S.H. Bell Company
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Handling With Care • LME Approved

February 5, 2014

~Via E-mail and Express Mail~

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

Re: Comments Regarding 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 the following comments regarding the City of Chicago's proposed "petcoke" Rule. S.H. Bell Company's fully permitted material warehouse facility located at 10218 South Avenue "O", Chicago, Illinois 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. Accordingly, S.H. Bell Company timely submits the following comments in accordance with the City of Chicago Department of Public Health's Second Notice of Proposed Regulations for the Handling and Storage of Bulk Material Piles.

I. Introduction

S.H. Bell Company ("S.H. Bell" or "the Company") is a family owned business that provides handling, storage, processing and packaging services to a customer base comprised of producers, and international traders and importers of metals, minerals, and semi-finished raw materials used in industrial processes here in North America. S.H. Bell is a longstanding member of the South Chicago community. S.H. Bell began operations in Chicago forty years (40) ago when it purchased the riverfront property of the Chicago Block Company, Inc. – located between 101st and 103rd Streets, on the East bank of the Calumet River. It then acquired more property adjacent to the southeast side of its Chicago facility in 1977, and further expanded in 1983 by acquiring approximately half of the adjacent property to the north, formerly owned by The American Ship Building Company. In 2000, S.H. Bell also opened a warehouse facility located in the Illinois International Port District at Lake Calumet. This expansion has given S.H. Bell the opportunity to employ twenty-seven (27) hard-working, family wage earners as well as six (6) full-time contractors at its South Chicago facility, and results in the Company contributing

annually an estimated $2.5 million towards the local economy in salaries, wages, benefits and lease payments and an additional $3.4 million towards local vendor services.

At the Chicago facility, S.H. Bell processes, stores and transfers materials such as ferromanganese, ferrosilicon, pig iron, ferrochrome, silicon carbide, refractory products, graphite electrodes and primary nonferrous metals such as copper, zinc and aluminum, typically in ingot form. S.H. Bell does not process, store or transfer coal, petroleum coke ("petcoke"), or metallurgical coke ("metcoke").

On December 19, 2013, the City of Chicago published "Regulations for the Handling and Storage of Bulk Material Piles" (the "Proposed Rule" or "Rule"). The Proposed Rule appears to apply far beyond the publicly expressed intent of City officials leading up to the Rule's publication. Indeed, as discussed more fully below, the overly broad and vague definition of "Bulk Solid Materials" would likely apply to S.H. Bell's South Chicago facility, and assuming that it does, would lead to devastating impacts on S.H. Bell's ability to continue to operate. This impact would ultimately result in the loss of thirty-three (33) incomes for 33 families, many of them union employees, and close to $6 million lost towards the local economy. Even more problematic, the economically crippling and overly broad Rule fails to consider the robust regulations already in place for facilities such as S.H. Bell, which limit fugitive dust and protect public health. By way of example, S.H. Bell has adopted and implemented a fugitive operating program, as required by 35 IAC § 212.309, and further the City of Chicago has specifically approved this program. Therefore, as discussed more fully below, S.H. Bell requests that the City withdraw the Rule as proposed and instead engage and work with all interested stakeholders to evaluate the burden on industry in relation to any potential health impacts, given that the federal government finds that the City's targeted pollutants are not hazardous and the local area is in attainment with federal ambient air quality standards for both PM-10 and PM-2.5.

II. Substantive Comments to Ordinance

A. The City of Chicago Has Failed to Meet the Minimum Requirements of Due Process

On December 19, 2013 the City of Chicago proposed sweeping regulations for businesses that store, blend, handle, process and transport bulk solid materials. These far-reaching and extensive regulations caught many affected and potentially affected businesses off guard, including S.H. Bell, particularly when S.H. Bell does not handle or store petcoke or metcoke, has a state operating permit, an approved Fugitive Operating Program and a contingency measures plan.

Indeed, prior to the December 19 publication of the proposed regulations, the City had been vocal about its singular focus on fugitive emissions from petcoke and metcoke storage piles. For example, the City of Chicago's December 19, 2013 press release regarding the Proposed Rule indicates the current regulatory efforts are specifically targeted to protect residences from petcoke and metcoke dust, and thus as framed, fails to put on notice other operations which may become subject to the 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 Rule are to be submitted to: "petcokecomments@cityofchicago.org". Additionally, U.S. Senator Dick Durbin's December 13, 2013 press release focuses specifically on the nearby petcoke storage sites. These public announcements, on their face, fail to be reasonably calculated to apprise and inform facilities across the City of Chicago which handle bulk materials of the applicability of the Rule to their operating facilities; many of whom are not yet aware of the proposal. Such notice also fails to adequately inform the affected facilities of the scope, extent and impact of the Rule on the operation of their facilities. Moreover, the City's *ad hoc* announcement on Thursday, January 9, 2014 that it would hold a meeting for affected businesses on Friday, January 10, 2014, fails to provide such stakeholders with any meaningful notice or ability to engage the City on this subject matter.

The City's publicly expressed purpose of the Rule fails to inform all affected facilities of its full breadth and impact, and is therefore defective. Indeed, the proposed regulations go far beyond limiting fugitive emissions from petcoke or metcoke storage piles and encompass all "bulk solid material." The City defines "bulk solid material" as follows:

> Bulk Solid Material means any solid substance or material which can be used as a fuel or as an *ingredient in a manufacturing process* that may become airborne or be scattered by the wind, including but not limited to *ores*, coal, coke, including petcoke and metcoke, but shall not include construction and demolition materials or materials that are handled or stored pursuant to a recycling, reprocessing, or waste handling facility permit under Chapter 11-4 of the Code [emphasis added].

There are many industrial facilities which will be immediately impacted by the Rule which store ingredients used in manufacturing processes that do not handle coal and coke, including petcoke and metcoke. These "other entities" covered by the broad reach of this 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 any fugitive dust issues; opportunities which we understand have been provided to companies which store and handle coal and coke materials. The failure to provide adequate notice of and equal opportunity to discuss the development of this Rule to all facilities covered by the Rule renders the process discriminatory, violates equal protection, fails to engage all interested stakeholders; and therefore does not meet the minimum requirements of due process.

Moreover, the timing for commenting on this Rule is unreasonable under the circumstances due to the severe impact on commerce at existing facilities that can result in complete cessation of operations leading to job loss and erosion of the local tax base. This Rule was publicly noticed on December 19, 2013, immediately preceding the 2013/2014 Christmas and New Year's holiday. While the City subsequently extended the comment period from January 24, 2014 to February 7, 2014, the comment period still remains grossly inadequate in light of the breadth of the Rules and fails to give entities such as S.H. Bell reasonable opportunity to evaluate potential impacts of the Rule, consult with technical resources to evaluate the economic and technical feasibility of the Rule as well as assess the ability of the existing facilities to comply. The opportunity to adequately evaluate the Rule must necessarily precede the development and submittal of comments on the Rule in an effort to engage the City of

Chicago to develop, if at all necessary, fair and balanced regulations to control fugitive dust. Further, we note that the City of Chicago previously developed a substantial series of regulatory requirements for the control of fugitive dust (Municipal Code of Chicago, Title II, Chapter 4, Article II.). These pre-existing rules, when implemented, are more than sufficient to control fugitive dust and protect human health and the environment as demonstrated by the area's status as in attainment with federal ambient air standards. In this regard, the existing City of Chicago regulations have been reviewed and approved by the State of Illinois and the U.S. Environmental Protection Agency (U.S. EPA) for purposes of being incorporated into the state implementation plan designed to ensure compliance with the National Ambient Air Quality Standards (NAAQS) for particulate matter – a health based threshold.

Based upon the sweeping changes proposed by the City of Chicago on all businesses that store, blend, handle, process and transport bulk solid materials and its failure to notify and meaningfully engage interested stakeholders, we urge the City to withdraw this Rule and to engage instead in a process with all interested stakeholders to evaluate the adverse economic impact on commerce before proposing hasty rules that have an immediate and substantial negative impact on businesses and the employees of those businesses.

B. The City of Chicago's Proposed Rule is Impermissibly Vague and Overbroad.

The City has based its Rule on an overly broad and vague definition of "bulk solid material", which amounts to an ambiguous and therefore arbitrary rulemaking. The City has defined "bulk solid material" as broadly encompassing "any solid substance or material which can be used as a fuel or as an ingredient in a manufacturing process...." The terms "used as a fuel or as an ingredient" or "ore" are particularly ambiguous as many substances or materials may qualify as a "fuel" or an "ingredient" or an "ore" in the manufacturing process. Moreover, "fuel", "ingredient" and "ore" are left undefined, thus, leaving the reasonable person unable to determine what is or what is not regulated, and thus what is or what is not prohibited herein. Further, the Rule is replete with numerous other terms and conditions which are vague and indecipherable including but not limited to the examples included below. Such terms render the Proposed Rule very difficult for a regulated facility to identify who is required to do what and by when.

This inability to understand what is or is not regulated by the Proposed Rule is exacerbated by the City's Mayor and Health Department publicly describing the Rule as limited to petcoke. Such descriptions lead to the initial misunderstanding that the Rule is limited to regulation of the handling, processing and storage of petcoke rather than the broad scope of materials potentially included within the definition of the Rule. Further, the City indicated the Proposed Rule was modeled after the much more limited coke, coal and sulfur rule from California's South Coast Air Quality Management District. The failure of the Rule to explicitly and definitively identify what facilities and materials are subject to the Rule can lead to future arbitrary enforcement and deprive affected facilities of fair notice and due process.

C. The Terms and Requirements of the Proposed Rule Lack Rationality Amounting to Arbitrary and Capricious Rulemaking

In addition to the Proposed Rule's entrenched problems of due process, vagueness, and the adverse effect on local and national commerce, there lie very serious technical implementation challenges which will likely result in facility shutdowns. Therefore, while S.H. Bell requests that the City of Chicago withdraw the Rule and engage in a meaningful dialogue with stakeholders to address fugitive dust concerns and also retain the ability to grow the economy and jobs, S.H. Bell provides more specific comments concerning the Rule that, as written, will have devastating economic impacts on businesses and communities across the City, State and Nation, and directly on S.H. Bell. As set forth by specific examples below, this sweeping Rule proposed by the City in many instances lacks any rational basis for its purported purpose of improving public health, and therefore amounts to an arbitrary and capricious act of rulemaking.

1. It is proposed that all bulk solid materials (with a few limited exceptions) be maintained in fully enclosed structures with air pollution control equipment, construction of which is required within two (2) years from the Rule's effective date to comply. This potential two year period is arbitrary and capricious given the lengthy time needed to obtain a building permit from the City of Chicago as well as any required permitting for the pollution control equipment from Illinois EPA. By way of example, S.H. Bell previously submitted an application for a building permit to the City in late 2008 in connection with a new structure. The final permit was not issued until January 2011 (Permit No. 100182983). Thus, here, based upon S.H. Bell's recent experience with the building permit process, it was not even able to commence construction of its building until nearly three (3) years after it initially applied for a building permit from the City, rendering a two-year compliance period technically infeasible, and therefore arbitrary and capricious.

2. The Rule also proposes overly restrictive setbacks for outdoor bulk solid material storage which are not rational in light of the existing approved Fugitive Operating Program required for outdoor storage. This area is already zoned for industrial use. As currently drafted, the setbacks would eliminate S.H. Bell's ability to store any bulk materials outdoors, even when implementing the approved protections provided by its existing Fugitive Operating Program. These proposed measures have a direct negative impact on the fundamental nature and purpose of S.H. Bell's business, its daily operating practices and its economic investment in this facility. This elimination will immediately reduce facility annual revenue by approximately 20%.

3. Even more, the Rule imposes arbitrary and capricious limits on materials received (10,000 ton on a five-day basis), and sets a maximum outdoor storage capacity of 100,000 cubic yards. On its face, these provisions place needless arbitrary restrictions on production (and economic investment) given S.H. Bell's permit restrictions and Fugitive Operating Program. By way of direct example, it is common for S.H. Bell to have a volume of inbound barges which requires the facility to unload two or three barges per day. This equates to 3,000 to 4,500 tons per day. A 10,000 ton weekly limit would restrict the facility to six or seven barges over a five-day period. With occasional inbound barges arriving in groups of 18 or more and with barge

demurrage[1] of $250 - $300/day, S.H. Bell could easily hit $25,000 to $30,000 in demurrage charges for this group. This would also have a snowball effect on any barges arriving the following week or two which could result in months to catch up. S.H. Bell could not afford to pay for this demurrage and their customers certainly would not agree to it either. In this example, S.H. Bell could easily lose at least one hundred thousand dollars ($100,000.00) of revenue each time it occurred. By way of further example, this provision fails to account for the size and capacity of the U.S. and Canadian registered ships that are used to load and unload bulk materials in the Great Lakes. The ships normally carry 30,000 tons of cargo and can be unloaded in one day. The limitation to 10,000 tons in a five-day period would then require 15 or more working days to unload a ship that previously could be unloaded in one day and fails to account for the significant adverse economic impact of associated demurrage charges. Vessel demurrage can be as much as $48,000 per day.

4. The City also proposes a laundry list of best management practices for outdoor bulk solid material storage even if an affected facility can meet the overly restrictive setbacks. While S.H. Bell implements many fugitive dust control practices as set forth in the Fugitive Operating Program approved by the City of Chicago and incorporated into the Illinois federally enforceable state operating permit ("FESOP") for the facility, many of the practices proposed in this new Rule are either unnecessary for the protection of health, or economically and/or technologically infeasible. By way of example:

i) The Rule proposes that each affected facility install and operate a minimum of at least four (4) Federally Equivalent Method (FEM) real-time PM-10 monitors around the perimeter of the facility. Mandating the installation, calibration and continuous operation of multiple FEM real-time PM-10 monitors is not reasonably relevant for demonstrating compliance and thus is not a lawful requirement. Furthermore, this requirement is not rationally related to improving public health, as the area is in attainment with federal ambient air standards. Further, to have every affected facility required to install four monitors without any analysis of wind direction and no ability to determine causation of the source of the specifically monitored dust (PM) levels, as proposed the Rule is not rationally related to improved public health and protection, and therefore vague, arbitrary and capricious. While the monitors may detect ambient particulate matter they cannot distinguish background concentrations and also cannot distinguish the origin; monitored readings will arbitrarily trigger response activities for detection of fugitive dust not attributable to the facility. Further, such response actions may not have any impact on ambient levels given the area's "attainment" classification. The inability to immediately identify background concentrations coupled with the inability to identify causation renders this Rule vague, arbitrary and capricious.

S.H. Bell further objects to the Rule mandating the installation of these monitors because their monitoring technology has not been demonstrated to be either economically or technologically feasible for use in the unique variable environmental condition or for the purpose envisioned by the Rule. A study by Carla Ferguson and Asok Jain, titled "Particulate Matter Continuous Emission Monitors – Do They Really Work?" presented at the 2003 TAPPI

[1] Blacks law dictionary, in relevant part, defines demurrage to mean the remuneration to the owner of a [vessel] from the detention of the vessel beyond the number of days allowed for loading and unloading.

International Environmental Conference evaluated all known PM CEMS studies. Ferguson and Jain concluded that those studies disclosed serious concerns regarding PM CEMS accuracy, stability, poor correlation evaluations and poor calibration below ISO and U.S. EPA's standards. The study also found that PM CEMS fail to meet EPA response calibration audit requirements.

ii) The Proposed Rule arbitrarily defines "High Wind Conditions" as "wind speeds exceeding 15 miles per hour." Chicago, the "Windy City" is well known for its high average wind speed.[2] By defining High Wind Conditions within the normal range of wind speed in the City of Chicago, and then proposing a complete prohibition on disturbing outdoor bulk solid material piles (including loading and unloading) during High Wind Conditions will ultimately shut down operations at affected facilities on average 40% to 60% of the time. For S.H. Bell Company that will result in at least 27-33 families without incomes. Thus, the Rule's definition of High Wind Conditions lacks a rational basis and amounts to an arbitrary and capricious rulemaking.

iii) The Rule is arbitrary and has no rational basis for requiring vessels that carry most types of ores be unloaded using an enclosed chute. Materials received by barge, such as ores may not be safely unloaded through a chute due to the size of the material, and therefore renders the Rule economically and technically infeasible. For many materials including the majority of metal alloys and ores, it is not technically feasible to offload the material with a chute as the size, weight and structure of the materials require either an excavator or a crane to offload the material. While some fine, light materials can be removed with suction, it is not technically feasible to attempt to remove heavy dense or bulky materials via a material removal chute. Further, the offloading of many materials and the application of water suppression control measures is detrimental to the storage and use of some materials. For example, adding water and moisture content to ferro alloys used in the production of steel can result in a significant explosion hazard when the material is used at the steel mills. In many other respects, additional requirements for water spray controls are likely counterproductive. While use of an excavator for material removal can ensure minimal emissions, watering at that point will have little difference to fugitive emissions but will increase the amount of fuel needed for drying, increase the cost of operation, increase combustion emissions (greenhouse gases) and likely result in a water discharge from the facility where none currently exists. Thus the Proposed Rule is arbitrary and has no rational basis for requiring vessels that carry most types of ores to be unloaded using an enclosed chute.

iv) The Rule's vague street sweeping requirements, if we understand them, propose to require sweeping city streets outside the facility property boundary. This requirement would needlessly overlap with similar sweeping required to be conducted by other local facilities, and as proposed are economically infeasible. One street sweeper costs in excess of $300,000, excluding maintenance and fuel, and an annual operating cost in excess of $90,000. Moreover, the Rule neither addresses insurance liability nor the coordination and required approvals needed from the City's Department of Public Works and the associated employee's

[2] National Weather Service's NOAA database for 2013 alone reveals the average monthly wind speed in Chicago exceeds 10mph.

union that would be necessary for a private party to conduct a necessary public function like sweeping City streets.

v) The Rule is arbitrary in that it does not consider or allow for demonstrated alternative control measures such as the tarping or stabilization of outdoor storage piles or the use of an excavator to unload a barge. The effective tarping or stabilizing of outdoor storage piles are effective control technologies that have been utilized in the storage of many bulk materials. Using an excavator to unload bulk materials from barges allows the terminal to minimize the handling of the material and to minimize drop heights. The excavator scoops material from the barge, and places it directly into the bed of a waiting truck. The excavator operator is able to maneuver the loaded bucket into the bed of the trailer, minimizing the drop height and resulting emissions. The loaded truck then transports the material directly to the storage location, significantly reducing the number of times the material is handled.

5. The Rule is arbitrary and capricious as it completely fails to consider exclusion of permitted facilities with an approved Fugitive Operating Program and which have sufficient record keeping to demonstrate compliance with the Fugitive Operating Program. Such plans consist of and implement demonstrated technologically feasible control measures. Indeed the City of Chicago has directly approved S.H. Bell's Fugitive Operating Program. Moreover, the City failed to fully consider existing regulatory requirements that are incorporated into the Illinois State Implementation Plan and ultimately approved by U.S. EPA.

D. <u>The Proposed Scope, Extent and Impact of the City of Chicago's Proposed Bulk Material Handling Rule Is Economically Infeasible, and Thus Constitutes a Regulatory Taking.</u>

The City of Chicago's Rule and its impact on operating facilities constitutes a regulatory taking of affected facilities operations without due process and just compensation for the reasons noted within these comments. The Rule constitutes excessive regulation in and of itself; and also given the fact that the City of Chicago already has a substantial number of regulatory requirements that apply to the control and restriction of fugitive dust within the City of Chicago. Further, this area is zoned for industrial use. The broad impact of these Rules constitutes a *defacto* equivalent of divesting the company's operating facilities of their property rights resulting in no further economically viable use of their facilities. Restrictions on the amount of material stored and the ability to conduct operations under these overly stringent requirements, i.e., must halt operations, any time the wind speed is within the average recorded wind speed for the City of Chicago, independently or in conjunction with the unspecified response activities required when FEM PM-10 monitors detect fugitive dust (specific threshold also unspecified), constitutes an impermissible taking. Thus, the impact of this Rule does not merely constitute a regulation of ongoing operations but in fact constitutes a complete shutdown of the operations as noted herein. The shutdown of the operations essentially voids any economically viable intended use of the facilities as industrial. The affected facilities have not received just compensation for this taking.

Moreover, the City of Chicago's proposed bulk material handling Rule's compliance measures create a cascade of capital expenditure requirements within the first two (2) years of

the potential effective date, which for a small family-owned business like the S.H. Bell Company is economically infeasible. In the aggregate, all capital expenditures required by the Rule impose a catastrophic financial obligation that is most likely to result in significant reduction of, or closure, of our business.

S.H. Bell provides below a rough estimate of the adverse financial impact on the facility, which in all likelihood could lead to complete closure of the business.

- Building enclosure – Due to S.H. Bell Company's property configuration, the Rule's setback requirements would eliminate any outdoor storage of bulk materials resulting in an immediate loss of approximately 20% of total revenue. These limits directly impact the nature and scope of the business and have a direct adverse impact on the operational throughput of the facility. Assessment of the property identifies a narrow slice of land between two boat slips as the only location capable of meeting the setback requirements. A current rough estimate of the construction of a 50-foot-wide by 400-foot-long building is approximately $1.3 million dollars, not including design, permitting and site preparation. S.H. Bell notes that such a building is impracticably narrow for the nature of its business. Given the other negative impacts of the Rule such as the setbacks and assuming sufficient space was available, indoor storage for our facility's typical inbound shipments would require a minimum of 80,000 square feet and cost at least $5,200,000 to construct. Not only is this proposal economically infeasible for S.H. Bell due to the building cost, but it will have a significant reduction in the amount of material stored and the facility's operational throughput likely leading to a complete shutdown.

- Truck Loading – Current cost estimates for the construction of a truck loadout shed with dust collection is estimated to be between $500,000 and $600,000. These costs do not include design, permitting and site preparation, nor consider whether there is any available land that meets setback requirements which could support the installation of a truck loadout shed. Given our existing facilities, it is unclear whether installation of such a shed would meet the location of the existing railway right-of-way, the City's right-of-way on the roads or the proposed setback requirements. Thus, S.H. Bell is unlikely to be able to construct a shed at our facility.

- Truck Unloading – The unloading of trucks under the Rule is required to be inside a building. The building height would need to be tall to accommodate a truck dumping trailer. An 80-foot by 40-foot building with 40-foot eaves has an estimated cost of $150,000. This cost does not include the cost of any duct work or air pollution control and does not include design, permitting and site preparation. Given our existing facilities, it is unclear whether installation of such a shed would meet the location of the existing railway right-of-way, the City's right-of-way on the roads or the proposed setback requirements. Thus, the Company has a strong concern that such a shed could not be constructed at the facility.

- Rail Car Loading and Unloading – Due to the configuration of the S.H. Bell property and the location of the Norfolk and Southern right-of-way, there is a strong concern that the installation of a railcar loading and unloading facility is technically infeasible due to the Norfolk and Southern's required minimum 9-foot clearance from their track for any obstruction. Construction of such of a building would cause an obstruction with the existing rail right-of-way. Given the existing facilities, it is unclear whether installation of such a facility would meet the location of the existing railway right-of-way, the City's right-of-way on the roads or the proposed setback requirements. Thus, the Company has a strong concern that such a facility could not be constructed at the facility. To the extent such a facility could be technically feasible, S.H. Bell estimates the cost to be approximately the same as the truck load-out shed – between $500,000 and $600,000, excluding design, permitting and site preparation.

- Barge Unloading – S.H. Bell does not have any cost estimates for the installation of a "chute" type unloader. As noted above such equipment is technically infeasible for the type of material unloaded by the S.H. Bell facility. The City's failure to consider alternative control measures in this regard not only renders the Rule technically infeasible, but also unreasonable with a direct adverse impact on the economic interest and investment that the S.H. Bell has made into this facility.

- Wind Barrier – Ignoring the setback requirements in the Rule for outdoor storage which would eliminate outdoor storage completely, S.H. Bell's estimated cost for installation of a 40-foot tall wind barrier for current outdoor storage areas, totaling approximately 4400 linear feet, is in the range of $2.7 million dollars. The setback requirements for the piles from the barrier as stated in the Rule (a distance between the base of the pile and the barrier sides equal to the height of the pile) would remove 80% of the existing available square footage for outdoor storage. Clearly this Rule has a direct adverse impact on the economic interest and investment that S.H. Bell has made into this facility

- Dust Suppression – Again, ignoring the setback requirements which would eliminate outdoor storage a water suppression system for the existing areas of outdoor storage is approximately $600,000 in equipment and site preparation work. This estimate does not include design, permitting or installation costs. Additionally, the system is anticipated to have a 500 gallon-per-minute water requirement. Assuming continuous operation as required by the current proposed regulation, 240,000 gallons of water would be required for an eight-hour day. Given the types of materials handled by S.H. Bell, this quantity of water is not necessary to provide adequate dust suppression and is an imprudent use of a natural resource. At current City of Chicago water rates ($3.32/1000 gallons), that would be a water cost of $800 per operating day. Further, the volume of runoff generated will not likely be able to be handled through evaporation and recycle; therefore, either a retention pond and/or NPDES discharge or discharge to the City of Chicago Metropolitan Water Reclamation District ("MWRD") will be required (where no such discharge currently exists). Costs for these items, including additional piping, sampling access, and user charge fees, have

not been included in these estimates. The Rule has no accommodation for weather conditions like rainy weather periods which render water sprays unnecessary. Although the Rule allows water spray systems to be out of operation for more than 24 hours when the temperatures are below freezing, chemical stabilizers must instead be used. The availability of chemical stabilizers which are compatible with the specific stored materials and their end use is unknown; thus costs for chemical stabilizers are not included in these estimates.

- Installation of Truck Wheel Washing System – The cost estimate provided by a vendor of wheel washing systems estimates an installation cost of approximately $170,000 - $200,000. This cost does not include design, permitting and site preparation. Further, the requirement to have a wheel washing system on every truck has a direct and adverse impact on the economic investment that S.H. Bell has made in this facility and a reduction of facility throughput, as the wheel washing systems are rated at a maximum of 150 trucks per day. This slow throughput rate will create a bottleneck of outbound trucks resulting in significant traffic congestion at the facility with a resulting increase in diesel exhaust emissions from the idling trucks. This throughput limitation impacts the facility's ability to process its materials and significantly reduces the overall facility's productivity.

- Fugitive Dust Monitors – The cost estimate provided by a vendor for the ambient PM-10 FEM monitors themselves, not including design, installation and required ancillary equipment, is in the range of $130,000 - $150,000. Annual operating costs are estimated to be in the range of $70,000 - $100,000..

Accordingly, given the strong concerns noted above, S.H. Bell Company respectfully requests the City of Chicago withdraw the Proposed Rule. Further, S.H. Bell Company encourages the City of Chicago to engage and work with all interested stakeholders to evaluate the burden on industry in relation to any potential health impacts, especially given that the federal government has found that the City's targeted pollutants are not hazardous and has established that the local area is in attainment with federal ambient air quality standards for both PM-10 and PM-2.5.

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