



Handling With Care • LME Approved

S. H. Bell Company
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January 9, 2014

~ Via Express Mail ~

Department of Public Health
Attn: Environmental Permitting and Inspections
333 South State Street, Room 200
Chicago, IL 60604

**Re: Department of Public Health – Rules and Regulations for Bulk Material Storage Piles
Proposed December 17, 2013**

Dear Sir or Madam:

S.H. Bell Company respectfully submits this letter to request an extension of time in which to comment on the above-referenced proposed rule including, but not limited to the following reasons, including but not limited to those discussed below. Since 1973 S.H. Bell Company has operated a fully permitted material warehouse facility located at 10218 South Avenue “O”, Chicago, Illinois. This facility does not handle petcoke but its operations will be seriously compromised as a result of the proposed rule's broad definition of "Bulk Materials". In general, we support the City of Chicago's efforts for controlling fugitive dust but are concerned that a reactionary regulatory response to the August 2013 petcoke dust incident has contributed to an overly broad proposed rule which does not appear to include a thorough evaluation of the breadth of the impact and appropriate balancing of economic vitality and healthy communities.

We are further concerned that the hasty development of this proposed rule has precluded adequate notice to the full class of facilities covered by its very broad reach, and further the City has thus failed to engage all affected stake holders. For example, the City of Chicago's December 19, 2013 press release regarding this proposed rule indicates the current regulatory efforts are specifically targeted to protect residences from petroleum coke and metallurgical coke dust, and thus as framed, fails to put on notice other operations which may become subject to the proposed rule. This press release quotes Mayor Emanuel as stating, among other things...."we are working to force these petroleum coke facilities to either clean-up or shut down,". Indeed, comments to the proposed rule are to be submitted to: "petcokecomments@cityofchicago.org". Additionally, US Senator Dick Durbin's December 13, 2013 press release focuses specifically on the nearby petroleum coke storage sites. This publicly expressed purpose of the rule fails to inform all affected facilities of the full breadth of the proposed rule.

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The proposed rule specifically targets “airborne particulate matter from the storage, blending, handling, processing and transportation of bulk solid materials as defined herein, including but not limited to, ores, coal and coke, including petroleum coke and metallurgical coke.” The proposed rule goes on to define bulk solid material to mean “any solid substance and material which can be used as fuel or *as an ingredient in a manufacturing process* that may become airborne or scattered by the wind”. There are many industrial facilities which will be immediately impacted by the proposed rule which store ingredients used in manufacturing processes that do not handle ores, coal and coke including petcoke and metcoke.

These “other entities” covered by the broad reach of this proposed rule have not been provided notice of and the same time, opportunity and benefit of working with the City to craft and mold an appropriate rule to address fugitive dust issues; opportunities which we understand have been provided to companies which store and handle coal and petcoke materials. The failure to provide adequate notice of and equal opportunity to discuss the development of this rule to all facilities covered by the proposed rule renders the process discriminatory, does not meet the minimum requirements of due process and has failed to engage all interested stakeholders.

Some examples of issues not apparently fully considered:

- Impact on fully permitted facilities with City of Chicago approved Fugitive Dust and Contingency Measures Plans;
- identity of all classes of facilities covered by the proposed rule;
- impact of proposed rule on entire class of facilities covered by the rule;
- impact of time necessary to obtain all required building and environmental permits prior to commencing construction;
- economic and technical feasibility of proposed rule on all affected facilities covered by the proposed rule; and
- the detrimental economic impact on affected facilities’ respective communities.

There are many facilities affected by this overly broad proposed rule which support vital Chicago communities with their direct and indirect jobs and taxes; support which, in many instances, may well evaporate due to the hasty promulgation of the proposed rule. Such harsh impact is likely to be the direct result of the City's failure to provide adequate notice and opportunity for the entire class of facilities covered by the proposed rule to work with the City to craft a healthy and economically balanced rule to further address fugitive dust issues in the City of Chicago.

Accordingly, S.H. Bell Company respectfully requests a significant extension of time in which to evaluate the manner, nature, structure and economic impact of this proposed rule in an effort to work with the City to craft a balanced solution.

Respectfully submitted,

S.H. Bell Company



J.M. Bell, President

Cc: Alderman John A. Pope / Chicago
Dave Holmberg / Calumet Area Industrial Commission
Scott R. Dismukes / Eckert Seamans Cherin & Mellott, LLC