

1. On March 3, 1978, under the requirements of Section 110 of the Clean Air Act (Act), 42 U.S.C. § 7410, USEPA designated Milwaukee County, Wisconsin as a primary non-attainment area of the National Ambient Air Quality Standards (NAAQS) for ozone. 43 Fed. Reg. 8962. At that time, the construction of new major stationary sources in non-attainment areas was regulated by the Act's New Source Review regulations at 40 CFR § 52.24.
2. Effective June 30, 1979, the New Source Review regulations at 40 CFR § 52.24 prohibited the construction of major stationary sources in non-attainment areas until USEPA approved a State Implementation Plan (SIP) that met the requirements of Part D of the Act, 42 U.S.C. §§ 7501-7509.
3. Part D of the Act, 42 U.S.C. §§ 7501-7509, specifies the requirements that must be included in a SIP for those areas not attaining the NAAQS. Each SIP must contain a permit program for the construction and operation of new or modified major stationary sources, require those sources to meet an emission limitation defined as the Lowest Achievable Emission Rate, and require those sources to obtain air

emission offsets.

4. 40 CFR § 52.24(4)(i)(a) defines a major stationary source as any stationary source of air pollutants which has the potential to emit 100 tons per year or more of any pollutant subject to regulation under the Act. Volatile organic compounds (VOC) emissions are subject to regulation under the Act.
5. On April 17, 1981, the USEPA approved portions of Chapter 144, of the Wisconsin Statutes, which provides construction and operating permit requirements for the Wisconsin SIP. Chapter 144 implements Part D of the Act, 42 U.S.C. §§ 7501-7509. 46 Fed. Reg. 22374. In response to the 1990 Amendments to the Act, portions of Chapter 144 of the Wisconsin Statutes were again approved by USEPA on January 18, 1995, became part of the federally enforceable Wisconsin SIP, and are currently in effect. 60 Fed. Reg. 3602.
6. Section 144.30 of the Wisconsin Statutes, "Air Pollution: Definitions", include: stationary source, Lowest Achievable Emission Rate, major source permit, non-attainment area, and air contaminant.
7. Under Section 144.30(15) of the Wisconsin Statutes contained in the SIP, "Lowest Achievable Emission Rate" is defined as the rate of emission which reflects the more stringent of the following:
 - (a) the most stringent emission limitation which is contained in the air pollution regulatory program of any state for this class or category of source, unless an applicant for a permit demonstrates that these limitations are not achievable; or
 - (b) the most stringent emission limitation which is achieved in practice by the class or category of source.
8. Under Section 144.30(19), of the Wisconsin Statutes contained in the SIP, "major source permit" is defined as any permit under Sections 144.391(1) or (2).
9. Under Section 144.391(1), of the Wisconsin Statutes contained in the SIP, a "stationary source" is a "non-attainment area major source" if:
 - (a) the source is located in a nonattainment area or may affect significantly the air quality in a nonattainment area; and

- (b) the source, without considering air pollution control equipment, is capable of emitting an air contaminant for which the area is classified as a nonattainment area in the following amounts:
- (1) one hundred tons per year or more of sulfur oxides, particulate matter, carbon monoxide, nitrogen oxides or volatile organic compounds; or
 - (2) an amount specified by rule by the department of any other air contaminant.
10. Section 144.391(1)(b) of the Wisconsin Statutes contained in the SIP states that "[a]fter July 29, 1979, no person may commence construction of a new stationary source or commence modification of an existing stationary source if that source is a nonattainment area major source unless the person has a permit from the department."
11. Section 144.393(1) of the Wisconsin Statutes contained in the SIP allows the department to approve the application for a source permit if it finds that: the source will meet all applicable emission limitations; the source will not cause or exacerbate a violation of any ambient air quality standard or ambient air increment; if the source is operating under an emission reduction option, the required permit applications for other sources participating in that emission reduction option are approvable; and the source will not degrade the air quality in an area sufficiently to prevent the construction, modification or operation of another source.
12. Section 144.393(2) of the Wisconsin Statutes contained in the SIP allows the department to approve the application for a non-attainment area mandatory major source permit if the department finds the source meets the requirements under Section 144.393(1) and it finds: reasonable further progress; the emissions from the source will be at the lowest achievable emission rate; and the applicant's other major sources in Wisconsin meet or are on schedule to meet the requirements of Sections 144.30 to 144.426 and the rules promulgated under those sections.
13. On January 18, 1995, USEPA approved NR 408 as part of the federally enforceable Wisconsin SIP. 60 Fed. Reg. 3543. NR 408 provides additional definitions and requirements for construction permits for direct major sources in non-attainment areas.
14. NR 408.01 states that all new major sources and all major

modifications to major sources located in areas designated as non-attainment areas are subject to Chapter 408.

15. Under NR 408.02(11), "construction" means any physical change, including fabrication, erection, installation, demolition or modification of an emission unit, which would result in a change in actual emissions.
16. Under NR 408.02(13), "emission unit" means any part of a stationary source, including point and area sources, which emits or would have the potential to emit any pollutant, including fugitive emissions, subject to regulation under the federal clean air act or under chs. 400 to 499.
17. Under NR 408.02(20), "major modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emission increase of any pollutant subject to regulation under the Federal Clean Air Act.
18. NR 408.02(21)(a)1.d. states that "major stationary source" includes any stationary source of air pollutants which emits or has the potential to emit 25 tons per year of VOC in any severe non-attainment area for ozone.
19. Under NR 408.02(24)(a), "non-attainment area" means any area that does not meet the primary or secondary ambient air quality standard for a pollutant and that is designed non-attainment with respect to that pollutant by the administrator of the USEPA under Section 107(d) of the Act or by the department under Section 144.371(2) of the Wisconsin Statutes.
20. Under NR 408.02(23)(a), "net emission increase" means the amount by which the sum of the following exceeds zero: (1) any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and (2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
21. Under NR 408.02(23)(b), an increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between: (1) the date 5 years before construction on the particular change commences, and (2) the date that the increase from the particular change occurs.

22. Under NR 408.02(1)(b), "actual emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows: for any emissions unit, other than an electric utility steam generating unit, which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.
23. NR 408.03(1) states that no person may begin actual construction of a major source or major modification unless that person has a permit which states that the stationary source or modification will meet the requirements of ss. NR 408.04 to 408.10.
24. NR 408.04 states that a major source or a major modification shall meet each applicable emission limitation for the proposed construction or modification and a major source must apply the lowest achievable emission rate (LAER) for each pollutant subject to the requirements of NR 408 that it would have the potential to emit in an amount which makes the source a major source.
25. NR 408.06(2) requires that emissions resulting from the proposed construction or modification be offset by a reduction in actual emissions of the same pollutant from the same source or combination of other sources in the same non-attainment area.
26. NR 408.02 states that the definitions contained in NR 400 apply to the terms used in NR 408. NR 400.02(100) defines "volatile organic compound" or "VOC" means any organic compound which participates in atmospheric photochemical reactions. This includes any such organic compound other than the following compounds, which have been determined to have negligible photochemical reactivity: (a) methane, (b) ethane, (c) methylene chloride (Dichloromethane), (d) 1,1,1-Trichloroethane (Methyl chloroform), (e) trichlorofluoromethane (CFC-11), (f) dichlorodifluoromethane (CFC-12), (g) chlorodifluoromethane (HCFC-22), (h) trifluoromethane (HFC-23), (i) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113), (j) 1,2-Dichloro-1,1,2,2-tetrafluoroethane (CFC-114), (k) chloropentafluoroethane (CFC-115), (l) 1,1,1-Trifluoro-2,2-dichloroethane (HCFC-123), (m) 2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124), (n) pentafluoroethane (HFC-125), (o) 1,1,2,2-Tetrafluoroethane (HFC-134), (p) 1,1,1,2-Tetrafluoroethane (HFC-134a), (q) 1,1-Dichloro-1-fluoroethane (HCFC-141b), (r)

1-Chloro-1,1-difluoroethane (HCFC-142b), (s) 1,1,1-Trifluoroethane (HFC-143a), (t) 1,1-Difluoroethane (HFC-152a), and (u) perfluorocarbon compounds which fall into the following classes: 1. Cyclic, branched or linear completely fluorinated alkanes. 2. Cyclic, branched or linear completely fluorinated ethers with no unsaturations. 3. Cyclic, branched or linear completely fluorinated tertiary amines with no unsaturations, and 4. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

27. Failure to comply with any approved regulatory provision of a SIP or with any permit limitation or condition contained within an operating permit issued under a USEPA approved program that is incorporated into the SIP shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the Act. 40 CFR § 52.23.

Factual Background

28. Lesaffre owns and operates a stationary yeast manufacturing facility in Milwaukee, Milwaukee County, Wisconsin (the "Lesaffre Facility"). Prior to February 23, 2001, Sensient owned and operated this facility.
29. On November 6, 1991, Milwaukee County was redesignated as a severe non-attainment area for ozone. 56 Fed. Reg. 56694.
30. Since at least 1990, the Lesaffre Facility has been a major stationary source as defined at 40 CFR §52.24(4)(i)(a) and at Wisconsin State Implementation Rule NR 144.391(1) and emitted 100 tons per year (tpy) or more of volatile organic compounds (VOC) and has a Potential-to-Emit (PTE) of more than 100 tpy of VOC.
31. On August 18, 2003, duly delegated representatives of USEPA conducted an inspection of the Lesaffre Facility and generated information necessary to assess compliance with the Act.
32. On January 26, 2004, USEPA issued a Request for Information to Lesaffre under Section 114 of the Clean Air Act, 42 U.S.C. § 7414.
33. On March 15 and 26, 2004, Lesaffre and Sensient responded to USEPA's Request for Information.

34. On March 23, 2004, USEPA issued another Request for Information to Lesaffre under Section 114 of the Clean Air Act, 42 U.S.C. § 7414.
35. On May 14, June 4, and July 2, 2004, Lesaffre and Sensient submitted their responses to USEPA's March 23, 2004 Request for Information.
36. On February 14, 2005, USEPA issued a follow-up Request for Information to Lesaffre under Section 114 of the Clean Air Act, 42 U.S.C. § 7414.
37. On April 7 and May 26, 2005, Lesaffre and Sensient submitted their responses to USEPA's February 14, 2005 Request for Information.
38. In or about 1996, there were both physical changes to the source and changes in the method of operation of the source made by commencing the construction of fermenter #11 and other equipment at the plant. USEPA refers to these activities as *Plant Expansion Phase I*. The *Plant Expansion Phase I* was intended to increase the overall liquid yeast production capacity of the source.
39. In or about 2000, there were both physical changes to the source and changes in the method of operation of the source made by installing a higher capacity blower on fermenter #11, installing an old blower as a back up on fermenter #6, installing cream yeast storage tanks, and upgrading the dryers capacities. USEPA refers these physical and operational changes as *Plant Expansion Phase II*.
40. All activities involved in the *Plant Expansion Phases I & II* were physical changes and changes in the method of operation of a major stationary source that allowed increased liquid yeast production capacities and resulted in significant net emissions increases of VOC emissions in a severe ozone non-attainment area. Therefore, the *Plant Expansion Phases I & II* constituted a major modification of a major stationary source.

Violations

41. In violation of Wisconsin SIP NR 408.03, Sensient began construction of major modifications (*Plant Expansion Phases I & II*) without the NSR permits which state that the major modifications have met the requirements of ss. NR 408.04 to 408.10.

42. In violation of Wisconsin SIP NR 408.04, Sensient and Lesaffre failed to apply the lowest achievable emission rate (LAER) for VOC emissions at each emissions unit at which a net emissions increase in the VOC emissions occurred as a result of a physical change or change in the method of operation in the unit.

6/30/2005
Date



Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent copies of the Notice of Violation EPA-5-05-WI-07 by Certified Mail, Return Receipt Requested, to:

Geoffrey O'Connor
Chief Financial Officer and Treasurer
Lesaffre Yeast Corporation
433 East Michigan Street
Milwaukee, Wisconsin 53202

John L. Hammond, Registered Agent
Sensient Technologies Corporation
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

I also certify that I sent copies of the Notice of Violation EPA-5-05-WI-07 by first class mail to:

Lloyd Eagan, Director
Bureau of Air Management
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921
Madison, Wisconsin 53707

William Baumann, Chief
Combustion Process
Bureau of Air Management
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921
Madison, Wisconsin 53707

John Melby, Regional Leader
Southeast Region
Wisconsin Department of Natural Resources
2300 North Dr. Martin Luther King Jr. Drive
Milwaukee, Wisconsin 53212

on the 30 day of June, 2005.

Shyella Dixon for
Shanee Rucker, Secretary
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000614478652 - Mr. Geoffrey O'Connor
70010320000614478645 - John L. Hammond