

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF:	)	
	)	
S.H. Bell Company	)	<b>FINDING OF VIOLATION</b>
2219 Michigan Avenue	)	
East Liverpool, Ohio 43920	)	<b>EPA-5-01-OH-16</b>
and	)	
1 Saint George Street	)	
East Liverpool, Ohio 43920	)	
	)	
PROCEEDINGS PURSUANT TO	)	
THE CLEAN AIR ACT,	)	
42 U.S.C. §§ 7401 <u>et seq.</u>	)	

**FINDING OF VIOLATION**

The United States Environmental Protection Agency (U.S. EPA) finds that S.H. Bell Company (S.H. Bell) is violating Sections 111(e) and 502(a) of the Clean Air Act, (the CAA or the Act), 42 U.S.C. § 7411(e), and 42 U.S.C. § 7661a(a). Specifically, S.H. Bell, at its 2219 Michigan Avenue and 1 Saint George Street Terminals, violated the New Source Performance Standards (NSPS) General Provisions at 40 C.F.R. §§60.7 and 60.8, and violated 40 C.F.R. §70 as follows:

**REGULATORY AUTHORITY**

**I. Title V**

1. 40 C.F.R. §70.2 defines "Major Stationary Source" under Sections 112 and 302 of the Act to include any stationary source, or any group of stationary sources with the same SIC code which are located on one or more contiguous or adjacent properties and are under common control, that emits or has the potential to emit 10 tons per year (tpy) or more of any hazardous air pollutant (HAP) which is listed in Section 112(b) of the Act or 25 tpy or more of any combination of such HAPs, or that emits or has the potential to emit 100 tpy or more of any air pollutant.
2. Section 302 of the CAA defines "air pollutant" as any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particulate purpose for which the term "air pollutant" is used.
3. Chromium and Manganese Compounds are HAP's enumerated in Section 112(b) of the Act.

4.  $PM_{10}$  is considered an air pollutant under Section 302 of the CAA.
5. Section 502(a) of the CAA, 42 U.S.C. § 7661(a) states that it is unlawful for any person to operate a major source, except in compliance with a permit issued by a permitting authority under Title V of the CAA, 42 U.S.C. §§ 7661-766(f).
6. Section 503(a) of the CAA, 42 U.S.C. § 7662(a) states that any source specified in Section 502(a), in this case a major source, shall become subject to a permit program, and required to have a permit on the later of the following dates: (1) the effective date of a permit program applicable to the source; or (2) the date such source becomes a major source.
7. Section 503(c) of the CAA, 42 U.S.C. § 7662(c), states that no later than 12 months from the date on which the source becomes subject to an approved permit program, any person required to have a permit shall submit to the permitting authority a compliance plan and an application for a permit.
8. 40 C.F.R. Part 70.5(a) requires all major source facilities in Ohio or Pennsylvania that are first-time applicants for a Title V permit to submit a complete Title V permit application within 12 months from the date the source becomes subject to the permit program.
9. U.S. EPA published the final approval for the State of Ohio's operating permits program in the Federal Register (60 Fed. Reg. 42045) on August 15, 1995. The final approval became effective on October 1, 1995. 40 C.F.R. Part 70, Appendix A. As a result, all major source facilities in Ohio were required to submit a Title V application by October 1, 1996.
10. U.S. EPA published the final approval for the State of Pennsylvania's operating permits program in the Federal Register (61 Fed. Reg. 39597) on July 30, 1996. The final approval became effective on August 29, 1996. 40 C.F.R. Part 70, Appendix A. As a result, all major source facilities in Pennsylvania were required to submit a Title V application by July of 1997.
11. 40 C.F.R. Part 70.1(b) requires that all major source facilities in Ohio or Pennsylvania shall have a permit to operate that assures compliance by the source with all applicable requirements.

## **II. New Source Performance Standards**

12. Section 111 of the CAA, 42 U.S.C. § 7411, authorizes the Administrator of U.S. EPA to promulgate regulations establishing standards of performance for new sources (New Source Performance Standard or NSPS).
13. The NSPS regulations 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 proposal date of publication of any standard applicable to that facility. 40 C.F.R. § 60.1(a).

14. "Affected facility" under the NSPS means, with reference to a stationary source, any apparatus to which a standard is applicable. 40 C.F.R. § 60.2.
15. Under Section 111 of the Act, the Administrator promulgated the NSPS for Metallic Mineral Processing Plants at 40 C.F.R. Part 60, Subpart LL, applicable to the following affected facilities, which commenced construction, reconstruction, or modification after August 24, 1982, in metallic mineral processing plants: each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station. 40 C.F.R. § 60.380(a).
16. Under Section 111 of the Act, the Administrator also promulgated the NSPS for Nonmetallic Mineral Processing Plants at 40 C.F.R. Part 60, Subpart OO, applicable to the following affected facilities, which commenced construction, reconstruction, or modification after August 31, 1983, in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station. 40 C.F.R. § 60.670(a).
17. The NSPS at 40 C.F.R. § 60.7(a) (1) requires owners or operators subject to the NSPS to provide the Administrator with written notification of the date construction of an affected facility is commenced, postmarked no later than 30 days after such date.
18. The NSPS at 40 C.F.R. § 60.7(a) (2) requires owners or operators subject to the NSPS to provide the Administrator with written notification of the anticipated date of the initial startup of an affected facility, postmarked not more than 60 days, nor less than 30 days prior to such date.
19. The NSPS at 40 C.F.R. § 60.7(a) (3) requires owners or operators subject to the NSPS to provide the Administrator with written notification of the actual date of initial startup of an affected facility, postmarked within 15 days after such date.
20. The NSPS at 40 C.F.R. § 60.8(a), requires that within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not more than 180 days after initial startup of the facility, the owner or operator of the facility shall conduct a performance test(s) and furnish the Administrator a written report of the results of the performance test(s).

### **Factual Allegations**

21. S.H. Bell is a material handling and temporary storage space facility of ferrous and nonferrous materials for industry. Material handling consists of services such as particle size reduction, screening, and drying.
22. S.H. Bell's major stationary source is located in East Liverpool, Ohio, with operations at its Stateline terminal located at 2219 Michigan Avenue, and its Little England terminal located at 1 Saint George Street.
23. The two terminals are adjacent properties, are operated under common control by the same entity, individuals, and workers, are connected by road and waterway, have the same SIC of 3295 (minerals and earths, ground or otherwise treated), and have separate equipment operating in tandem to accomplish the business goals of S.H. Bell. Thus, the Stateline terminal at 2219 Michigan Avenue and the Little England terminal at 1 Saint George Street constitute one source (the East Liverpool facility).
24. S.H. Bell's East Liverpool facility has the potential to emit 100 tpy or more of  $PM_{10}$ , 10 tpy or more of Chromium (a HAP), and 10 tpy or more of Manganese (a HAP), and is therefore a major source.
25. S.H. Bell has not submitted a Title V application for its East Liverpool facility to Pennsylvania or Ohio.
26. S.H. Bell has operated since July of 1997, and October 1, 1996, and continues to operate, without having submitted a Title V application for its East Liverpool facility to Pennsylvania (by July of 1997), or Ohio (by October 1, 1996).
27. S.H. Bell owns and operates a Natural Gas Combustion Rotary Dryer (Ohio P901) at the 2219 Michigan Avenue terminal of its East Liverpool facility. It was installed on December 25, 1996. A stack test was conducted on January 5, 1999. The Rotary dryer is an affected facility under 40 C.F.R. Part 60, Subparts LL.
28. S.H. Bell owns and operates a Carmen Pelletizing Station (Ohio P002) at the 2219 Michigan Avenue terminal of its East Liverpool facility. It was installed in 1987. The Carmen Pelletizing Station is an affected facility under 40 C.F.R. Part 60, Subparts LL and OOO.
29. S.H. Bell owns and operates a Trico Box Filling Station (Ohio P001) at the 2219 Michigan Avenue terminal of its East Liverpool facility. It was installed in 1986. The Trico Box Filling Station is an affected facility under 40 C.F.R. Part 60, Subparts LL and OOO.

30. S.H. Bell owns and operates a Raildock Conveyor (Ohio F004) at the 2219 Michigan Avenue terminal of its East Liverpool facility. It was installed in 1987. The Raildock Conveyor is an affected facility under 40 C.F.R. Part 60, Subparts LL and OOO.
31. S.H. Bell owns and operates a KUX Crusher (PA P001) at the 2219 Michigan Avenue terminal of its East Liverpool facility. It was installed in 1997. The KUX Crusher is an affected facility under 40 C.F.R. Part 60, Subparts LL and OOO.
32. S.H. Bell owns and operates a Fine Size Screener (PA P002) at the 2219 Michigan Avenue terminal of its East Liverpool facility. It was installed in 1997. The Fine Size Screener is an affected facility under 40 C.F.R. Part 60, Subparts LL and OOO.
33. S.H. Bell owns and operates a Kue Ken Crusher and Screening System (F005) at the 1 Saint George Street Terminal of its East Liverpool facility. It was installed in 1974 but modified on September 14, 1990. The Kue Ken Crusher and Screening System is an affected facility under 40 C.F.R. Part 60, Subparts LL and OOO.
34. S.H. Bell owns and operates a Hammermill (P901) at the 1 Saint George Street Terminal of its East Liverpool facility. It was installed in 1994. The Hammermill is an affected facility under 40 C.F.R. Part 60, Subparts LL and OOO.
35. S.H. Bell owns and operates a Boxing and Bagging System (no unit number) at the 1 Saint George Street Terminal of its East Liverpool facility. It was installed in 1997. The Boxing and Bagging System is an affected facility under 40 C.F.R. Part 60, Subparts LL and OOO.
36. S.H. Bell's East Liverpool facility is subject to the requirements of the NSPS at 40 C.F.R. § 60.7(a) (1) - (3) and § 60.8(a), because all the above-enumerated "affected facilities" at the 2219 Michigan Avenue and 1 Saint George Street terminals of its East Liverpool facility were constructed and began operation after August 24, 1982 for 40 C.F.R. Part 60, Subpart LL and August 31, 1983 for 40 C.F.R. Part 60, Subpart OOO.

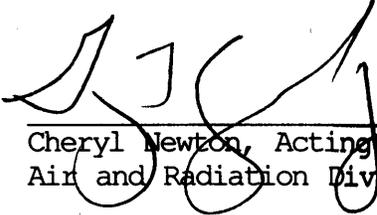
Violations

37. S.H. Bell violated 40 C.F.R. Part 70.1(b) and 42 U.S.C. § 7661a(a) for operating a major source at its East Liverpool facility without a Title V permit issued pursuant to an approved operating permit program.
38. As a major source and first time applicant, S.H. Bell violated 40 C.F.R. Part 70.5(a) by failing to submit a complete Title V permit application to Pennsylvania by July of 1997 or to Ohio by October 1, 1996.
39. S.H. Bell violated the NSPS at 40 C.F.R. § 60.7(a)(1), § 60.7(a)(2) and § 60.7(a)(3), because it did not provide to the Ohio Environmental Protection Agency notification of the commencement date of construction, the anticipated date of startup, and the actual date of startup of the following "affected facilities" at the 2219 Michigan Avenue Terminal of its East Liverpool facility at:
  - a. Natural Gas Combustion Rotary Dryer (Ohio P901)
  - b. Carmen Pelletizing Station (Ohio P002)
  - c. Trico Box Filling Station (Ohio P001)
  - d. Raildock Conveyor (Ohio F004)
  - e. Kux Crusher (P001)
  - f. Fine Size Screener (PA P002)
40. S.H. Bell violated the NSPS at 40 C.F.R. § 60.7(a)(1), § 60.7(a)(2) and § 60.7(a)(3), because it did not provide to the Ohio Environmental Protection Agency notification of the commencement date of construction or modification, the anticipated date of startup, and the actual date of startup of the following "affected facilities" at the 1 Saint George Street terminal of its East Liverpool facility:
  - a. Kue-Ken Crusher and Screening System (F005) (modified on September 14, 1990)
  - b. Hammermill (P901)
  - c. Boxing and Bagging System (No Unit Number)
41. S.H. Bell violated the NSPS at 40 C.F.R. § 60.8(a), because it conducted a late performance test on the Rotary Dryer (P901) at the 2219 Michigan Avenue Terminal of its East Liverpool facility, and because it has not conducted a performance test on the remaining "affected facilities" listed in Number 37 above at the 2219 Michigan Avenue Terminal of its East Liverpool facility.

42. S.H. Bell violated the NSPS at 40 C.F.R. § 60.8(a), because it has not conducted a performance test on the following "affected facilities" at the 1 Saint George Street terminal of its East Liverpool facility:
- a. Kue-Ken Crusher Crusher and Screening System (F005) (modified on September 14, 1990)
  - b. Hammermill (P901)
  - c. Boxing and Bagging System (No Unit Number)

Date

5/25/01

  
Cheryl Newton, Acting Director  
Air and Radiation Division

CERTIFICATE OF MAILING

**Re: Notice of Violation at S.H. Bell Company, East Liverpool, Ohio**

I, Loretta Shaffer, do hereby certify that a Notice of Violation and Finding of Violation Pursuant to the Clean Air Act were sent by Certified Mail, Return Receipt Requested, to:

John M. Bell, President  
S.H. Bell Company  
644 Alpha Drive  
Pittsburgh, Pennsylvania 15238

I, Loretta Shaffer, certify that a copy of the Notice of Violation and Finding of Violation Pursuant to the Clean Air Act were sent by First Class Mail to:

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dennis Bush, APC Supervisor  
Ohio Environmental Protection Agency  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Kenneth S. Komoroski  
Kilpatrick & Lockhart, LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222-2312

on the 29th day of MAY, 2001.

  
Loretta Shaffer, Secretary  
AECAS - OH/MI

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 9581 2342