

1. This is an administrative penalty assessment proceeding commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. §§ 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3).
2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.
3. Respondent is Carmeuse Lime, Inc., a corporation doing business in Ohio. Respondent is a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) without the adjudication of any issues of law or fact.
5. Respondent agrees to comply with the terms of this CAFO.

B. Jurisdiction

6. The alleged violations in this CAFO are pursuant to Section 113(a)(1)(B) and Section 113(a)(3)(A) of the CAA.

7. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. In satisfaction of the notice requirements of Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), on September 21, 2021 the EPA issued to Respondent a Notice of Violation/Finding of Violation (NOV/FOV) and provided a copy of the NOV/FOV to the Ohio Environmental Protection Agency (Ohio EPA), providing notice to Respondent and Ohio EPA that the EPA found Respondent committed the alleged violations described in Section E of this CAFO and providing Respondent an opportunity to confer with the EPA. On October 28, 2021, representatives of Respondent and the EPA conferred regarding the September 21, 2021 NOV/FOV.

9. The Regional Judicial Officer of Region 5 is authorized to ratify the consent agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

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

11. On October 28, 2014, EPA approved Ohio Administrative Code (OAC) 3745-31-13 and 16 as part of the federally enforceable SIP for Ohio. 79 Fed. Reg. 64119.

12. On June 25, 2015, EPA approved OAC 3745-31-10 through 12, 14-15, 17-18 as part of the federally enforceable SIP for Ohio. 80 Fed. Reg. 36477.

13. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated into a State Implementation Plan (SIP) is federally enforceable under CAA Section 113, 42 U.S.C. § 7413.

14. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for major sources of air pollution.

15. On August 15, 1995, EPA approved the State of Ohio's operating permit program pursuant to Section 502(d) of the CAA, 42 U.S.C. § 7661a(d), with an effective date of October 1, 1995. 60 Fed. Reg. 42,045.

16. Ohio EPA issued a modified Part 70 Operating Permit (P0125171) to the Facility on January 24, 2019, with an effective date of January 24, 2019.

17. Condition C.13.b)(1)b and Condition C.13.b)(2)b.ii.(d) of Title V Permit P0125171 limit sulfur dioxide (SO₂) emissions from each Rotary Lime Kiln #1 P003 and Rotary Lime Kiln #2 P004 to 1,102.00 pounds per hour (lbs/hr).

18. Ohio EPA issued a renewed Part 70 Operating Permit (P0128727) to the Facility on January 20, 2021, with an effective date of February 10, 2021, and an expiration date of February 10, 2026.

19. Condition C.12.b)(1)b and Condition C.12.b)(2)b.ii.(d) of Title V Permit P0128727 limit SO₂ emissions from each Rotary Lime Kiln #1 P003 and Rotary Lime Kiln #2 P004 to 1,102.00 lbs/hr.

20. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

21. 40 C.F.R. § 70.6(b)(1) provides that all terms and conditions in a Title V permit are enforceable by EPA.

D. Stipulated Facts

22. Carmeuse Lime owns and operates a lime manufacturing facility located at 1967 West County Road 42, P.O. Box 708, Bettsville, Ohio.

23. At this facility, among other emissions units, Carmeuse Lime owns and operates two rotary lime kilns, identified in the PTIs and Title V Permits as Rotary Lime Kiln #1 P003 and Rotary Lime Kiln #2 P004.

24. Based on fuel usage data, fuel sulfur content data and production data provided by Carmeuse Lime to EPA, and scrubbing factors determined by emissions testing conducted at the Facility, EPA calculated the daily average hourly SO₂ emissions rate from each Kiln for the period of January 1, 2016, through May 31, 2022.

E. Alleged Violations of Law

25. Carmeuse Lime violated the Ohio SIP and its Title V Permits by exceeding the SO₂ emissions limit of 1,102.00 lb SO₂/hr at Rotary Lime Kiln #1 P003 on 90 days between December 8, 2020, and May 29, 2022.

26. Carmeuse Lime violated the Ohio SIP and its Title V Permits by exceeding the SO₂ emissions limit of 1,102.00 lb SO₂/hr at Rotary Lime Kiln #2 P004 on 51 days between January 24, 2021, and May 28, 2022.

F. Terms of Consent Agreement

27. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
- a. admits to the jurisdictional allegations in this CAFO;

- b. admits to the stipulated facts set forth in Section D, above, and neither admits nor denies the alleged violations of law set forth in Section E, above;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to any conditions specified in this CAFO;
- e. waives any right to contest the alleged violations of law set forth in Section E of this CAFO; and
- f. waives its right to appeal this CAFO.

28. For the purposes of this proceeding, Respondent:

- a. agrees this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges this proceeding constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1); and
- d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

29. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C.

§ 7413(e), the facts of this case, and Respondent's cooperation, the EPA has determined that an appropriate civil penalty to settle this action is \$260,000.

30. Respondent agrees to pay a civil penalty in the amount of \$260,000 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

31. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

32. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CAA-05-2025-0028,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Robert L. Thompson
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Thompson.robertl@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

33. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed

Penalty per this Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS large corporate underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, the EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

34. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

35. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

36. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

37. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

38. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

39. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal capacity to bind the party they represent to this CAFO.

40. By signing this consent agreement, respondent waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

41. By signing this CAFO, Respondent certifies the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that, under 18 U.S.C. § 1001, there are significant

penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information.

42. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

G. Effect of Consent Agreement and Attached Final Order

43. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: thompson.robertl@epa.gov (for the EPA), and joseph.freudenberg@carmeuse.com and sdismukes@eckertseamans.com (for Respondent).

44. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in this CAFO.

45. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to this matter with the exception of the administrative compliance order, docket number EPA-5-25-113(a)-OH-3 issued concurrently.

46. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

47. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$121,275 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of

the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

48. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

49. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

50. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

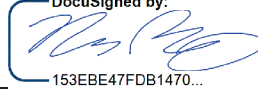
H. Effective Date

51. This CAFO will be effective after the Regional Judicial Officer executes the attached Final Order, on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

Carmeuse Lime, Inc., Respondent

1/15/2025

Date

DocuSigned by:

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Nicholas Bonnarrigo, VP, Legal and Environmental
Carmeuse Lime, Inc.

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Carmeuse Lime, Inc.
Docket No. CAA-05-2025-0028

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5