

United States Environmental Protection Agency  
Region 5

IN THE MATTER OF: )  
 )  
Carmeuse Lime, Inc. ) ADMINISTRATIVE ORDER  
Chicago, Illinois )  
 ) EPA-5-04-113(a)-04-IL  
Proceedings Pursuant to )  
the Clean Air Act, )  
42 U.S.C. §§ 7401 et seq. )  
\_\_\_\_\_ )

ADMINISTRATIVE CONSENT ORDER

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Carmeuse Lime, Inc., under Sections 113(a)(1) and (3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(1) and 7414(a)(1).

Statutory and Regulatory Background

2. The Administrator of U.S. EPA may promulgate regulations establishing standards of performance for new sources (New Source Performance Standard or NSPS) under Section 111 of the Act, 42 U.S.C. § 7411.

3. Under Section 111 of the Act, the Administrator promulgated the NSPS for Lime Manufacturing Plants at 40 C.F.R. Part 60, Subpart HH. The NSPS for Lime Manufacturing Plants applies to each rotary lime kiln used in the manufacture of lime.

4. The NSPS General Provisions, at 40 C.F.R. Part 60, Subpart A, apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard applicable to that facility.

5. The NSPS, at 40 C.F.R. § 60.11(d), requires the owner and operator of rotary lime kilns used in the manufacture of lime to, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in

NRDC-SETP ATTACHMENT THREE

a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

6. Each state must submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

7. On May 31, 1972, U.S. EPA approved Illinois Pollution Control Board (PCB) Rule 103, 35 Ill. Admin. Code § 201.141, as part of the federally enforceable State Implementation Plan ("SIP") for the State of Illinois. 37 Fed. Reg. 10842.

8. Illinois PCB Rule 103(a)(1), 35 Ill. Admin. Code § 201.142, prohibits construction of any new emission source or any new air pollution control equipment without a construction permit.

9. 40 C.F.R § 52.23 provides that failure to comply with any permit condition or permit denial issued pursuant to approved or promulgated regulations for the review of new or modified stationary sources shall render the person or general agency failing to comply in violation of a requirement of an applicable SIP.

10. On March 15, 1979, U.S. EPA issued to Carmeuse an Approval to Construct EPA-5-79-A-3 for rotary lime kiln number 5 (kiln #5). This Approval to Construct for kiln #5 was published in the Federal Register, Volume 44, No. 56, dated March 21, 1979 (44 Fed. Reg. 17215-16). The approval to construct requires that "any gases from rotary lime kiln #5 which may be discharged into the atmosphere shall not exhibit an opacity of 10 percent or greater."

11. On May 31, 1972, U.S. EPA approved Illinois PCB Rule 102 (35 Ill. Admin. Code § 201.141), as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842.

12. Illinois PCB Rule 102 states that no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or

tend to cause air pollution in Illinois.

13. On May 31, 1972, U.S. EPA approved Illinois PCB Rule 101 (35 Ill. Admin. Code § 201.102), as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842.

14. Illinois PCB Rule 101 defines air pollution as the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

15. On September 13, 1999, U.S. EPA approved 35 Ill. Admin. Code § 212.316, Emissions Limitations for Sources in Certain Areas, as part of the federally enforceable SIP for the State of Illinois. 64 Fed. Reg. 37851 (July 14, 1999).

16. 35 Ill. Admin. Code § 212.316(g)(5) requires owners and operators of any fugitive particulate matter emission unit to submit quarterly reports pertaining to control measures. The quarterly reports are required to provide the dates any necessary control measures were not implemented, a listing of those control measures, the reasons that the control measures were not implemented, and any corrective actions taken.

17. 35 Ill. Admin. Code § 212.316(g)(4) requires that owners and operators keep and maintain records required under 35 Ill. Admin. Code Part 212 onsite for at least three years and be available for inspection. See also Title V Permit Condition 7.6.9(a)(iv).

18. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating a SIP or the NSPS regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

19. The Administrator of U.S. EPA may require any person who owns or operates an emission source to make reports, install, use and maintain monitoring equipment, provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

### Findings

20. Carmeuse owns and operates a lime manufacturing facility, located at 3245 East 103<sup>rd</sup> Street, Chicago, Illinois.

21. Carmeuse's Chicago facility rotary lime kiln #5 is used in the manufacture of lime and commenced construction after May 3, 1977. Therefore, Carmeuse is subject to the NSPS for Lime Manufacturing Plants at 40 C.F.R. Part 60, Subpart HH and the applicable general requirements at 40 C.F.R. Part 60, Subpart A.

22. Carmeuse's operation of the rotary lime kiln #5 during the manufacture of lime emits pollutants into the air. Carmeuse owns or operates an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, Carmeuse is subject to the requirements of Section 114(a)(1).

23. On April 3, 2003, U.S. EPA issued to Carmeuse a finding of violation and notice of violation (FOV/NOV) alleging that Carmeuse violated the NSPS for Lime Manufacturing Plants by having poor operation and maintenance leading to the emission of fugitive dust and particulate matter from kiln #5 and associated ductwork. The FOV/NOV also alleged that Carmeuse violated the Approval to Construct EPA 5-79-A-3 and Illinois PCB Rule 102 by exceeding its 10% opacity limit for 22.4% of their monitored opacity readings from July 1 to September 30, 2002, and causing, threatening or allowing the discharge or emission of contaminants into the air which tend to cause air pollution, respectively.

24. Carmeuse began removal of the waste lime pile that was on-site at Carmeuse's South Chicago Plant on October 11, 2004. U.S. EPA finds that Carmeuse satisfactorily removed the waste lime pile in accordance with the Lime Fines Pile Removal Dust Minimization Plan dated September 2004 and its addendum sent to U.S. EPA by Carmeuse via e-mail on October 4, 2004.

25. Carmeuse violated the NSPS for Lime Manufacturing Plants and the applicable general requirements at 40 C.F.R. 60.11(d), its Approval to Construct EPA 5-79-A-3 and Illinois PCB Rule 102 as a result of the violations described in paragraph 23.

Compliance Program

After a thorough investigation of all relevant facts, and taking into account the seriousness of the violations it has been determined that the following requirements are agreed and ordered and are reasonable.

**THEREFORE, IT IS HEREBY ORDERED AND AGREED THAT:**

26. Carmeuse will develop and implement a comprehensive Operating Program for Fugitive Particulate Matter Control (OPFPMC), in accordance with Conditions 5.2.3 and 7.6 of the Title V Permit #95090136, 35 IAC 212.309(a) and the City of Chicago Department of Environment's Dust Management Plan Requirements, which details all control measures which the plant uses to control fugitive dust, as described in the attached Appendix A.

27. Carmeuse will submit the OPFPMC to the U.S. EPA and Illinois Environmental Protection Agency for approval or comment within 45 days of the effective date of this Administrative Order.

28. Carmeuse must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604.

General Provisions

29. This Order does not affect Carmeuse's responsibility to comply with other local, State, and Federal laws and regulations.

30. This Order does not restrict U.S. EPA's authority to enforce the Illinois SIP, or any section of the Act.

31. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for Carmeuse's violation of the Act and Illinois SIP.

32. Failure to comply with this Order may subject Carmeuse to penalties of up to \$27,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

33. The terms of this Order are binding on Carmeuse, its assignees and successors. Carmeuse must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Carmeuse has given the notice.

34. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.

35. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

36. Carmeuse agrees to the terms of this Order.

37. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will expire one year from the effective date, if Carmeuse has complied with all of its terms.

9/21/05  
Date

Kevin J. Whyte  
Kevin J. Whyte  
Vice President, General Counsel  
Carmeuse Lime, Inc.

9/26/05  
Date

Stephen Rothblatt  
Stephen Rothblatt, Director  
Air and Radiation Division

Enclosures

## APPENDIX A

### OPERATING PROGRAM FOR FUGITIVE PARTICULATE MATTER CONTROL

Carmeuse Lime, Inc. (Carmeuse) will develop a comprehensive Operating Program for Fugitive Particulate Matter Control (OPFPMC) which details all control measures its facility, located at 3245 East 103<sup>rd</sup> Street, Chicago, Illinois, (Facility) uses to control fugitive dust in accordance with Conditions 5.2.3 and 7.6 of the Title V Permit #95090136 (Title V Permit), 35 IAC 212.309(a) and the Dust Management Plan (DMP) for the City of Chicago Department of Environment. Whenever Carmeuse's Title V Permit and DMP address the same control measures, then the OPFPMC will include whichever requirement is more stringent. Carmeuse will submit the OPFPMC to the U.S. EPA and Illinois Environmental Protection Agency (IEPA) for approval or comment within 45 days of the effective date of this Administrative Order. The OPFPMC will be amended from time to time by Carmeuse so that the operating program is current. In addition, the OPFPMC will include, but will not be limited to, the below specifications.

1. The operating program will contain control measures given in Conditions 5.2.3 (a)-(f) of the Title V permit. Carmeuse's program will include all the recordkeeping requirements of Section 7.6.9 of its Title V Permit. (The regulatory requirements of Condition 7.6.9 can be found at 35 IAC 212.316.)

2. The OPFPMC will include specifications of the operating parameters of the truck wash. This will, at a minimum, include the following commitments which apply to trucks transporting lime:

a. wash the tires and the truck body around the level of the tires and fenders of each truck shipping lime directly prior to the truck leaving the Facility grounds;

b. the truck wash will be available, except between the time when the source of water for the truck wash freezes and thaws due to weather conditions, 24 hours a day, 7 days a week. Between the time the source of water for the truck wash freezes and thaws due to weather conditions, Carmeuse will sweep 106<sup>th</sup> Street at least monthly, however, when there is increased truck traffic due to the decrease of ship delivery of limestone Carmeuse will sweep 106<sup>th</sup> Street twice per week;

c. provide the procedures used at the truck wash and any exemptions to normal procedures; and

d. directly prior to leaving the Facility, each truck will



go over rumble strips designed to dislodge dust accumulations on the truck.

3. Carmeuse will develop a plan to minimize accumulation of dust in the North Hummer House, Gallery Tube, South Hummer House, Briquetter Area, and Grinding Mill. This plan will include the commitment to perform the interior vacuuming services monthly or more often as management may direct. Carmeuse will retain records of the cleaning described in this section for three years. The records will include the name and affiliation of the individual(s) who perform(s) each cleaning, the date of each cleaning, an estimate of dust removed during each cleaning, and the ultimate location of the dust removed for each cleaning. The plan and recordkeeping requirements provided for in this paragraph will be included as a provision of the OPFPMC.

4. Carmeuse will ensure that all the entryways to the Grinding Mill have operational automatically closing spring doors. All Carmeuse employees who access the Grinding Mill will be trained to close the doors behind them after entering and exiting the house.

5. Carmeuse will clean the roofs of buildings and silos on a quarterly basis. However, if there is no accumulation of lime dust on a roof during the entirety of the quarter, then Carmeuse does not have to clean that roof during that quarter.

7. The OPFPMC will identify areas where all permanent and temporary stockpiles are placed. Carmeuse will provide information regarding the types of materials stored in active and inactive piles and the method and schedule for dust control at the piles. Carmeuse will write a general protocol for moving waste lime piles. The waste lime piles will always be kept wet when moved.

6. Carmeuse will not allow the placement of off specification material on the grounds anywhere outside of enclosed areas. Carmeuse will designate an enclosed area to be used for temporary placement of waste materials.

7. Carmeuse will cover all material transport conveyors.

8. Carmeuse will use the telescoping spouts and dedicated particulate matter collection systems whenever a truck is loaded in one of the thirteen truck load-out locations where the spouts and collection systems are currently installed. For the remaining two truck load-out locations, Carmeuse will continue to

ensure that they are in a building enclosed with either freezer strips or a high speed closing door system. The doors will be closed whenever a truck is loaded. Depending on the type of truck, either all hatches and openings must be closed or trucks must be tarped prior to leaving the Facility.

9. Material other than finished product will be loaded into trucks at a drop level that will minimize the emission of dust.

10. Carmeuse will conduct quarterly inspections for any holes or cracks in buildings at the Facility. Records of the dates, times, locations and any corrective actions should be maintained onsite for three years. Carmeuse will provide a method for permanently fixing any holes and cracks within one week of discovery.

11. Carmeuse will maintain dust suppression on the roadways at the Facility by the use of a water truck or a street sweeper, no less than twice daily and more often as needed. Sweeping of roadways may be suspended if they are covered with snow or ice. If temperatures exceed 35°F three days in a row, dust suppressant equipment will be utilized.

12. Carmeuse will perform preventative maintenance on all baghouses and dust collectors at least once per month. Carmeuse will fix any problem with the baghouses and dust collectors within two hours of becoming aware of the problem. If the problem cannot be fixed within two hours due to the magnitude of the problem or the necessity to order a part, Carmeuse will issue a work order to have the work done as expeditiously as possible. Carmeuse will keep a log for all maintenance and monthly work.

13. Carmeuse will designate a cell phone number or pager in order for citizens to contact a Carmeuse employee directly when they have a complaint. Carmeuse will also have the main office number transfer to the kiln operator station, which continually has an operator present. A Carmeuse employee will be responsible for responding to citizen calls 24 hours a day and 7 days a week.

14. Recordkeeping: Carmeuse will maintain records of all OPFPMC activities for five years. Carmeuse will keep records onsite of all complaints for at least five years.



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

SEP 27 2005

REPLY TO THE ATTENTION OF

(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Stephen Smith  
Associate Counsel  
Carmeuse North America  
11 Stanwix Street, 11th Floor  
Pittsburgh, PA 15222

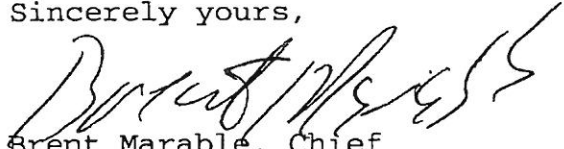
Dear Mr. Smith:

Enclosed is an Administrative Consent Order (AOC) and a filed stamped Consent Agreement and Final Order (CAFO) which resolves Carmeuse Lime, Inc. (Carmeuse), CAA Docket No. CAA-05-2005-0051. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on 9/28/05.

Pursuant to paragraph 43 of the CAFO, Carmeuse must pay the civil penalty within 30 days of 9/28/05. Your check must display the case docket number, CAA-05-2005-0051 and the billing document number, 050305059.

Please direct any questions regarding this case to Sabrina Argentieri, Associate Regional Counsel, (312) 353-5485.

Sincerely yours,

  
Brent Marable, Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

CERTIFICATE OF FILING AND MAILING


I, Betty Williams, do hereby certify that a Administrative Consent Order, No. EPA-5-04-113(a)-04-IL, was sent by Certified Mail, Return Receipt Requested, to:

Mr. Stephen Smith  
Associate Counsel  
Carause North America  
11 Stanwix Street, 11<sup>th</sup> Floor  
Pittsburgh, PA 15222

I also certify that a copy of the Administrative Consent Order was sent by First Class Mail to:

Julie Armitage, Acting Manager  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

on the 28<sup>th</sup> Day of September 2005.

  
\_\_\_\_\_  
Betty Williams, APA  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000602952850