

September 2, 2011

EA-11-145

Mr. Jeff Bittner  
Manager of Energy Projects  
and Site Operations Manager  
Carmeuse Lime, Inc.  
25 Marion Avenue  
River Rouge, MI 46218

SUBJECT: NOTICE OF VIOLATION – CARMEUSE LIME, INC.  
NRC INSPECTION REPORT NO. 03036577/2011-001(DNMS)

Dear Mr. Bittner:

This refers to a U.S. Nuclear Regulatory Commission (NRC) routine inspection conducted on May 19, 2011, at your facility located in River Rouge, Michigan, with continued in-office review through June 20, 2011. The purpose of the inspection was to determine whether activities authorized under your license were conducted safely and in accordance with NRC requirements. During the inspection, apparent violations of NRC requirements were identified. The significance of the issues, and the need for lasting and effective corrective actions were discussed with you at the final inspection exit meeting on June 20, 2011.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a Predecisional Enforcement Conference or by providing a written response before we made an enforcement decision. In a letter dated August 12, 2011, you provided a response to the apparent violations.

Based on the information developed during the inspection, and the information provided in your August 12, 2011, response, the NRC has determined that violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The violations involved the failure to appoint a new Radiation Safety Officer (RSO) after the person named on your NRC license left your employment. Since you did not have an RSO, shutter checks and physical inventories also required by your NRC license were not performed.

The root cause of the violations was that you did not recognize the conditions specified in your NRC license, such as the requirement to have an RSO. Your failure to comply with the conditions of your license are of concern to the NRC because it could have resulted in individuals performing work in the vicinity of a malfunctioning gauge, or even working on the gauge itself, and possibly receiving an overexposure. Therefore, the violations have been categorized in accordance with the NRC Enforcement Policy as a Severity Level III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a Severity Level III problem. Because your facility has not been the subject of an escalated enforcement action within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment

process in Section 2.3.4 of the Enforcement Policy. Credit was warranted for your corrective actions which included: (1) replacing the RSO; (2) amending your NRC license; and (3) issuing a Standard Operating Procedure addressing the actions necessary should the current RSO leave your employment.

Therefore, in recognition of the absence of previous escalated enforcement action, and to encourage prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III problem constitutes escalated enforcement action, which may subject you to increased inspection effort.

The NRC has concluded that information regarding the reasons for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 03036577/2011-001(DNMS) and in your response dated August 12, 2011. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

***/RA by Cynthia D. Pederson Acting for/***

Mark A. Satorius  
Regional Administrator

Docket No. 030-36577  
License No. 21-32513-01

Enclosure:  
Notice of Violation

cc w/encl: State of Michigan

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Sincerely,  
**/RA by Cynthia D. Pederson Acting for/**

Mark A. Satorius  
 Regional Administrator

Docket No. 030-36577  
 License No. 21-32513-01

Enclosure:  
 Notice of Violation

cc w/encl: State of Michigan

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See next page

\*See previous concurrence

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OFFICE	RIII	RIII	RIII	OE	RIII	RIII
NAME	Lougheed*	Bloomer*	Louden for Boland*	Day for Zimmerman <sup>1</sup>	Orth	Pederson for Satorius
DATE	08/25/11	08/25/11	08/26/11	09/02/11	09/02/11	09/02/11

**OFFICIAL RECORD COPY**

<sup>1</sup> OE concurrence received via e-mail from K. Day on September 2, 2011.

Letter to Jeff Bittner from Mark A. Satorius dated September 2, 2011

SUBJECT: NOTICE OF VIOLATION – CARMEUSE LIME, INC.  
NRC INSPECTION REPORT NO. 03036577/2011-001(DNMS)

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## NOTICE OF VIOLATION

Carmeuse Lime, Inc.  
River Rouge, Michigan

Docket No. 030-36577  
License No. 21-32513-01  
EA-11-145

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on May 19, 2011, with continued in-office review through June 20, 2011, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 12.A of NRC License No. 21-32513-01 authorized a specifically named individual to fulfill the duties and responsibilities of the Radiation Safety Officer (RSO) for the license.

Contrary to the above, as of May 19, 2011, the named individual, specifically authorized by Condition 12.A. of the license to fulfill the duties and responsibilities as RSO, was no longer employed by the licensee and did not fulfill the duties and responsibilities as RSO. Specifically, the individual left the company in 2007, and the licensee failed to: (1) appoint a new RSO; (2) have anyone perform the duties of the RSO; and (3) amend its NRC license following the previous RSO's departure from the company.

- B. License Condition 15 of NRC License No. 21-32513-01 requires that the licensee conduct a physical inventory every six months, or at other intervals approved by the NRC, to account for all sealed sources and/or devices received and possessed under the license.

Contrary to the above, between April 2009 and April 2011, the licensee failed to conduct a physical inventory of the gauges every six months and no other interval had been approved by the NRC.

- C. License Condition 16.A of NRC License No. 21-32513-01 requires that the licensee test each gauge for the proper operation of the on-off mechanism (shutter) and indicator, if any, at intervals not to exceed six months or at such longer intervals as specified in the certificate of registration issued by the NRC pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 32.210 or the equivalent regulations of an Agreement State.

Contrary to the above, between April 2009 and April 2011, the licensee failed to test each gauge for the proper operation of the on-off mechanism (shutter) and no other interval was specified in the certificate of registration. The gauges were not in storage, such that the exception in License Condition 16.B did not apply.

This is a Severity Level III problem (Section 6.3).

The NRC has concluded that information regarding the reasons for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 03036577/2011-001(DNMS) and in your response dated August 12, 2011.

ENCLOSURE

However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201, if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-11-145," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator and the Enforcement Officer, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 2<sup>nd</sup> day of September 2011