

**AQ 249**  
**Emission Standards for Particulate Matter**  
**LAC 33:III.1323,1325,1327,1327,1331,1333**

welfare and attendance, or comparable school/district leader position;

ii. the Educational Leader Induction Program must be completed within a three-year period;

d. have three years of educational leadership experience at the level of assistant principal or above.

2. Renewal Requirements. For purposes of maintaining a valid endorsement, holders of an Educational Leader Level 2 endorsement are required to complete 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five-year time period. The starting date of the five-year cycle depends on the type of teaching certificate that the individual holds.

a. If an individual holds a Louisiana Professional Teaching Certificate Level 2, then the renewal date is tied to the renewal date on the professional teaching certificate.

b. If an individual does not hold a Louisiana Professional Teaching Certificate Level 2, but does hold an Educational Leader Level 1 endorsement, then the renewal date is tied to the renewal date on the Educational Leader Level 1 endorsement.

c. If an individual holds neither a Louisiana Professional Teaching Certificate Level 2 nor an Educational Leader Level 1 endorsement, then the renewal time period begins with the date of issue of the Educational Leader Level 2 endorsement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:820 (May 2007).

Weegie Peabody  
Executive Director

0705#009

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 746—Louisiana Standards for State Certification of School Personnel—Special Education Program Deadline Extension (LAC 28:CXXXI.225 and 231)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §225. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program, and §231. Introduction. This policy extends the deadline date from January 1, 2007, to July 1, 2007, for special education programs in Early Interventionist Special Education Birth to Five Years, Significant Disabilities, Hearing Impaired, and Visually Impaired. This extension will allow campuses to continue offering their existing special education programs during spring 2007. This extension will provide students additional time to complete the special education programs currently in place. This policy change is requested so that university programs in special education areas can be reviewed for approval.

**Title 28  
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel  
Chapter 2. Louisiana Teacher Preparation Programs  
Subchapter A. Traditional Teacher Preparation Programs**

**§225. Minimum Requirements for Approved Early Interventionist Special Education Birth to Five Years Program: Adopted November 18, 2004; Effective July 1, 2007**

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1789 (October 2006), amended LR 33:821 (May 2007).

**Subchapter B. Alternate Teacher Preparation Programs**

**§231. Introduction**

A. - D. ...

1. July 1, 2007—last date for candidates to be accepted into Post-Baccalaureate Programs.

2. August 31, 2010—last date for candidates who are already in Post-Baccalaureate Programs to complete those programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 33:821 (May 2007).

Weegie Peabody  
Executive Director

0705#008

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**Abrasive Blasting Emissions  
(LAC 33:III.1323, 1325, 1327,  
1329, 1331, and 1333)(AQ249)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Air regulations, LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333 (Log #AQ249).

This rule is intended to reduce particulate matter emissions from any facility that engages in or contracts to provide abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37, or under SIC Code 1622 or 1721. The current rule is vague and not consistently followed. This rule clarifies the existing regulation by specifying the following standards of performance for abrasive blasting: prohibited materials and methods that cannot be used in abrasive blasting activities; requirement to control emissions through either enclosure or establishment of Best Management Practices; maintenance of control equipment; and

recordkeeping requirements. Abrasive blasting is a common practice in Louisiana and is not currently regulated in a consistent manner. Many of the complaints received by the department are related to abrasive blasting emissions. This situation can be ameliorated by setting clear performance standards that apply equally to all businesses that engage in abrasive blasting. The basis and rationale for this rule are to improve air quality by reducing particulate matter emissions.

This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 13. Emission Standards for Particulate Matter**

**Subchapter F. Abrasive Blasting**

**§1323. Emissions from Abrasive Blasting**

A. Purpose. The purpose of this Subchapter is to reduce particulate matter emissions from facilities that engage in abrasive blasting.

B. Scope. This Subchapter applies to any facility or contractor in the state that engages in or contracts to provide on-site abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37 or under SIC Code 1622 or 1721.

C. Compliance. Compliance with these regulations does not eliminate the requirement to comply with any other state or federal regulation or any specific condition of a permit granted by the department.

1. Any new facility that is constructed after promulgation of these regulations shall comply with all of the requirements of this Subchapter before operation may commence.

2. Existing affected facilities shall comply with all of the requirements of this Subchapter as soon as practicable, but no later than one year after promulgation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:822 (May 2007).

**§1325. Definitions**

A. Terms used in this Subchapter are defined in LAC 33:III.111 with the exception of the terms specifically defined below.

*Abrasive Material (Abrasives, Abrasive Media)*—any material used in abrasive blasting operations including, but not limited to, sand, slag, steel shot/grit, garnet, CO<sub>2</sub>, or walnut shells.

*Abrasive Blasting*—the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

*Abrasive Blasting Equipment*—any equipment utilized in abrasive blasting operations.

*Emission Control Equipment*—any device or contrivance, operating procedure, or abatement scheme, including, but not limited to, filters, ventilation systems, shrouds, or best management practices, that prevents or

reduces the emission of air contaminants from blasting operations.

*Enclose*—to place tarps, shrouds, or a solid structure on all sides and above an area used for abrasive blasting, or to fully surround a structure to be blasted.

*Hydroblasting*—abrasive blasting using high-pressure liquid as the propelling force or as the active cleaning agent.

*Indoor Abrasive Blasting*—abrasive blasting conducted inside of a permanent building equipped with a particulate matter collection system.

*Nuisance*—any condition of the ambient air beyond the property line of the emission source that is offensive to the senses, or that causes or constitutes an obstruction to the free use of property, so as to unreasonably interfere with the comfortable enjoyment of life or property. In determining whether or not a nuisance exists, the department may consider factors including, but not limited to, the following:

- a. the frequency of the emission;
- b. the duration of the emission;
- c. the intensity and offensiveness of the emission;
- d. the number of persons impacted;
- e. the extent and character of the detriment to the complainant; and
- f. the source's ability to prevent or avoid harm.

*Shade Factor*—for shrouds, the percent of area impermeable to particles 100 grit or greater, or to sunlight.

*Shroud or Tarp*—a device that is designed to enclose or surround the blasting activity to minimize the atmospheric dispersion of fine particulates and direct that material to a confined area for subsequent removal and disposal.

*Surround*—to place tarps, shrouds, or a solid structure on all sides of an area used for abrasive blasting.

*Wet Abrasive Blasting*—abrasive blasting with the addition of water to the air abrasive stream.

*Vacuum Blasting*—abrasive blasting in which a seal is maintained between the assembly and the blasting surface, thereby allowing the spent abrasive, surface material, and dust to be immediately collected by a vacuum device, equipped with a high efficiency (at least 95 percent) particulate filtration system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:822 (May 2007).

**§1327. Blasting Operations**

**A. Abrasive Materials and Methods**

1. Material derived from hazardous, toxic, medical, and/or municipal waste is prohibited from use as abrasive material.

2. Abrasives shall contain less than 10 percent (by weight) of fines that would pass through a No. 80 sieve as documented by the supplier. If supplier documentation is not provided for weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992, before initial use.

3. Abrasives shall not be reused for abrasive blasting unless they meet the requirements of Paragraph A.2 of this Section.

B. The following abrasives and blasting methods are exempt from the provisions of Paragraph A.2 of this Section and LAC 33:III.1329.A and F and LAC 33:III.1333.A.4-5:

1. abrasive blasting using iron or steel shot/grit;

2. abrasive blasting using CO<sub>2</sub>;
3. hydroblasting or wet abrasive blasting;
4. vacuum blasting; and
5. abrasive blasting using other abrasives, as approved by the department on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:822 (May 2007).

**§1329. Performance Standard**

A. Affected facilities shall either:

1. fully enclose the item, or surround the structure, to be blasted; or
2. prepare and implement a best management practices (BMP) plan as described in LAC 33:III.1331.

B. Blast cabinet exhaust shall be re-circulated to the cabinet or vented to emission control equipment.

C. If tarps are used to confine emissions due to abrasive blasting, the tarps shall:

1. have overlapping seams to prevent leakage of particulate matter;
2. have a shade factor of 80 percent or greater; and
3. be repaired prior to use if any single tear greater than 1 foot in length is present or if tears greater than 6 inches in length each are present.

D. If blasting is performed in a permanent building with a particulate matter collection system, the collection system shall be exhausted through effective control equipment with a particulate matter outlet grain loading of 0.05 gr/dscf or less, as documented by the control equipment manufacturer or demonstrated by performance testing.

E. When abrasive blasting is performed over waters of the state, blasting material or visible floating solids shall be prevented from reaching waters of the state or minimized to the maximum extent possible as specified in the facility and/or activity BMP or in accordance with the LPDES permit program.

F. Abrasive blasting activities shall not create a nuisance.

G. The facility shall maintain stockpiles of new and/or spent abrasive material in a manner that will minimize fugitive airborne emissions. Measures to minimize emissions shall include, but not be limited to, the following:

1. covering stockpiled material;
2. wetting stockpiled material; or
3. keeping stockpiled material in containers.

H. All emission control equipment shall be used and diligently maintained in proper working order according to the manufacturer's specifications whenever any emissions are being generated that can be controlled by the facility, even if the ambient air quality standards in affected areas are not exceeded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:823 (May 2007).

**§1331. Best Management Practices (BMP) Plans**

A. Facilities that decide to use a BMP plan to comply with this Subchapter shall comply with all the requirements of this Section.

B. A complete copy of the BMP plan shall be kept at the facility and be made available to authorized representatives of the department upon request. Plans need not be submitted to the department unless requested by an authorized representative of the department.

C. Each facility shall have a designated person who is accountable for the implementation and effectiveness of the BMP plan.

D. Amendment of BMP Plan

1. After review of the plan, the department may require the owner/operator of the facility to amend the plan if the plan does not prevent nuisances and/or adverse off-site impacts.

2. The plan shall be amended whenever physical or operational modification of the facility renders the existing plan inadequate. The amendment shall be implemented prior to or concurrent with the facility modification.

E. Periodic Review of BMP Plan. The owner/operator of a facility shall review the plan every three years to determine if the plan adequately reduces nuisances and adverse off-site impacts. If it is determined that the plan is not adequate, the plan shall be amended within 90 days of the review to include more effective emission prevention and control technology.

F. Contents of BMP Plan. The BMP plan shall be prepared in accordance with sound engineering practices and must be site-specific. The plan information shall be presented in the following sequence:

1. the name, mailing address, and location of the facility;
2. the name of the operator of the facility;
3. the date and year of initial facility operation;
4. a description of the facility, including an indication of any nearby recreational areas, residences, or other structures not owned or used solely by the facility, and their distances and directions from the facility;
5. a description of any nearby waters of the state that may be affected, their distances and directions from the facility, and how emissions to those waters will be prevented or minimized;
6. a statement of the facility's procedures for preventing nuisances and/or adverse off-site impacts, including a description of any emission control equipment;
7. a statement of the facility's capability and procedures for taking corrective actions and/or countermeasures when nuisances and/or adverse off-site impacts occur;
8. written procedures for self-monitoring and self-inspection of the facility;
9. personnel training records as required by this Subchapter; and
10. signatures of responsible officials.

G. Provisions for personnel training shall be included in the BMP plan as follows.

1. Any employee and/or contractor conducting abrasive blasting shall be trained on proper abrasive blasting methods, proper handling of abrasive and spent material and floatable solids, the facility's plan, and good housekeeping practices for the facility.

2. Employees and contractors shall receive training pertaining to the plan at least once a year or when significant changes are made to the plan that affect their activities.

3. Employees, contractors, and customer representatives shall be instructed not to dispose of abrasive, spent, or floatable materials to air and water bodies or to drains, drainage channels, or trenches that lead to water bodies.

4. Contractors shall be notified of and required to perform in accordance with the provisions of the plan applicable to activities related to their contract.

H. Inspections and Records

1. The BMP plan shall be reviewed every three years to ensure that the plan meets the requirements of this Subchapter. Records of this review shall be signed or initialed by the person conducting the review, and an appropriate supervisor or the facility designee, and shall be retained for a minimum of three years.

2. In addition to other recordkeeping and reporting requirements of this Section, the following records should be maintained on the facility premises:

a. self-inspection reports prepared in accordance with Paragraph F.8 of this Section;

b. documentation of employee and contractor training, including dates, subjects, and hours of training and a list of attendees with signatures.

I. Verification by the Department. Facilities to which this Subchapter applies may be inspected by an authorized representative of the department to ensure implementation and adequacy of the facility's BMP plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:823 (May 2007).

**§1333. Recordkeeping and Reporting**

A. The facility owner/operator shall maintain the following records on the facility premises at all times, and present them to an authorized representative of the department upon request:

1. permit application approval records and the facility's permit to construct/operate, where applicable;

2. a description of the type of *emission control equipment*, as defined in LAC 33:III.1325, employed at the facility;

3. descriptions and diagrams showing the locations of blasting operations on-site;

4. a monthly record of abrasive material usage, including:

a. for new material, weight percent of fines in abrasive material *per* the manufacturer;

b. if abrasive material is being reused, weight percent of fines as determined by sampling. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992;

5. applicable results, and data derived from results, of containment, ventilation, air, soil, fines, and other monitoring activities;

6. records of how spent material is handled, recycled, reused, or disposed of, including the names of, and any manifests or receipts from, any off-site facilities that accept the spent material; and

7. for abrasive blasting that is performed outside of a full enclosure or a blast cabinet, the following:

a. visual observations of particulate matter emissions, recorded at commencement of, and prior to ending of, operations less than four hours in duration, and every four hours for operations greater than four hours in duration;

b. observations of wind direction, recorded simultaneously with the observations required in Subparagraph A.7.a of this Section;

c. a daily record of actual operating times when such blasting is performed, based on a 24-hour clock.

B. Records required by this Subchapter or any BMP plan used to attain compliance with this Subchapter shall be maintained on a 36-month rolling basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:824 (May 2007).

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0705#042

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**Syngenta Crop Protection Delisting Petition  
(LAC 33:V.4999)(HW094P)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.4999.Appendix E (Log #HW094P).

Syngenta Crop Protection, Inc., is petitioning to exclude from hazardous waste regulations (delist) ash and scrubber water, derived from on-site incineration of listed hazardous wastes from crop protection product production and product distribution. The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. The applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The exclusion applies only to incinerator ash and incinerator scrubber water resulting from incineration conducted at Syngenta's St. Gabriel facility. The department has reviewed Syngenta's petition and found it satisfies the delisting requirements. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

Syngenta operates a multi-purpose incinerator (MPI). The MPI is permitted for the incineration of hazardous waste. Incinerator ash and scrubber water are generated following the incineration of hazardous and nonhazardous waste. Syngenta's wastes include EPA hazardous waste codes F001-F005 and F024, K157-K159, and all P and U codes. Syngenta's choice of conditional delisting is based on the operational merits of incineration as a waste management option. Incinerator ash and scrubber water do not contain detectable concentrations of organic constituents. Based on

**Comment Summary Response & Concise Statement – AQ249  
Amendments to the Air Regulations  
Emissions from Abrasive Blasting  
LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333**

Concise Statement arguments:

FOR: [The reason supporting WHY the suggestion in the comment should be adopted by DEQ. Usually this is the commenter's perspective.]

AGAINST: [The reason WHY the department feels the suggestion should NOT be adopted.]

COMMENT 1: — The rule should be limited to the specific standard industrial classification (SIC) codes listed in LAC 33:III.1323.B. The rule is unnecessary for companies located in industrially-zoned areas which are subject to other control standards

The department agrees with the comment; no arguments are necessary.

RESPONSE 1: — The rule is already limited by the SIC Codes in LAC 33:III.1323.B.

COMMENT 2: — Clarify that the applicability designation applies to a facility (stationary source) where the blasting occurs, and not to a contractor hired at a facility, and has a standard industrial classification code specified in §1323.B.

FOR: The rule does apply to the facility where the blasting is occurring.

AGAINST: Contractors are also responsible for the requirements of the rule.

RESPONSE 2: — LAC 33:III.1323.B says the rule applies to any facility or contractor in the state that engages in or contracts to provide on-site abrasive blasting and that is classified under a Standard Industrial Classification (SIC) code beginning with 34, 35, or 37, or under SIC code 1622 or 1721. The facility is responsible for control devices and best management practices (BMPs) on its site. The facility and contractor are both responsible for following the requirements of the rule.

COMMENT 3: — Enclosed are laboratory results for two sandblasting abrasive

products which may be of interest to the department.

No arguments necessary since the provision in question is not part of this rulemaking.

RESPONSE 3: — Thank you for your interest.

COMMENT 4: FEIS — There will be increased operational expenses due to the requirements in the proposed rule. The requirements to: conduct hourly visible emission checks; conduct sampling; create programs; run required reports; and provide supervision, will increase operational expenses.

FOR: Some facilities will have increased operational expenses due to the requirements of the rule.

AGAINST: Most facilities already utilize the materials and resources in order to meet the current requirements.

RESPONSE 4: FEIS — Costs were solicited from the potentially regulated community. These costs were analyzed and research was done through vendors of shrouds and abrasive materials. It should be noted that most facilities already utilize these materials in order to meet the current requirements.

Costs for the shrouds are approximately \$10 – \$15 per linear foot. Many businesses already utilize shrouds to meet the existing regulation; therefore, not all facilities will have to purchase them. Repair costs depend on the facility's maintenance of the shrouds during inclement weather.

Development of a best management practices (BMP) plan is not required for facilities that use shrouds; therefore, not all companies will have to prepare a BMP. For those that do choose to use a BMP, a BMP can be as simple as adopting/adapting the already created maritime environmental resources information center (MERIC) plan, which is readily available in most libraries, or other plans that are found on the internet and at libraries.

Some facilities will choose to have a consultant prepare their BMP plan, in which case their initial costs will be higher. Small facilities will have the option to use the department's small business assistance program to help them develop their plans at no cost to

them.

Recordkeeping is expected to consist of simple check sheets for visual observations and either copies of receipts for abrasive material usage or a simple log sheet. Recordkeeping may be reduced for those facilities choosing to fully surround their blasting operations.

Training is required for those facilities that choose to comply through the BMP plan option. The training can be incorporated into regular safety meetings. It can be taught by someone from the facility who is familiar with the BMP, or by a consultant if the facility so chooses.

Wind sock prices can vary if a facility feels that they need more than one windsock, and if they need to install a mounting pole.

Permitting and annual maintenance fees will not change as a result of the proposed action. No increase or decrease will occur.

COMMENT 5: §1325.Definition of *Indoor Abrasive Blasting* — Clarify what is meant by *Indoor Abrasive Blasting*. Are blast tents considered enclosed buildings?

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 5: §1325.Definition of *Indoor Abrasive Blasting* — Blast tents are not considered enclosed buildings. The abrasive blasting activity is only considered indoor if it occurs in a permanent building equipped with a particulate matter collection system.

COMMENT 6: §§1325.A.Definition of *Nuisance* and 1331.D.9 — Reconsider the definition of *Nuisance* and the specific requirements regarding a nuisance. As written, the proposed rule allows neighbors and the general public to decide who is a nuisance. This is a bad policy and will cause the closure of some fabrication yards. It would be better to consider whether a facility has a permit to release dust and if the facility is adhering to the permit.

The department agrees with the comment; no arguments are necessary.

RESPONSE 6: §§1325.A.Definition of *Nuisance* and 1331.D.9 — The phrase “upon receiving notice of a complaint” has been omitted from LAC 33:III.1331.D.1.

COMMENT 7: §1325.Definition of *Nuisance.c* — The definition is subjective. Revise or omit the phrase that uses the terms “intensity” and “offensiveness” because an objective determination can not be established using these words.

FOR: The terms “intensity” and “offensiveness” may be viewed as subjective.

AGAINST: The intensity and offensiveness of the emissions are important in determining if action should be taken to minimize the emissions.

RESPONSE 7: §1325.Definition of *Nuisance.c* — “Intensity” and “offensiveness” will remain in LAC 33:III.1325.c because these factors are used to determine if actions should be taken to minimize the emissions.

COMMENT 8: §1325.A.Definition of Nuisance — Revise the definition, as shown below, to include another factor.

g. whether the subject “nuisance” emissions are addressed in an air emissions permit and the source is in compliance with the conditions of that permit.

FOR: A facility’s air permit may include the same requirements as this rule so that the facility will be in compliance with both by following its air permit.

AGAINST: A facility’s air permit may not take into account the new requirements of this rule.

RESPONSE 8: §1325.A.Definition of Nuisance — Facilities are required to comply with both, the air permit and the requirements of this rule.

COMMENT 9: §1327.A.2 — When blast sand is being evaluated, consideration must be given to the source and quality of the product since there is only one source of the blast sand media for the surrounding

Baton Rouge area.

FOR: It may be difficult to meet the requirements of §1327.A.2 if local suppliers do not have acceptable material available.

AGAINST: Facilities should only use abrasive materials from suppliers that meet the requirements of §1327.A.2.

RESPONSE 9: §1327.A.2 — In order to minimize nuisances and adverse health effects caused by abrasive blasting, only abrasive material meeting the requirements of §1327.A.2 will be allowed.

COMMENT 10: §1327A.2 — The regulation should specify the frequency of sampling. What is the basis/rationale for this requirement?

The department agrees with the comment; no arguments are necessary.

RESPONSE 10: §1327A.2 — LAC 33:III.1327.A.2 has been amended to state that sampling is required initially when supplier documentation is not available.

COMMENT 11: §1327.A.2 — Delete the second sentence so the provision will read:

§1327.A.2 Abrasives shall contain less than 10 percent (by weight) of fines that would pass through a No. 80 sieve as documented by the supplier.

The weight percent of fines is characterized by the vendor/supplier and this information is specified on the material safety data sheets or is available from the supplier technical data sheets. There is no need for additional testing. Also this paragraph is unclear because it states documentation by the supplier is adequate and yet it references American Society for Testing and Materials (ASTM) testing methods. It is also redundant to state the test requirements in this paragraph when the test requirements are set forth in §1333.A.4.

FOR: Testing is unnecessary if supplier documentation is available.

AGAINST: Testing of the material before initial use is necessary if supplier documentation is not available.

- RESPONSE 11: §1327.A.2 — This provision has been amended to state that sampling is required initially when supplier documentation is not available.
- COMMENT 12: §1327.B — Add an exclusion for abrasives used for blasting aluminum. Aluminum is a soft metal and must be blasted with a fine sand to prevent marring of the surface.
- FOR: There may be acceptable blasting materials that are not included in §1327.B.
- AGAINST: §1327.B.5 allows for other abrasive blasting materials as approved by the department.
- RESPONSE 12: §1327.B — Abrasive material not included in §1327.B will be evaluated on a case-by-case basis. Materials approved through department evaluation will be issued variances.
- COMMENT 13: §1327.B.1 — The exemption should be written to include glass beads and other bead blast media used in portable, enclosed blasting units.
- FOR: There may be acceptable blasting materials that are not included in §1327.B.
- AGAINST: §1327.B.5 allows for other abrasive blasting materials as approved by the department.
- RESPONSE 13: §1327.B.1 — Abrasive material not included in §1327.B will be evaluated on a case-by-case basis. Materials approved through department evaluation will be issued variances.
- COMMENT 14: §1329.A.2 — A best management practices (BMP) plan and hourly monitoring would increase costs without reducing emissions for those facilities that do not create a nuisance. Reserving these measures for facilities that create a nuisance would be more efficient and productive.
- FOR: Creating a BMP and hourly monitoring may increase costs at

some facilities.

AGAINST: BMPs are not required at every facility. They are only required when blasting operations are not fully enclosed.

RESPONSE 14: §1329.A.2 — LAC 33:III.1333.A.7 has been amended to state:

- a. visual observations of particulate matter emissions, recorded at commencement and prior to ending of operations less than 4 hours in time and every 4 hours for operations greater than 4 hours in time;
- b. observations of wind direction, recorded simultaneously with observations required in 7.a. of this section.

COMMENT 15: §1329.D — What basis or rationale was used for the requirement of a grain loading of 0.05 gr/dscf (grains/dry standard cubic feet) or less on control equipment used for collection systems? Does this limit have an efficiency equivalent? Is there an exemption for current equipment?

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 15: §1329.D — The limit of 0.05 gr/dscf for control equipment is a standard used by many states for general purpose fugitive particulate matter emissions. There is no efficiency equivalent or exemption for current equipment.

COMMENT 16: §1329.D — Amend this provision to indicate that compliance with permitted terms, conditions, and emission limits for abrasive blasting and maintenance of emission control devices can substitute for the manufacturer's documentation of the 0.05 gr/dscf. It will be very difficult to obtain manufacturer's documentation for older dust control devices and compliance with existing permit terms and conditions for control device maintenance and visible emission limits should accomplish the same objective.

FOR: Compliance with existing permit terms, conditions, and emission limits for abrasive blasting and maintenance of emission control devices may accomplish the same goals as the rule.

- AGAINST: Compliance with existing permit terms, conditions, and emission limits for abrasive blasting and maintenance of emission control devices may not take into account all of the requirements of the rule.
- RESPONSE 16: §1329.D — Facilities must meet the requirements of both their air permit and the rule.
- COMMENT 17: §1329.E — Review language, guidance, and best management practices from the Louisiana pollutant discharge elimination system (LPDES) and the Texas Commission on Environmental Quality (TCEQ) and consider revising this subsection to assure consistency between air emissions and water discharge programs. Consider changing the language to account for inherent *de minimis* emissions for facilities that are in compliance with air emissions permits and conditions. Over-water blasting operations, at best, are difficult conditions to meet, even with shrouds, curtains, other controls, and non-structural best management practices.
- FOR: Preventing over-water abrasive blasting emissions from entering the water completely may be a difficult condition to meet.
- AGAINST: Emissions of blasting materials and floating solids to waters of the state are not allowed.
- RESPONSE 17: §1329.E — The language of §1329.E has been amended to state that emissions to waters of the state shall be prevented or minimized to the maximum extent possible.
- COMMENT 18: §1329.E — This subsection should be removed from the rule because it is impractical and unattainable. Solids that get trapped in a facility's slip may not have originated from that facility. The facility would have no control over the solids.
- FOR: Preventing over-water abrasive blasting emissions from entering the water completely may be a difficult condition to meet.
- AGAINST: Emissions of blasting materials and floating solids to waters of the state are not allowed.

RESPONSE 18: §1329.E — The language of §1329.E has been amended to state that emissions to waters of the state shall be prevented or minimized to the maximum extent possible.

COMMENT 19: §1329.F — Nuisance should be defined as visible emission, created as a result of abrasive blasting, observed drifting off of a facility's property. This will make it clear to the regulated community, the public, and to the enforcement personnel exactly what constitutes a nuisance.

No arguments necessary; the comment does not suggest amendment or change.

RESPONSE 19: §1329.F — Nuisance is defined in similar terms in LAC 33:III.1325.A.

COMMENT 20: §1329.G — Add a '#4' which states "Any non-contaminated blast media may be used within that facility's foundation, etc. as site improvements."

No arguments necessary since the provision in question is not part of this rulemaking.

RESPONSE 20: §1329.G — The department appreciates your interest in this rule.

COMMENT 21: §1329.G.Performance Standard — Revise and clarify this subsection as to departmental intent. Clarify the provision with regard to LPDES multi-sector general permit requirements and the conditions for light commercial facilities. Clarify the provisions with regard to beneficial use permits under LAC 33:VII.1101.

No arguments necessary since the provision in question is not part of this rulemaking.

RESPONSE 21: §1329.G.Performance Standard — The department appreciates your interest in this rule.

COMMENT 22: §1329.G — What does the department consider a stockpile? Is

sand spread over a site considered a stockpile?

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 22: §1329.G — Whether material is stored in an actual pile or spread over a site, it is still subject to the fugitive emission requirements of LAC 33:III.1305.

COMMENT 23: §1331.D — Omit the words “indications: and “adequately” because this terminology is subjective.

The department agrees with the comment; no arguments are necessary.

RESPONSE 23: §1331.D — The words “indications” and “adequately” have been omitted from §1331.D.1.

COMMENT 24: §1331.D.1 — Remove the phrase “and/or upon receiving notice of a complaint” from the rule. Requesting BMP updates any time a complaint is filed is excessive. A complaint filed against a facility does not necessarily mean that the facility is not meeting the blasting standards. Minimum blasting standards should be established and the department should be the sole source in determining the effectiveness of a BMP. In addition, the word “adequate” needs to be either removed or clearly defined. Will the department ever consider any BMP for outdoor blasting to be adequate?

The department agrees with the comment; no arguments are necessary.

RESPONSE 24: §1331.D.1 — These comments have been addressed in responses 6 and 23.

COMMENT 25: §1331.D.1 — Revise this paragraph to read:  
“After review of the plan by the department, the department may require the owner/operator of the facility to amend the plan if there are indications that the plan does not prevent nuisances and/or adverse off-site impacts.”

The department agrees with the comment; no arguments are necessary.

RESPONSE 25: §1331.D.1 — These comments have been addressed in responses 6 and 23.

COMMENT 26: §1331.E — The phrase “if the plan adequately reduces nuisances and adverse off-site impacts” should be revised or omitted because the phrase is subjective and is dependent on the point of view of the person performing the review.

The department agrees with the comment; no arguments are necessary.

RESPONSE 26: §1331.E — These comments have been addressed in responses 6 and 23.

COMMENT 27: §1331.F — The data requirements are resource and time intensive. Requirements relative to training, plan reviews, and recordkeeping will greatly increase record keeping requirements beyond what is currently required for abrasive blasting operations.

FOR: The requirements of the rule may increase required resources and time.

AGAINST: The requirements for training, plan reviews, and recordkeeping are integral to the success of the rule.

RESPONSE 27: §1331.F — The monitoring frequency requirements have been reduced in LAC 33:III.1333.7. As stated above, the requirements for training, plan review, and recordkeeping are integral to the success of the rule.

COMMENT 28: §1331.F — Define “Responsible Official” or provide criteria to demonstrate who is a responsible official, as it applies to this rule.

FOR: The term "Responsible Official" should be defined.

AGAINST: The term "Responsible Official" is already defined in LAC

33:III.502.

RESPONSE 28: §1331.F — Refer to LAC 33:III.502 for the definition of "responsible official".

COMMENT 29: §1331.F.9 — Impose the record keeping requirement for training documentation on contractors instead of the regulated facility. Many shipyards employ contract personnel to perform the abrasive blasting activities and the shipyards do not have access to the contractor's employment training records.

FOR: Contractor's are required to follow the requirements of the rule as stated in LAC 33:III.1323.B.

AGAINST: BMPs are site specific and therefore the facility's responsibility.

RESPONSE 29: §1331.F.9 — While the rule applies to contractors who perform abrasive blasting operations, the responsibility for record keeping and site specific plans belongs to the facilities.

COMMENT 30: §1331.H.2.a — The proposed language does not clearly state what is to be inspected.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 30: §1331.H.2.a — LAC 33:III.1331.F.8 describes the inspections to be reported. A reference to this citation has been added to §1331.H.2.a.

COMMENT 31: §1333 — Require an annual update on the percent fines in abrasives and keep these on file. Requiring percent fines on every load is burdensome for the facilities and the suppliers.

FOR: Requiring percents fines on every load would be burdensome and is not the intent of the rule.

AGAINST: Updating the percent fines in abrasives annually may not be frequent enough for the purposes of the rule.

RESPONSE 31: §1333 — The requirement applies to the material and not to the individual load. For example, if X loads of abrasive material is ordered from a supplier then percent fines documentation is only needed once for that order, not for each load.

COMMENT 32: §1333.A — These requirements should be deleted or amended due to economical impacts. The hourly requirement should be incorporated into the site's QC daily reports.

FOR: These requirements may have some economical impacts to the facilities. The hourly monitoring requirement may be more frequent than is needed for the rule.

AGAINST: These requirements are important to the success of the rule and economical impacts should be minimal for most facilities.

RESPONSE 32: §1333.A — The hourly monitoring requirement has been amended as state in response 14. The other requirements of §1333.A are integral to the success of the rule and will remain.

COMMENT 33: §1333.A.2 — Omit or revise the statement "a description of the type of emission control equipment, as defined in LAC 33:III.1325, employed at the facility". This requirement does not recognize the fact that best engineering controls might be specific to the job and it may be difficult to construct a BMP that anticipates every engineering control prior to the activity.

FOR: Blast operations may differ from job to job, so including all controls in a BMP may be difficult.

AGAINST: It is important for all control measures to be included in the BMP.

RESPONSE 33: §1333.A.2 — The BMP should be amended as needed to include controls for any new abrasive blasting controls as stated in §1331.D.2.

COMMENT 34: §1333.A.3 — The requirement "descriptions and diagrams showing the locations of blasting operations on-site" is not practical since blasting is job dependent, and can occur at various on-site locations that are not predetermined.

FOR: Blasting may occur at various sites at a facility, making it difficult to have descriptions and diagrams of every blasting location.

AGAINST: It is important to have documentation of blasting locations so that inspectors are aware of where the operations are taking place.

RESPONSE 34: §1333.A.3 — Descriptions and diagrams are necessary components of the rule so that blasting operation documentation is available to inspectors.

COMMENT 35: §1333.A.4 — The paragraph should be rewritten as follows:  
“For those facilities that reuse or recycle spent blast abrasive materials, a monthly record of abrasive material usage, including weight percent of fines in abrasive material shall be maintained. For the purpose of determining weight percent of fines in abrasive material, monthly samples shall be taken according to ASTM standard, ASTM D 75-87, re-approved 1992.”

Does §1333.A.4 refer to spent blast materials intended for recycle or is the provision restating the standard in §1327.A.2? The provision should be rewritten as suggested to address recycled materials only.

The department agrees with the comment; no arguments are necessary.

RESPONSE 35: §1333.A.4 —§1333.A.4 has been rewritten to say:

4. a monthly record of abrasive material usage:
  - a. for new material, include weight percent of fines in abrasive material *per* the manufacturer;
  - b. if abrasive material is being reused determine weight percent of fines by sampling. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992;

COMMENT 36: §1333.A.5 — Clarify what records are required to be maintained under this provision. Are they replacing, in addition to, or not applicable to conditions for abrasive blasting operations in

existing air permits?

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 36: §1333.A.5 — The record keeping requirements of the rule are in addition to the existing air permit requirements where they are not duplicated. In the case of duplication, records should only be recorded once.

COMMENT 37: §1333.A.7.a and b — Remove or amend the hourly recording requirement from this rule. The hourly monitoring for wind direction and visual monitoring is excessive and would generate volumes of useless paperwork. Since some facilities have multiple blasting sites, it would require an additional person just to monitor all of the blasting operations. The hourly monitoring will do nothing to decrease emissions but will only result in increasing facility expenses. In §1333.A.7.b, what is to be observed when looking at the particulate emissions?

The department agrees with the comment; no arguments are necessary.

RESPONSE 37: §1333.A.7.a and b — These provisions have been amended as stated in response 14. Observations are intended for observing the amount of particulate emissions and the effectiveness of the containment being used.

COMMENT 38: §1333.B — It is burdensome to require a facility to maintain records on a 30-day rolling basis. Clarify this requirement. Will electronic records be acceptable?

The department agrees with the comment; no arguments are necessary.

RESPONSE 38: §1333.B — This subsection has been amended to require records to be maintained on a 36-month rolling basis. Electronic records are acceptable.

COMMENT 39: §1333.B — Change the three year record retention to one year.

The three year record retention is excessive. To demonstrate compliance, one year of data should be sufficient. Any complaint received more than one year after the nuisance event should be dismissed.

FOR: Retaining records for three years may create extra paper work and record keeping.

AGAINST: One year of data is not sufficient for determining possible seasonal emission patterns and tendencies.

RESPONSE 39: §1333.B — Three years of data is necessary for inspectors to determine if there are emission patterns and tendencies that are causing a nuisance. §1333.B has been amended as stated in response 38.

COMMENT 40: §1333.B — Revise blast media tracking requirements to be consistent with existing permit conditions for paint usage tracking. The spreadsheets already in use to track paint usage and volatile organic compounds (VOC) emissions could be easily adapted to include blast media usage and rolling averages. It would be more efficient to use existing formats rather than having to develop a separate set of records.

The department agrees with the comment; no arguments are necessary.

RESPONSE 40: §1333.B — Existing record keeping formats are acceptable for the purposes of the rule.

**Comment Summary Response & Concise Statement Key – AQ249  
Amendments to the Air Regulations  
Emissions from Abrasive Blasting  
LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333**

<u>COMMENT #</u>	<u>SUGGESTED BY</u>
1, 2	Kyle B. Beall of KeanMiller for Henry Graham of LCA
2	Henry Graham / LCA
3	Daniel C. Schulse / Universal Minerals
4, 5, 7, 10, 13, 15, 23, 26-28, 30, 33, 34, 36, 38	Jodi Satches, Sonya Hargrave Eastern / Bollinger Shipyards
6, 12, 14, 18, 22, 24, 31, 37, 39	Amy R. Mack / Gulf Island Fabrication
8, 11, 17, 21, 25, 35, 36, 39, 40	Jane D. York of Enviro One for Conrad Industries, Inc.
9, 20, 32	Erick Stephens, Paul Calais / Mansfield Industrial
16, 19, 29	Raymond D. Broussard / Northrop Grumman Corp., Ship Systems
6, 12, 14, 18, 22, 24, 31, 37, 39	William Lanclos / Seacraft Shipyard
6, 12, 14, 18, 22, 24, 31, 37, 39	Eric Metz / Marine Industrial Fabrication, Inc.
6, 12, 18, 22, 24, 31, 37, 39	Leah Roger / Enviro-Sense

# KEANMILLER

KEAN MILLER HAWTHORNE D'ARMOND McCOWAN & JARMAN LLP  
ATTORNEYS AT LAW

RECEIVED

DEC 04 2006

LDEQ RECEIPT

PH 225 382 3491 DIRECT FAX 225 388 9133  
KYLE BEALL, PARTNER, REGULATORY DEVELOPMENT SECTION  
KYLE.BEALL@KEANMILLER.COM

6 DEC -4 P2:37  
December 4, 2006

Judith A. Schuerman, Ph.D  
Louisiana Department of Environmental Quality  
Office of Secretary, Legal Affairs Division  
P.O. Box 4302  
Baton Rouge, Louisiana 70821-4302

HAND-DELIVERED

Re: Comments on Proposed Rulemaking AQ249 (October 20, 2006)  
Emissions from Abrasive Blasting  
Our File Nos.: 3645-72, 15032-16

Dear Dr. Schuerman:

The attached comments are submitted on behalf of the Louisiana Chemical Association (LCA). The LCA is a nonprofit Louisiana corporation composed of 76 members located at over 105 plant sites in Louisiana. Although exempt from the rule as proposed, most LCA members are nevertheless affected by AQ249. The LCA previously submitted comments to the Department on June 1, 2005 in response to an advanced notice of proposed rulemaking and requests that both sets of comments be included in the administrative record for this proposed rule.

The LCA agrees with the scope of the rulemaking, as proposed in the October 20, 2006 Louisiana Register, and believes that it should be limited to the specific Standard Industrial Classification (SIC) codes proposed in LAC 33:III.1323.B. As stated in its comments of June 1, 2005, the LCA believes that regulations on abrasive blasting are unnecessary for its member companies, all of whom are already subject to other control standards and are located in industrially-zoned areas.

The LCA requests that the Department clarify in its response to comments that the regulation applies only to a facility (stationary source) in the state that engages in abrasive blasting and has an SIC code designated in Section 1323.B. In other words, the SIC applicability designation applies to the facility where the abrasive blasting occurs, not to a contractor that may be hired at a facility. The LCA believes this is the intent of the regulation, but simply seeks clarification by the Department on this point in its response to comments.

Judith A. Schuerman, Ph.D  
December 4, 2006  
Page 2

If you have any questions, feel free to contact the Association representatives copied on this letter, or I can be reached at (225)382-3493 or [kyle.beall@keanmiller.com](mailto:kyle.beall@keanmiller.com).

Very truly yours,



Kyle B. Beall

cc: Henry Graham, LCA  
Richard Metcalf, LMOGA

**Remender Weatherspoon**

**RECEIVED**

**From:** Judith Schuerman  
**Sent:** Monday, December 04, 2006 2:55 PM  
**To:** Remender Weatherspoon  
**Subject:** AQ249 Comment

DEC 04 2006  
LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

*Emailed  
Comments to  
Jennifer Mouton  
Sandra Hilton  
Sandy Stephens*

Official comment for AQ249.

-----Original Message-----

**From:** Errick Stephens [mailto:errickstephens@k2industrial.com]  
**Sent:** Monday, December 04, 2006 2:36 PM  
**To:** Judith Schuerman; Jennifer Mouton  
**Cc:** Paul Calais  
**Subject:**

With this email Mansfield Industrial would like to state the following concerning the latest "Abrasive Blasting Regulations, AQ249"

Section 1327, A-2

When the blast sand media is being evaluated, there must be a consideration of the source of this product & its quality. Presently there is only one source for the blast sand for the surrounding Baton Rouge area.

Section 1329, G

Add a line #4 - Any non-contaminated blast media maybe used within that facility's foundation, etc as site improvements

Section 1333, A-7a/b/c

These should be deleted or amended due to economical impacts. The hourly requirement should be incorporated into the site's QC daily reports

Should there be any future discussions, or writings please notify this sender or Mr. Paul Calais as shown on this emial.

Errick Stephens

**Remender Weatherspoon**

---

**From:** Errick Stephens [errickstephens@k2industrial.com]  
**Sent:** Monday, December 04, 2006 3:25 PM  
**To:** Remender Weatherspoon  
**Cc:** Paul Calais  
**Subject:** RE: Regarding Your Comment for AQ249

Thanks for your response;

Errick R. Stephens (Division Manager)  
Mansfield Industrial  
1029 La Crete Rd  
Baton Rouge, LA 70810

-----Original Message-----

**From:** Remender Weatherspoon [mailto:Remender.Weatherspoon@LA.GOV]  
**Sent:** Monday, December 04, 2006 3:07 PM  
**To:** Errick Stephens  
**Subject:** Regarding Your Comment for AQ249

Hello Mr. Stephens: Thank you very much for your comments on AQ249. In order to proceed with our comment process I need the following information from you to enter into our data base.

Your full Name

Affiliation or Company

Your mailing Address

Phone number

If you are sending a comment for someone else as well, please submit their information as well.

Thank you very much, and I look forward to hearing from you.

Remender Weatherspoon, Administrative Assistant

\*\*\*\*\*

*Mrs. Remender D. Weatherspoon, Administrative Assistant*

*LDEQ/OSEC/Legal Affairs Division*

*Regulation Development Section*

*Room 636-14*

*Phone: (225) 219-3550*

*Fax: (225) 219-3582*

RECEIVED

DEC 05 2006

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

December 4, 2006

Ms. Judith A. Schureman, Ph. D.  
Louisiana Department of Environmental Quality  
Office of the Secretary, Legal Affairs Division  
P.O. Box 4302  
Baton Rouge, LA 70821-4302

RE: **Proposed Rule AQ 249 – Abrasive Blasting**  
**Bollinger Shipyards, L.L.C**  
Comments to Proposed Regulations

Bollinger Shipyards, Inc. is a shipbuilding and ship repair facility with sites located throughout the state of Louisiana. Bollinger Shipyards, L.L.C. would like to formerly present the following comments in response to the proposed Abrasive Blasting regulation (AQ 249). While Bollinger Shipyards, Inc. appreciates the Department's desire to clarify and create uniformity for compliance with the Abrasive Blasting regulations, the regulations also present some implementation difficulties and adverse impacts to the Bollinger facilities' operations.

Bollinger Shipyards, Inc. has the following questions and/or concerns with the following regulatory citations:

1325. Definition: the term "Nuisance" as it is defined in the proposed regulations is subjective. Furthermore, the determinations relative to the "intensity" and "offensiveness" of an incident as described in the definition can not be established upon objective grounds. References to these phrases should be revised or omitted.

1325. Definition: Clarification of what is meant by an "indoor abrasive blasting". Are Blast tents considered to be enclosed building?

1327.A.2. The regulation should specify the frequency of sampling? What is the basis/rationale of this requirement?

1327.B.1 The exemption should be written to include glassbeads and other bead blast media used in portable, enclosed, blasting units.

1329.D. What basis or rationale was used for the requirement of a grain loading of 0.05 g/dscf or less on control equipment used for collection systems? Does this limit have an efficiency equivalent? Is there an exemption for current equipment?

Bollinger Shipyards, Inc. appreciates the opportunity to comment on proposed Abrasive Blasting rule AQ 249 and hopes that these comments will be taken into consideration.

Should you have any questions or concerns regarding this submittal please do not hesitate to contact me at (504) 466-7705.

Sincerely,

Jodi Satches  
Director of Environmental Services

Jodi Satches  
Director of Environmental Services  
Bollinger Shipyards, Inc.  
100 James Drive, Suite 300  
St. Rose, Louisiana 70087

**Remender Weatherspoon**

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**From:** Judith Schuerman  
**Sent:** Tuesday, December 05, 2006 11:58 AM  
**To:** Remender Weatherspoon  
**Subject:** FW: AQ249 (Emissions from Abrasive Blasting)

**RECEIVED**

DEC 05 2006

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

*EMailed?*  
*Jennifer Mouton*  
*Sandra Hilton*  
*Jerry Stephens*



GIF Comments to  
Sandblast Rule...

Official comments for AQ249.

-----Original Message-----

**From:** Amy R. Mack [mailto:amack@gifinc.com]  
**Sent:** Tuesday, December 05, 2006 11:53 AM  
**To:** Judith Schuerman; Jennifer Mouton  
**Cc:** Steven Bossier  
**Subject:** AQ249 (Emissions from Abrasive Blasting)

<<GIF Comments to Sandblast Rule December 2006.doc>>

Amy R. Mack, CHMM  
Corporate Environmental Manager  
Gulf Island Fabrication, Inc.  
P.O. Box 310  
Houma, LA 70361  
985-580-2220  
amack@gifinc.com

December 5, 2006

Judith A. Schuerman, Ph.D.  
DEQ Office of Secretary  
Legal Affairs Division  
P.O. Box 4302  
Baton Rouge, LA 70821-4302

RE: Proposed Abrasive Blasting Regulations

Dear Dr. Schuerman,

We at Gulf Island Fabrication strive to be the best operators in our field. We manufacture offshore structures for the oil and gas industry on three yards encompassing over 600 acres along the Houma Navigational Canal in Houma. We currently hold a Title V air permit that limits us to using 7,000 tons of abrasives per year and 178,000 gallons of paint (we have also been issued a major source water permit). We employ over 300 people at our facilities.

Due to the size of the structures we fabricate, completely enclosing them when sandblasting is economically unfeasible. As such, we have implemented work practices that are above and beyond the current blasting regulations: using a shot blast machine whenever possible, applying a preconstruction primer to metals, and installing a wind sock. Due to this diligence, we have not experienced any complaints due to sandblasting in recent years.

Outdoor blasting is a fundamental component of the fabrication industry and, while minimum standards should be in place, efforts should be made to preserve the industry. We appreciate your implementing rules to provide a consistent set of standards for everyone doing outdoor blasting but we have concerns about several aspects of the rule.

### **1325 Definitions**

We agree that DEQ should and needs to establish a minimum set of standards that all should use when conducting blasting operations. But with the nuisance definition (and Section 1331.D-9), DEQ is in essence allowing the general public to decide what the minimum standard should be. We are currently permitted to emit 44 tons of particulate matter from our blasting operations. If the dust were contained on our property, we would not need to permit those emissions. Because we have a permit, we are allowed to emit that dust into the air and hence off our site. We feel the number one criterion that

Part 1331.D-1. Also, will the DEQ ever consider any BMPs for outdoor blasting to be adequate? We request that "adequate" either be removed from this requirement or defined clearly.

### **1333 Recordkeeping and Reporting**

Our main concerns about the rule are the recordkeeping requirements. Our company has one person in the environmental department who oversees all environmental activities on four yards. While three of the yards are on Thompson Road, our West Yard is across the canal on Dulac Road. In order to reach this site, our environmental manager has to drive all the way around canal and back down to the West Yard. Should hourly monitoring be required, she will spend her entire day reporting blasting operations instead of addressing other pertinent environmental requirements. We will essentially have to hire one person to monitoring blasting operations. We believe that hourly monitoring will do nothing to decrease our emissions but will only increase our operating costs. We respectfully request that the hourly recording requirement in 1333.A-7a and 1333.A-7.b be removed from the rule. Also, on 1333.A-7.b, what exactly are we to observe when looking at the particulate emissions?

We currently record our abrasive usage monthly but not our percent fines. Requiring percent fines on every load will be burdensome for us and the supplier (we are permitted to use 7000 tons per year). In lieu of requiring documentation on every load, we suggest that the percent fines in abrasives be updated annually and kept on file.

We feel that the three year retention of records (as stipulated in 1333.B) is excessive. If a complaint is received or inspection conducted, one year worth of data should be sufficient to demonstrate compliance. Any complaint received more than one year after the nuisance event should be dismissed. We respectfully request that the three year limit be changed to one year.

Again, we support the regulation so that our competitors will be required to do the same practices as us. However, we do not feel that the voluminous paperwork required of this rule will create any reductions in emissions. If you have any questions, please feel free to call me at 985-580-2220.

Sincerely,

Amy R. Mack  
Environmental Manager

RECEIVED

DEC 06 2006

**Remender Weatherspoon**

**From:** Judith Schuerman  
**Sent:** Wednesday, December 06, 2006 8:18 AM  
**To:** Remender Weatherspoon  
**Subject:** FW: Certificate of Results for 11 Total Metals

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION  
*Emails Sent For Copy*  
*Jennifer Mauter*  
*Sandra Hiller*  
*Barb Stepler*

Official comment on AQ249.

---

**From:** Dan Schulse [mailto:dans@universalminerals.com]  
**Sent:** Tuesday, December 05, 2006 4:08 PM  
**To:** Judith Schuerman  
**Subject:** Certificate of Results for 11 Total Metals

Ms. Schuerman,

We took a grab sample of Abradeaway Copper Slag sandblasting abrasive. This product is imported into USA from Huelva, Spain. Its undergoes screening and sizing in Houston, Tx and Houma, LA. Here is the website of the producer of Abradeaway. [www.specialtysand.com](http://www.specialtysand.com)

Test results for Abradeaway indicate total lead levels at 3370 ppm. Arsenic was tested at a level of 838 ppm.

Clean Cut is a blend of 33% copper slag and 66% garnet. Test results are also reported for Clean Cut.

We thought that this information would be of interest to you for AQ249.

Sincerely,

Daniel C. Schulse  
President  
[www.universalminerals.com](http://www.universalminerals.com)  
713-797-0054 x12

# Mercury Environmental Services, Inc.

6913 HWY 225, Deer Park, TX 77536  
Phone: (281)-476-4534 Fax: (281)-476-4406

Universal Minerals Inc.  
6319 Brookhill Dr.  
Houston, TX 77087

Phone: (713) 797-0054 Ext: 12  
Fax: (713) 797-1014

Attn: Dan Schulse

## - CERTIFICATE OF RESULTS -

MES Lab#: 6110543  
Client Sample ID: Abradeaway  
Extended ID: (Copper Slag Abrasive)

Sample Collect Date: 11/28/2006 @ 8:50:00 AM  
Sample Receipt Date: 11/28/2006 @ 9:00:00 AM

Sample Type: Grab

### Test Group / Method

Total Recoverable Metals (Solid Waste)				Analyst: HDGIL
Method: SW-846 6010B	MDL	Result	Units	Date / Time
Antimony	0.29	73.0	mg/kg	12/3/2006 / 3:15 PM
Arsenic	0.34	838	mg/kg	12/3/2006 / 3:15 PM
Barium	0.01	19.7	mg/kg	12/3/2006 / 3:15 PM
Beryllium	0.01	8.75	mg/kg	12/3/2006 / 3:15 PM
Cadmium	0.05	6.48	mg/kg	12/3/2006 / 3:15 PM
Chromium	0.05	138	mg/kg	12/3/2006 / 3:15 PM
Lead	0.12	3370	mg/kg	12/3/2006 / 3:15 PM
Nickel	0.07	18.7	mg/kg	12/3/2006 / 3:15 PM
Selenium	0.58	7.05	mg/kg	12/3/2006 / 3:15 PM
Silver	0.05	2.18	mg/kg	12/3/2006 / 3:15 PM
Mercury (RCRA, Automated CVAA)				Analyst: TRAHM
Method: SW-846 7471A	MDL	Result	Units	Date / Time
Mercury	0.0002	0.0026	mg/kg	11/29/2006 / 12:00 AM

Flags: H: Exceeds "High Limit" L: Below "Low Limit" RL=regulatory limit

  
Holland D. Gilmore, Laboratory Director

Monday, December 04, 2006  
Date

# Mercury Environmental Services, Inc.

6913 HWY 225, Deer Park, TX 77536  
 Phone: (281)-476-4534 Fax: (281)-476-4406

Universal Minerals Inc.  
 6319 Brookhill Dr.  
 Houston, TX 77087

Phone: (713) 797-0054 Ext: 12  
 Fax: (713) 797-1014

Attn: Dan Schulse

## - CERTIFICATE OF RESULTS -

MES Lab#: 6110544  
 Client Sample ID: Clean Cut  
 Extended ID: (Copper Slag Garnet)

Sample Collect Date: 11/28/2006 @ 8:50:00 AM  
 Sample Receipt Date: 11/28/2006 @ 9:00:00 AM

Sample Type: Grab

### Test Group / Method

Total Recoverable Metals (Solid Waste)				Analyst: HDGIL
Method: SW-846 6010B	MDL	Result	Units	Date / Time
Antimony	0.29	60.3	mg/kg	12/3/2006 / 3:20 PM
Arsenic	0.34	271	mg/kg	12/3/2006 / 3:20 PM
Barium	0.01	34.2	mg/kg	12/3/2006 / 3:20 PM
Beryllium	0.01	5.94	mg/kg	12/3/2006 / 3:20 PM
Cadmium	0.05	2.48	mg/kg	12/3/2006 / 3:20 PM
Chromium	0.05	73.6	mg/kg	12/3/2006 / 3:20 PM
Lead	0.12	1300	mg/kg	12/3/2006 / 3:20 PM
Nickel	0.07	15.8	mg/kg	12/3/2006 / 3:20 PM
Selenium	0.59	3.59	mg/kg	12/3/2006 / 3:20 PM
Silver	0.05	1.07	mg/kg	12/3/2006 / 3:20 PM
Mercury (RCRA, Automated CVAA)				Analyst: TRAHM
Method: SW-846 7471A	MDL	Result	Units	Date / Time
Mercury	0.0002	0.0018	mg/kg	11/29/2006 / 12:01 AM

Flags: H: Exceeds "High Limit" L: Below "Low Limit" RL=regulatory limit



Holland D. Gilmore, Laboratory Director

Monday, December 04, 2006

Date

RECEIVED

DEC 06 2006

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

**NORTHROP GRUMMAN**  
*Ship Systems*

Northrop Grumman Corporation  
**Ship Systems**  
P.O. Box 50280  
New Orleans, LA 70150-0280  
504-436-2121

*Send to*  
*Jennifer Mouton*  
*Sandra Hiller*  
*Sandy Stephens*

December 1, 2006

Louisiana Department of Environmental Quality  
Judith A. Scheurman, PhD.  
Office of the Secretary, Legal Affairs Division  
P.O. Box 4302  
Baton Rouge, LA 70821-4302

**Proposed Abrasive Blasting Regulations, Log # AQ249**

Dear Dr. Scheurman:

I appreciate the opportunity to comment on the Advanced Notice of Proposed Rulemaking on Abrasive Blasting Regulations. In general, this proposed regulation seems to provide both reasonable and effective controls of particulate matter from abrasive blasting. However, I would like to offer the below listed recommendations which I feel clarify compliance requirements and will facilitate compliance with the stated objective of this regulation. The following observations are offered:

**Section 1329, Performance Standard, paragraph D. reads:**

"If blasting is performed in a permanent building with a particulate matter collection system, the collection system shall be exhausted through effective control equipment with a particulate matter outlet grain loading of 0.05 gr/dscf or less as documented by the control equipment manufacturer."

**Recommend:** This should be amended to indicate that compliance with permitted terms, conditions, and emission limits for abrasive blasting and maintenance of emission control devices can substitute for the manufacturer's documentation of the 0.05 gr/dscf.

**Rationale:** It will be difficult if not impossible to obtain manufacturer's documentation of this requirement for older dust control devices. Compliance with existing permit terms and conditions for control device maintenance and visible emission limits, as well as emission limits in the permit should accomplish the same compliance objective.

**Section 1329, Performance Standard, paragraph F. reads:**

"Abrasive blasting shall not create a nuisance."

**Recommend:** Nuisance, in the case of abrasive blasting, should be defined as visible emissions, created as a result of abrasive blasting, observed drifting off of a facility's property.

**Rationale:** The term nuisance is subjective, and a clear definition makes it clear to the regulated community as well as the public and enforcement personnel just what constitutes a nuisance in this case.

**Section 1331, Best Management Practices (BMP) Plans, paragraph F. 9. reads:**

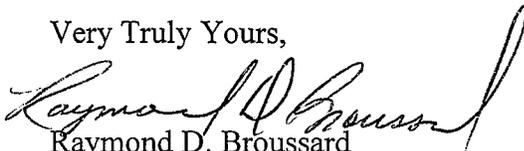
“Personnel training records as required by this subchapter...”

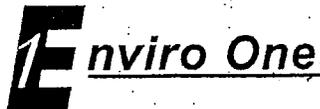
**Recommend:** The record keeping requirement for training documentation be imposed on contractors instead of the regulated facility.

**Rationale:** In many shipyards, abrasive blasting activities are performed by contract personnel. The shipyard generally does not have access to the contractor's employment training records. This training record keeping requirement should be imposed, if necessary, on the contractor providing the abrasive blasting services and not on the facility where the activity is occurring.

In summary, with suggested amendments the proposed regulation is acceptable.

Very Truly Yours,

  
Raymond D. Broussard  
Environmental Engineer



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DEC 05 2006

611 North Street  
Baton Rouge, Louisiana 70802  
Phone 225-344-6625  
Fax 225-344-2771

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

December 5, 2006

*By email to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov)*

LA Department of Environmental Quality  
Office of the Secretary, Legal Affairs Division  
PO Box 4302  
Baton Rouge, LA 70821

Attention: Ms. Judith A. Schuerman, Ph.D.

**RE: Conrad Industries, Inc.  
Comments and Request for Consideration on AQ249**

Dear Ms. Schuerman:

Pursuant to the referenced proposed LDEQ regulations on Emissions from Abrasive Blasting, Enviro One, LLC hereby submits these comments and recommendations for change. These comments are submitted on behalf of Conrad Industries, Inc., a major Louisiana shipbuilding facility that maintains three shipyards in St. Mary Parish. The shipyards operate under Standard Industrial Classification (SIC) code 3731 and are therefore a targeted industry for the proposed regulations.

Conrad is cognizant that existing regulations at LAC33:III.1305 are limited, and that better regulatory controls are warranted for operations that generate abrasive blasting emissions. However, today's proposed regulations set forth several provisions that are unduly burdensome and do little to achieve the purpose of the proposed regulations. These provisions, rationale for comment, and suggested modifications are set forth in the paragraphs below.

#### **COMMENTS ON PROPOSED AQ249**

**1. Section 1325.A. Definition of Nuisance** – "Any condition of the ambient air beyond the property line ....that is offensive to the senses....that causes an obstruction to the free use of property so as to unreasonably interfere with the comfortable enjoyment of life or property".

*Comment:* The definition of "nuisance" is unduly subjective and as such allows for differing interpretations. The definition includes a list of six (6)

factors for consideration in defining a specific nuisance condition, but makes no distinction between unauthorized emissions and emissions generated in compliance with permitted conditions.

**Recommendation:** Revise the definition to include a seventh Factor for Consideration:

*g. Whether the subject "nuisance" emissions are addressed in an air emissions permit and the source is in compliance with the conditions of that permit."*

**2. Section 1327.A.2. Blasting Operations** – "Abrasives shall contain less than 10 percent (by weight) of fines that would pass through a No. 80 sieve as documented by the supplier. For the purpose of determining weight percent of fines from abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992."

**Comment:** The vendor/supplier characterizes the weight per cent of fines in product blasting materials. This information is usually specified on the Material Safety Data Sheets or available from the supplier technical data sheets. Therefore, there is no necessity to test new product blasting abrasives. Additionally, 1327.A.2. is unclear in that it states documentation by the supplier is adequate to meet the % fines limitation, but still references testing ASTM testing methods. The test requirements are set forth in a more comprehensive provision at 1333.A.4 and should be eliminated from 1327.A.2.

**Recommendation:** Delete the second sentence of Section 1327.A.2. The revised provisions should read:

*1327.A.2. "Abrasives shall contain less than 10 percent (by weight) of fines that would pass through a No. 80 sieve as documented by the supplier.*

**3. Section 1329.E. Performance Standard.**— "When abrasive blasting is performed over waters of the state, no blasting material or visible floating solids shall reach waters of the state unless such a discharge is authorized according to the LPDES permit program".

**Comment:** The proposed language of 1329.E. is absolute in that the provision specifies "no blasting materials.....shall reach waters of the state", even at *deminimis* levels. Given the nature of over-water blasting operations, this is a difficult condition to meet on a consistent basis, even

with shrouds, curtains and other controls as well as non-structural best management practices.

Traditional LPDES language prohibits the “discharge of floating solids or visible foam in other than trace amounts”. Whereas, the term “trace amounts” is not defined, the clarification does recognize the impossibility of 100% control on an absolute basis. LPDES permits additionally set forth certain Best Management Practices for those facilities that perform abrasive blasting over water that if implemented limit the deposition of these materials to waters of the state. These BMPs are set forth in the Part II language of the permit. A copy of the BMPs from a recently issued LPDES permit are attached for your reference. Please see Item 4. and Section N.

In 2001, the Texas Natural Resource Conservation Commission (now the Texas Commission on Environmental Quality), in response to a petition for rulemaking, directed its staff to evaluate the development of a general permit to address control of blast abrasive emissions over water by means of best management practices jointly developed by the Agency and impacted industries. The Agency determined that no permit was necessary for these activities. Pertinent documents and the TCEQ rationale for the decision are attached for your reference.

**Recommendation:** Review LPDES and TCEQ language, guidance and established best management practices for control of blast abrasive emissions over water for incorporation into the proposed 1329.E. Performance Standard. Consider revision of the Standard to track LPDES language where possible to assure consistency of regulation between LDEQ air emissions and water discharge programs. Consider language to account for inherent *deminimis* emissions for those facilities otherwise in compliance with air emissions permits and conditions.

**4. Provision 1329.G. Performance Standard** – “The facility shall maintain stockpiles of new and/or spent abrasive material in a manner that will minimize fugitive airborne emissions. Measures to minimize emissions shall include, but not be limited to, the following:

1. covering stockpiled material;
2. wetting stockpiled material; or
3. keeping stockpiled material in containers”.

**Comment:** The term “stockpile” is not defined in the proposed regulations, and the Agency intent for this provision is therefore unclear. If the concern

is the high wind profile of spent stockpiles, then the 1329.G. should 1) set forth standards for dimensions that would limit exposure to wind erosion, and 2) limit materials handling if wind speeds exceed certain levels.

This provision has substantial impact on large blast/fabrication yards that generate hundreds of tons/year of spent blast materials. The spent materials are sometimes stockpiled, or in many cases spread throughout the yard to use as a fill base for ongoing operations. Covering such a substantial expanse of material is infeasible and would considerably limit operations on the yards. Wetting the materials would generate additional effluents under the LDEQ LPDES program thereby causing some facilities to no longer qualify for coverage under the LPDES MSGP general stormwater permit for industrial dischargers or light commercial facility (LCF-G) general permit.

LDEQ is additionally developing policies/procedures that allow facilities that generate spent blast materials to apply for solid waste beneficial use permits if the materials meet soils screening non-industrial RECAP standards ( $SS_{nl}$ ). We find 1329.G. unclear as to what storage or use methods the provision refers, how 1329.G. would impact those facilities which have received or applied for a beneficial use permit, and how the proposed regulations would impact the LPDES status of targeted facilities.

**Recommendation:** Revise and clarify 1329.G as to Agency intent. Review and clarify provisions with regard to the renewed LPDES MSGP Permit for Sector R., Sector AA., and Sector AB requirements and the LCF-G conditions for light commercial facilities. Review provisions with regard to requirements for beneficial use permits under LAC33:VII. 1101 and clarify the interface between the two regulations.

**5. Section 1331.D.1. Amendment of Best Management Practice Plans –**  
“After review of the plan by the department and/or upon receiving notice of a complaint, the department may require the owner/operator of the facility to amend the plan if there are indications that the plan does not adequately prevent nuisances and/or adverse off-site impacts”.

**Comment:** The Phrase “and/or upon receiving notice of a complaint” and the adverb “adequately” are redundant and should be eliminated from the provision.

**Recommendation:** Revise 1331.D.1. to read:

“After review of the plan by the department, the department may require the owner/operator of the facility to amend the plan if there are indications that the plan does not prevent nuisances and/or adverse off-site impacts”.

**6. Section 1333.A.4. Recordkeeping and Reporting** –“A monthly record of abrasive material usage, including weight percent of fines in abrasive material *per* the manufacturer or *per* sampling, if abrasive material is being reused. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992;”

**Comment:** Section 1327.A.2. of today’s proposed regulations requires facilities to document the weight per cent of fines in blast abrasive product as determined by the manufacturer. Record keeping requirements under 1333.A.4. are similar but unclear to whether the provision applies only to spent blast materials intended for recycle, or if the provision is reiterating the operational standard in 1327.A.2. The provision is also unclear as to the schedule of sampling.

**Recommendation:** The requirement to document weight per cent fines in new product is addressed elsewhere in the proposed regulations. Therefore, Section 1333.A.4. should be clearly re-written to address recycled materials only. The following language is suggested:

“For those facilities that reuse or recycle spent blast abrasive materials, a monthly record of abrasive material usage, including weight percent of fines in abrasive material shall be maintained. For the purpose of determining weight percent of fines in abrasive material, monthly samples shall be taken according to ASTM standard ASTM D 75-87, re-approved 1992;”

**7. Section 1333.A.5. Recordkeeping and Reporting** – “applicable results, and data derived from results, of containment, ventilation, air, soil, fines, and other monitoring activities;”

**Comment:** It is unclear as to what results and data this section requires to track other than those previously set forth in the regulations (weight % fines, blast media usage, etc.). Additionally, permit conditions often address additional record keeping, but these requirements may or may not be consistent from site to site.

**Recommendation:** Clarify what records are required to be maintained under Section 1333.A.5. and if they are in addition to, replacement for, or do not apply to conditions for abrasive blasting operations in existing air permits.

**8. Section 1333.A.7. Recordkeeping and Reporting** – “for abrasive blasting that is performed outside of a full enclosure or a blast cabinet, the following:

- a. observations of wind direction, recorded hourly;
- b. visual observations of particulate matter emissions, recorded hourly;
- c. a daily record of actual operating times when such blasting is performed, based on a 24-hour clock.”

**Comment:** The hourly monitoring frequency for wind direction and visual monitoring is excessive, and would generate voluminous records of which little would be relevant or useful. Compliance with this provision would require the designation of a full time employee for each shift to monitor and record the required data, the installation of a computerized meteorological station to automatically record the information, or both. These requirements are beyond the ability of smaller facilities to afford or manage. The majority of shipyards maintain only a windsock. Smaller facilities and fabrication shops do not generally record this information.

**Recommendation:** Reduce the monitoring requirement to once/shift when blasting; require periodic visual observations when climatological conditions warrant or operational upsets occur that could impact offsite receptors.

**9. Section 1333.B. Recordkeeping and Reporting** – “Records required by this Subchapter or any BMP plan used to attain compliance with this Subchapter shall be maintained on a 30-day rolling basis with a three-year retention period.”

**Comment:** Permitted facilities are required to track paint usage and generation of VOC emissions on a 12 month rolling average basis. Facilities generally develop comprehensive spreadsheets to track and calculate this information from MSDS and daily paint records. These spreadsheets could be easily adapted to include blast media usage and rolling averages. Record keeping would be facilitated by the use of existing formats rather than having to develop a separate set of records to track blast media usage.

**Recommendation:** Revise blast media tracking requirements to be consistent with existing permit conditions for paint usage tracking.

This concludes our comments on the proposed abrasive blast emissions regulations of AQ249.

Conrad and Enviro One appreciate the opportunity to provide these comments and respectfully request your consideration in the revision of the proposed blast abrasive emission regulations. If you need additional information on the issues set forth herein, please contact me at the letterhead address or email [jyork@environe.com](mailto:jyork@environe.com).

Very truly yours,  
ENVIRO ONE

  
Jane D. York  
Executive Director

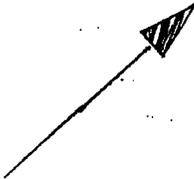
JDY/  
Enclosure

Cc: Mr. Terry T. Frickey, COO, Conrad Industries, Inc.

OTHER REQUIREMENTS (continued)

3. Each vessel to be sandblasted or abrasive blasted shall be checked for lead content in the paint to be removed either by review of paint history records of the vessel or prior analysis of paint samples removed from the vessel. After review of the paint history records or paint analyses results, if the permittee chooses to perform the job, residues of lead-contaminated blasting debris shall be removed from the dry dock for proper disposal prior to flooding of the dry dock.

4. Deposits of blasting debris in the water shall be minimized by using the following or similar controls:

- 
- a. Install mesh/plastic/tarpaulin-like curtain or net around the dry dock to be used for blasting and/or spray-painting in such a manner as to minimize the discharge of airborne fugitive dust and/or paint to the water. Wherever possible, the bottom edge of the curtain shall be weighted to allow the curtain to withstand light winds. The curtain shall be in place whenever any blasting/spray painting operations are conducted.
  - b. Upon completion of each blasting job on the dry dock, blasting debris shall be collected from under the vessel by means of air pressure or other appropriate methods and then swept, vacuumed or otherwise removed prior to flooding the dry dock.
  - c. In the event that the structure of a vessel to be blasted or painted prohibits the use of the curtain, the appropriate DEQ regional office shall be notified 24 hrs in advance of the situation. This notification may be submitted via fax during times when verbal notification is not possible.
  - d. In the event of extreme climatological conditions that may cause increased disbursement of airborne debris that can settle in the receiving waterbody (i.e. strong winds, etc), the permittee shall postpone sandblasting/abrasive blasting operations until such time that climatological conditions are back to normal.

5. The discharge of accumulated river silts/sediments within the dry dock or "demucking" the dry dock is allowed provided the following:

Note: this will be a State only requirement if this discharge is covered under a United States Corps of Engineers 404 permit per LAC 33:IX.2315.A.2.

- a. There is no visible sheen associated with the discharge.
- b. The accumulated silts/sediments are discharged directly into the waterbody in which the silts/sediments have originated.

OTHER REQUIREMENTS (continued)

- c. The silt/sediments have accumulated as a result of normal dry dock operations and are composed entirely of silts/sediments from the waterbody in which the dry dock ballast water originated.
- d. The silts/sediments have not come into contact with pollutants or have been contaminated as a result of a leak or spill of pollutants into the dry dock.
- e. The silts/sediments are discharged in such a manner that would not impede the natural flow of the receiving waterbody, or would not violate instream water quality standards for turbidity. For instance, discharging the silts/sediments on a regular schedule to reduce the amount being discharged at one time.

N.

BARGE/VESSEL SANDBLASTING OR ABRASIVE BLASTING PROVISIONS

Sandblasting or abrasive blasting at locations other than dry docks shall comply with the following BMP's:

1. When blasting the horizontal surface of a vessel, the work shall be done from the outer perimeter inward so as to direct the blasting debris toward the center of the vessel where it is to be collected.
2. When blasting vertical surfaces from the deck of a work barge/vessel, the operator shall position the work barge/vessel in such a manner as to maximize the probability that any airborne material will settle on the surface of the work barge/vessel rather than in the water.
3. The deck surface of a work barge/vessel used for blasting work shall be constructed of a solid material and shall be equipped with containment (either permanently mounted or temporary) around the perimeter of the barge/vessel to prevent accumulated debris from entering the water.
4. The blasting debris on the deck of work barges/vessels used for blasting shall be collected frequently enough to prevent the accumulated blasting debris from entering the water.

O. Bilge and/or Slop Waters:

The direct discharge of bilge and/or slops waters is not permitted.

- P. Rainwater that has accumulated in open top customer barges/vessels that have been properly cleaned or have never contained any cargo, and/or in the permittee's spar barges/vessels that never contain any cargo, may be discharged without sampling provided there is no visible oil sheen. If a sheen is present, a sample must be taken and tested for compliance with the following parameters prior to discharge:

Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Kathleen Hartnett White, *Commissioner*  
Jeffrey A. Saitas, *Executive Director*

## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

February 13, 2002

Mr. Jack Holmes  
Director of Environmental Affairs  
First Wave Marine, Inc.  
2102 Broadway  
Houston, Texas 77012

Re: First Wave Marine Abrasive Sandblasting and Spray Painting Activities

Dear Mr. Holmes:

This letter addresses permitting issues related to the deposition of airborne particulate matter on the surface of water as a result of abrasive sandblasting and spray painting activities that occur at the facilities operated by First Wave Marine, Inc. and its subsidiaries ("First Wave"). This issue was investigated in response to your petition for a general permit to cover these discharges, which was denied by the Texas Natural Resource Conservation Commission (TNRCC or Commission) on July 25, 2001. I have determined that a wastewater discharge permit or other authorization from the TNRCC is not required for the deposition of airborne particulate matter resulting from abrasive sandblasting and spray painting activities at First Wave.

Under Section 26.121(a) of the Texas Water Code (Code), except as authorized by the TNRCC, no person may discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state. Airborne particulates resulting from sandblasting and spray painting activities at First Wave are not a domestic, municipal, recreational, or agricultural waste. Although these particulates result from an industrial activity, they are not an industrial waste under the definition in Section 26.001(11) of the Code because they are not waterborne. Therefore, Section 26.121(a) of the Code does not apply.

Under Section 26.121(b) of the Code, except as authorized by the Commission, no person may discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state except under two conditions. Neither of those conditions, however, is relevant to First Wave's activities. The term "other waste" is broadly defined in Section 26.001(12) to include "any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste." Therefore, the airborne particulates that result from abrasive sandblasting and spray painting activities at First Wave are considered to be an "other waste." Pollution is defined in Section 26.001(14) of the Code as the "alteration of the physical, thermal, chemical, or biological

Mr. Jack Holmes, Director of Environmental Affairs

Page 2

February 13, 2002

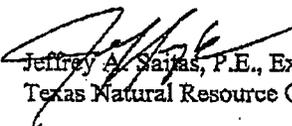
quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose."

You have indicated that the activities at First Wave are authorized by air control permits (or are otherwise authorized under the Texas Clean Air Act), issued by the TNRCC, that require the control of airborne particulates. You have also provided us with a copy of "First Wave Marine, Inc. and Subsidiaries Best Management Practices," a document (enclosed) outlining additional practices that First Wave currently performs to reduce and control airborne particulates. We have determined that if First Wave complies with the requirements of the Texas Clean Air Act at First Wave facilities, and employs the Best Management Practices described in the enclosed document, the deposition of any airborne particulates resulting from abrasive sandblasting and spray painting activities at First Wave is not likely to cause, or threaten to cause, pollution of any water in the state.

Therefore, a wastewater discharge permit or other authorization from the TNRCC is not required for the deposition of airborne particulates resulting from abrasive sandblasting and spray painting activities. I appreciate your careful attention to this environmental matter and encourage you to continue to improve your management practices as technology progresses.

If you have questions about this matter, please feel free to contact Mr. Stephen Ligon at (512) 239-4527 or Mr. Robert Martinez at (512) 239-0681.

Sincerely,

  
Jeffrey A. Sajjas, P.E., Executive Director  
Texas Natural Resource Conservation Commission

JAS/SML/sa

Enclosure

cc: Ms. Carol Lear, Environmental Law (MC 173)

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



DECISION OF THE COMMISSION  
REGARDING THE PETITION FOR RULEMAKING  
FILED BY FIRST WAVE MARINE, INC.

Docket No. 2001-0764-RUL

On July 25, 2001, the Texas Natural Resource Conservation Commission (Commission) considered the petition for rulemaking filed by First Wave Marine, Inc. The petition, filed on May 25, 2001, requests that the agency initiate rulemaking to create a general permit for discharge of airborne particles to the coastal waters of the State of Texas from shipyard abrasive blasting and spray painting operations in 30 TAC §321.300.

IT IS THE DECISION OF THE COMMISSION pursuant to Administrative Procedure Act (APA), Texas Government Code, §2001.021 and Texas Water Code (TWC), §5.102 to deny the petition.

Pursuant to current statutory authority, the Commission is no longer issuing new permits by rule under Chapter 321. The Commission does issue new general permits under the authority of TWC, §26.040 and 30 TAC Chapter 205. Section 26.040 specifically excepts the issuance of a general permit from APA rulemaking so it would not be appropriate for the commission to initiate a general permit through that process. Therefore, the petitioner's request should be denied; however, the Commission directs the staff to initiate permitting procedures to develop such a general permit to address the types of discharges described by First Wave Marine, Inc.

This Decision constitutes the decision of the Commission required by APA, §2001.021(c).

Issued date:

TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION

Robert J. Huston, Chairman

TEXAS NATURAL RESOURCE CONSERVATION  
COMMISSION

AGENDA ITEM REQUEST

for Petition Consideration

AGENDA REQUESTED: July 25, 2001

DATE OF REQUEST: July 6, 2001

NAME & NUMBER OF PERSON TO CONTACT REGARDING  
CHANGES TO THIS REQUEST, IF NEEDED: Angela Slupe, 239-  
4712

CAPTION: Docket No. 2001-0764-RUL. Consideration of a petition  
by First Wave Marine Inc., for rulemaking to create a new  
Subchapter P in 30 TAC Chapter 321, Control of Certain Activities  
By Rule. If approved, the petition will establish a general permit by  
rule for abrasive blasting and spray painting conducted by shipyards  
in the coastal waters of Texas. (Jacquelyn Boutwell/L'Oreal  
Stepney/Michael Bame) (Rule Log No. 2001-066-PET-WS)

Steve J. ...  
OEPA Deputy Director

Jacquelyn ... for Leigh Ing  
Program Deputy Director

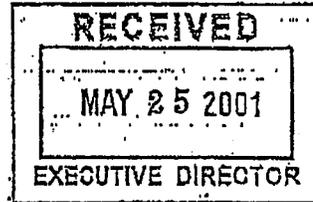
Angela Slupe  
Agenda Coordinator

1410



May 23, 2001

Mr. Jeffrey A. Saitas  
Executive Director  
Texas Natural Resource Conservation Commission  
Building F  
12100 Park 35 Circle  
Austin, Texas 78753



Re: Attached Petition for General Permit

Dear Mr. Saitas,

As we discussed in our December 20, 2000 meeting with you, First Wave Marine, Inc. respectfully submits the enclosed Petition for Rulemaking requesting that the Texas Natural Resource Conservation Commission create a general permit for discharge of airborne particulates to the coastal waters of the State of Texas from shipyard abrasive blasting and spray painting operations.

I look forward to working with the TNRCC to help create this general permit. Please feel free to contact me directly at 713-847-4608 if you have any questions regarding this petition.

Very truly yours,

Jack P. Holmes  
Director of Environmental Affairs

Enclosure

- C: Jim Phillips – Deputy Director, Office of Legal Services, TNRCC
- Paul Sarahan – Paul Sarahan – Director, Litigation, TNRCC
- Kerri Rowland – Acting Sr. Attorney, Air, TNRCC
- Marianne Baker – Sr. Attorney, Water Quality, Water Quantity, TNRCC
- Grady Walker – President, First Wave Marine, Inc.
- Sue Kean – General Counsel, First Wave Marine, Inc.

FIRST WAVE MARINE, INC'S  
PETITION FOR RULEMAKING  
REGARDING TITLE 30 SECTION 321.300  
OF THE TEXAS ADMINISTRATIVE CODE

TO THE HONORABLE EXECUTIVE DIRECTOR OF THE TEXAS NATURAL RESOURCE CONSERVATION  
COMMISSION:

NOW COMES: First Wave Marine, Inc. ("FirstWave"), a Delaware corporation, whose offices are located at 2102 Broadway, Houston, Texas, 77012 and files this written petition for rulemaking regarding a general permit for discharges into the waters of Texas under the authority of Chapter 26 of the Texas Water Code Section 040 (hereinafter TEX. WATER CODE § 26.040). FirstWave would respectfully show the following:

I. Explanation of Rule

The proposed rule amends 30 TEX. ADMIN. CODE § 321 by adding Subchapter P, §§ 321.300 et. seq., by adding language that establishes a general water permit by rule for abrasive blasting and spray painting conducted by shipyards in the coastal waters of Texas. The proposed general permit would incorporate best management practices developed jointly by the TNRCC and the shipyard industry. The purpose of the general permit is to establish clear guidelines for regulating discharges into the air that result in the deposition of material onto waters of the state during shipyard abrasive blasting and spray painting operations.

II. Text of Proposed Rule

The proposed rule would set out best management practices and monitoring requirements for abrasive blasting and spray painting operations over, on, or adjacent to coastal waters of the State. TNRCC, the shipyard industry, and other interested parties would jointly develop these best management practices and monitoring requirements through a stakeholder process.

III. Statement of Authority

The proposed rule is to be promulgated under TEXAS WATER CODE § 26.040. This statutory provision allows the TNRCC to issue a general permit authorizing industry discharges if the dischargers: 1) engage in similar types of operations; 2) discharge the same types of waste; 3) are subject to the same requirements regarding effluent limitations or operating conditions; 4) are subject to the same or similar monitoring requirements; and 5) are, in the commission's opinion, more appropriately regulated under a general permit than under individual permits. The general permit must be drafted to assure that it can be readily enforced, the commission can monitor compliance, and the discharges covered by the permit will not cause significant adverse effects to water quality.

The proposed general permit for shipyard abrasive blasting and spray painting operations in the coastal waters of Texas satisfies the prerequisites of TEXAS WATER CODE § 26.040. Shipyard operators are engaged in similar abrasive blasting and painting operations in the coastal waters of the state that occasionally result in some airborne particulate matter from abrasive blasting and spray painting ultimately drifting and settling onto near-by bodies of water. A general permit regarding abrasive blasting and spray painting operations would provide a consistent and standardized environmental regulatory scheme for these operations in the coastal waters.

IV. Allegation of possible injury or inequity

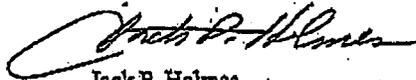
FirstWave will be harmed if the proposed general permit is not enacted because the lack of clarity and consistency on appropriate abrasive blasting and spray painting operation standards threatens to and does create the risk of inequitable and unduly vague criminal and civil law enforcement. The TEXAS WATER CODE § 7.147 (a) states that "a person commits an offense if the person discharges or allows the discharge of any waste or pollutant into any waters in the state that causes or threatens to cause water pollution unless the waste or pollutant is discharged in strict compliance with all required permits or with a valid and currently effective order issued or rule

adopted by the appropriate regulatory agency." In the absence of this proposed general permit, any ship fabrication or repair operator faces potential strict *criminal* liability for "any discharge," regardless of the quantity and regardless of the insignificant effects to water quality, that ultimately deposits onto water due to the abrasive blasting or spray painting operation. In addition, potential violations of TEXAS WATER CODE § 7.147 may be enforced not just by agents of the TNRCC, but by several officers of the state, including agents from the Texas Parks and Wildlife Department, the Harris County Pollution Control Department, or the Houston Police Department. The possibility of enforcement actions by these various state and local agencies without appropriately defined, consistent standards magnifies the uncertainty of the environmental regulations of these operations and the risk of inconsistent criminal or civil enforcement.

V . . . Conclusion

The proposed general permit, to codify best management practices, will establish needed consistent environmental regulations and enforcement for shipyard operators who conduct abrasive blasting or spray painting on or over coastal waters. These joint TNRCC / industry standards will also provide needed and appropriate guidance to the myriad of law enforcement agencies and officers tasked with enforcement of the Texas Water Code.

Respectfully submitted,



Jack P. Holmes  
Director of Environmental Affairs

AQ 249

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DEC 07 2006

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

*Del:son 12/7/06*  
*(L)*

November 14, 2006

Judith Schuerman, Ph.D.  
DEQ Office of Secretary  
Legal Affairs Division  
P.O. Box 4302  
Baton Rouge, LA 70821-4302

RE: Proposed Abrasive Blasting Regulations

Dear Dr. Shuerman,

We at Seacraft Shipyard strive to be the best operators in our field. Our facility is spread over 6 acres in Amelia along Bayou Bouef. We currently hold a small source air permit and storm water permit. We appreciate your implementing rules to provide a consistent set of standards for everyone doing sandblasting but we have concerns about several aspects of rule.

### 1325 Definitions

We agree that DEQ should and needs to establish a minimum set of standards that all should use when conducting blasting operations. But with the nuisance definition (and Section 1331.D-9), DEQ is in essence allowing the general public to decide what the minimum standard should be. We are currently permitted to emit particulate matter from our blasting operations. If the dust were contained on our property, we would not need to permit those emissions. Because we have a permit, we are allowed to emit that dust into the air and hence off our site. We feel the number one criterion that should be considered in determining if a nuisance is present is: "Does the facility have an air permit to release dust when blasting and, if so, are the limits of that permit being met?" Allowing neighbors and the general public to determine who is a nuisance is a bad policy that will eventually shut down a majority of the shipyards in the state. We respectfully request that the definition of nuisance the specific requirements regarding a nuisance be reconsidered.

### **1327 Blasting Operations**

In section 1327.B, we would like to see an exclusion added for abrasives used for blasting aluminum. Aluminum is a soft metal and must be blasted with a fine sand to prevent marring of the surface. A majority of our work is with aluminum.

### **1329 Performance Standard**

We agree that a Best Management Plan and hourly monitoring may be appropriate for facilities that are creating a nuisance. However, for those facilities that are not creating a nuisance, these measures are expensive and unnecessary. We are conscientious operators. Making us implement what is in effect just additional paperwork will only increase our cost, not minimize our emissions. We respectfully request that you reconsider making everyone implement sections 1329.A-2. Perhaps these measures could be reserved for those sites creating a nuisance.

Our yard is situated directly on Bayou Bouef. We have two slips. While we typically do not blast over the water, we may blast near it. We feel that Section 1329.E is not only impractical, it is unattainable. Rarely are the floating and visible solids trapped in our slips ours. Bayou Bouef is not only a waterway but also provides drainage for lower St. Mary Parish. Solids tend to accumulate in areas where water slows, i.e. slips. We have no control over the solids that get trapped in our slip. We respectfully request that 1329.E be removed from the rule.

In section 1329.G, what does DEQ consider a stockpile? Is sand spread over a site considered a stockpile?

### **1331 Best Management Practices (BMP) Plans**

We believe that DEQ should not only establish minimum blasting standards but also be the sole source in determining if BMPs are affective. The fact that a complaint is filed against our facility does not necessarily mean that we are not meeting the blasting standards. Requesting BMP updates anytime a complaint is filed is excessive. We respectfully request that "and/or upon receiving notice of a complaint" be removed from Part 1331.D-1. Also, will the DEQ ever consider any BMPs for outdoor blasting to be adequate? We request that "adequate" either be removed from this requirement or defined clearly.

### 1333 Recordkeeping and Reporting

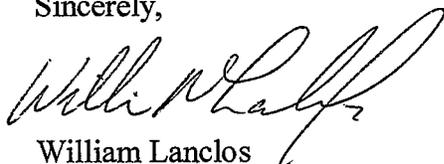
Our main concerns about the rule are the recordkeeping requirements. Our company has one person in the environmental/safety department who oversees all environmental and safety activities on two yards. Should hourly monitoring be required, he will spend his entire day reporting blasting operations instead of addressing other pertinent environmental requirements. We will essentially have to hire one person to monitoring blasting operations. We believe that hourly monitoring will do nothing to decrease our emissions but will only increase our operating costs. We respectfully request that the hourly recording requirement in 1333.A-7a and 1333.A-7.b be removed from the rule. Also, on 1333.A-7.b, what exactly are we to observe when looking at the particulate emissions?

We currently record our abrasive usage monthly but not our percent fines. Requiring percent fines on every load will be burdensome for us and the supplier. In lieu of requiring documentation on every load, we suggest that the percent fines in abrasives be updated and kept on file annually.

We feel that the three year retention of records (as stipulated in 1333.B) is excessive. If a complaint is received or inspection conducted, one year worth of data should be sufficient to demonstrate compliance. Any complaint received more than one year after the nuisance event should be dismissed. We respectfully request that the three year limit be changed to one year.

Again, we support the regulation so that our competitors will be required to do the same practices as us. However, we do not feel that the voluminous paperwork required of this rule will create any reductions in emissions. If you have any questions, please feel free to call me 985-631-2628.

Sincerely,



William Lanclos  
HSE Manager

P. O. BOX 9218  
NEW IBERIA, LA 70562



TELEPHONE  
(337) 369-7004  
FAX  
(337) 367-0555

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DEC 08 2006

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

*Delivered 12/8/06*

November 14, 2006

Judith Schuerman, Ph.D.  
DEQ Office of Secretary  
Legal Affairs Division  
P.O. Box 4302  
Baton Rouge, LA 70821-4302

RE: Proposed Abrasive Blasting Regulations *AQ 249*

Dear Dr. Shuerman,

We at Marine Industrial Fabrication (MIF) strive to be the best operators in our field. We fabricate and repair jack-up boats used in the oil and gas industry. Our facility is spread over 10 acres along the Rodere Canal. We currently hold a minor source air permit and storm water permit. We conduct most of our blasting outdoors. We appreciate your implementing rules to provide a consistent set of standards for everyone doing sandblasting but we have concerns about several aspects of rule.

### 1325 Definitions

We agree that DEQ should and needs to establish a minimum set of standards that all should use when conducting blasting operations. But with the nuisance definition (and Section 1331.D-9), DEQ is in essence allowing the general public to decide what the minimum standard should be. We are currently permitted to emit particulate matter from our blasting operations. If the dust were contained on our property, we would not need to permit those emissions. Because we have a permit, we are allowed to emit that dust into the air and hence off our site. We feel the number one criterion that should be considered in determining if a nuisance is present is: "Does the facility have an air permit to release dust when blasting and, if so, are the limits of that permit being met?" Allowing neighbors and the general public to determine who is a nuisance is a bad policy that will eventually shut down a majority of the shipyards in the state. We respectfully request that the definition of nuisance and the specific requirements regarding a nuisance be reconsidered.

### **1327 Blasting Operations**

In section 1327.B, we would like to see an exclusion added for abrasives used for blasting aluminum. Aluminum is a soft metal and must be blasted with a fine sand to prevent marring of the surface.

### **1329 Performance Standard**

We agree that a Best Management Plan and hourly monitoring may be appropriate for facilities that are creating a nuisance. However, for those facilities that are not creating a nuisance, these measures are expensive and unnecessary. We are conscientious operators. Making us implement what is in effect just additional paperwork will only increase our cost, not minimize our emissions. We respectfully request that you reconsider making everyone implement sections 1329.A-2. Perhaps these measures could be reserved for those sites creating a nuisance.

Our yard is situated directly on the Rodere Canal. Occasionally, we blast boats over the water. We use every means practical to confine the dust and prevent it from becoming a water pollutant. We feel that Section 1329.E is not only impractical, it is unattainable. The Rodere Canal is not only a waterway but also provides drainage for Iberia Parish and the Port of Iberia. We have no control over the solids that get trapped along our bulkhead. We respectfully request that 1329.E be removed from the rule.

In section 1329.G, what does DEQ consider a stockpile? Is sand spread over a site considered a stockpile?

### **1331 Best Management Practices (BMP) Plans**

We believe that DEQ should not only establish minimum blasting standards but also be the sole source in determining if BMPs are effective. The fact that a complaint is filed against our facility does not necessarily mean that we are not meeting the blasting standards. Requesting BMP updates anytime a complaint is filed is excessive. We respectfully request that "and/or upon receiving notice of a complaint" be removed from Part 1331.D-1. Also, will the DEQ ever consider any BMPs for outdoor blasting to be adequate? We request that "adequate" either be removed from this requirement or defined clearly.

### **1333 Recordkeeping and Reporting**

Our main concerns about the rule are the recordkeeping requirements. Our company does not have a designated person for environmental/safety issues. Should hourly

monitoring be required, we will have to hire one person to monitoring blasting operations. We believe that hourly monitoring will do nothing to decrease our emissions but will only increase our operating costs. We respectfully request that the hourly recording requirement in 1333.A-7a and 1333.A-7.b be removed from the rule. Also, on 1333.A-7.b, what exactly are we to observe when looking at the particulate emissions?

We currently record our abrasive usage monthly but not our percent fines. Requiring percent fines on every load will be burdensome for us and the supplier. In lieu of requiring documentation on every load, we suggest that the percent fines in abrasives be updated and kept on file annually.

We feel that the three year retention of records (as stipulated in 1333.B) is excessive. If a complaint is received or inspection conducted, one year worth of data should be sufficient to demonstrate compliance. Any complaint received more than one year after the nuisance event should be dismissed. We respectfully request that the three year limit be changed to one year.

Again, we support the regulation so that our competitors will be required to do the same practices as us. However, we do not feel that the voluminous paperwork required of this rule will create any reductions in emissions. If you have any questions, please feel free to call me 337-369-7004.

Sincerely,

Eric Metz  
Operations Manager

ORIGINAL

STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

EMISSIONS FROM ABRASIVE BLASTING  
LAC 33:III.1323, 1325, 1327, 1329, 1331, and  
1333

LOG #: AQ249

PUBLIC HEARING

The Public Hearing held by the Department of Environmental Quality, Regulation Development Section, at the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, Louisiana, beginning at 1:40 p.m., on November 29, 2006.

**BEFORE:** Lori B. Overland  
Certified Court Reporter  
In and For the State of  
Louisiana

**ASSOCIATED REPORTERS, INC.**  
(225) 216-2036

**RECEIVED**

**DEC 13 2006**

IDEQ/OSEC/LAD

DEPARTMENT OF ENVIRONMENTAL QUALITY

I N D E X

EXAMINATION:

PAGE(S) :

None

EXHIBITS:

None

REPORTER'S PAGE

14

REPORTER'S CERTIFICATE

15

\* \* \* \* \*

DEPARTMENT OF ENVIRONMENTAL QUALITY

1           that each person commenting come up and sit  
2           at the front table and begin by stating his  
3           or her name and affiliation for the record.

4           The next amendment is designated by  
5           the Log Number AQ249.

6           This proposed rule is intended to  
7           reduce particulate matter emissions from any  
8           facility that engages in or contracts to  
9           provide abrasive blasting and that is  
10          classified under a Standard Industrial  
11          Classification (SIC) Code beginning with 34,  
12          35, or 37, or under SIC Code 1622 or 1721.  
13          The current rule is vague and not  
14          consistently followed. This rule clarifies  
15          the existing regulation by specifying the  
16          following standards of performance for  
17          abrasive blasting: prohibited materials and  
18          methods that cannot be used in abrasive  
19          blasting activities; requirement to control  
20          emissions through either enclosure or  
21          establishment of Best Management Practices;  
22          maintenance of control equipment; and  
23          recordkeeping requirements. Abrasive  
24          blasting is a common practice in Louisiana  
25          and is not currently regulated in a

DEPARTMENT OF ENVIRONMENTAL QUALITY

1           comments on that particular draft. We would  
2           just like, for the purposes of the  
3           administrative record, to make sure that  
4           those comments are included as part of the  
5           rulemaking on this particular rule because  
6           we had various questions and concerns during  
7           that previous draft.

8           Also, I had a question that has arisen  
9           as to the applicability of this rule, and  
10          that's basically, it appears, from our  
11          reading of the rule, that this activity will  
12          only occur at a facility that engages or  
13          contracts by abrasive blasting and that is  
14          classified in one of the SIC code  
15          classifications. This appears, in our  
16          reading, to not apply to most of our  
17          facilities that are with a different SIC  
18          code. If we are interpreting this in error,  
19          we certainly would appreciate a  
20          clarification because that would have a  
21          significant consequence to us.

22          Again, we do plan to file some written  
23          comments prior to the end of the comment  
24          period and we would appreciate your  
25          consideration. Thank you.

1 soft metal and there are quite a few people  
2 who engage in the blasting of aluminum.  
3 Instead of making them have to submit  
4 documentation getting an exemption from  
5 that, it would be nice just to add that into  
6 the rule.

7 Under 1329, on Part B, I had a  
8 rewording suggestion which I had emailed in,  
9 and that one is already on record.

10 On Part E, which reads, "When abrasive  
11 blasting is performed in the waters of the  
12 State, no blasting material, visible,  
13 floating, solid, shall reach the waters of  
14 the State with the LPDES permit." I'd like  
15 for that to be stricken from the rule and  
16 replaced with the following, "Anyone  
17 conducting outdoor abrasive blasting  
18 operations shall have an LPDES stormwater  
19 permit. Additionally, anyone conducting  
20 abrasive blasting over the waters of this  
21 State shall implement a best management plan  
22 which summarizes how the facility will  
23 prevent dust from entering the water." I  
24 think that, that is more clear and more  
25 easily enforced. It also is something

1           containment. You know, "Adequate" hasn't  
2           really been defined and I would just like  
3           that word removed.

4           Let's see. I've got notes written  
5           everywhere. Under 1333, I would like  
6           clarification for number -- on Part A,  
7           number four. The requirement for including  
8           the weight percent of fine and abrasive  
9           material on a -- I guess, as per each load.  
10          I'm not real sure and I was just wondering  
11          exactly who has to do that. That's going to  
12          be a lot of paperwork and a lot of  
13          documentation for something that could  
14          probably be just as easily documented once a  
15          year.

16          On Part 7, I believe that the  
17          observation of the wind direction hourly,  
18          the visual observations of particulate  
19          matter on an hourly basis, are a bit of an -  
20          - or is quite a burden for companies,  
21          especially those with large yards that have  
22          multiple activities occurring. In lieu of  
23          that, I would think that just having an  
24          observation of it at the beginning of the  
25          activity and even, perhaps, at the close of

1                    Thank you for your attention and  
2                    participation.

3                    This hearing is closed.

4                    **THE HEARING CONCLUDED AT 1:49 P.M.**

5                    \* \* \* \* \*



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OCT 18 2006

Acadiana's Daily Newspaper

LDEQ/GSEC/LAD  
REGULATION DEVELOPMENT SECTION

**THE ADVERTISER**

1100 Bertrand Drive  
LAFAYETTE, LA 70506

PHONE: (337) 289-6300  
FAX: (337) 289-6466

**AFFIDAVIT OF PUBLICATION**

Remender D. Weatherspoon  
LA Department of Environmental Quality  
OSEC/Legal Affairs Division/  
Regulation Development Section  
P. O. Box 4302  
Baton Rouge, LA 70821-4302

Account No.: 8DEQRD  
Ad Number: 673647  
Ad Total: \$84.56  
No. of Lines: 188  
Reference No.: Visa Purchase

\*\*To insure proper credit please refer to your account number and/or ad number when making payment. Remittance address: P.O. Box 3268, Lafayette, LA 70502-3268

I, ROSE PENFOLD, do solemnly swear that I am the LEGAL CLERK of THE ADVERTISER, a newspaper printed and published at Lafayette, in the Parish of Lafayette, State of Louisiana, and that from my personal knowledge and reference to the files of said publication, the advertisement of

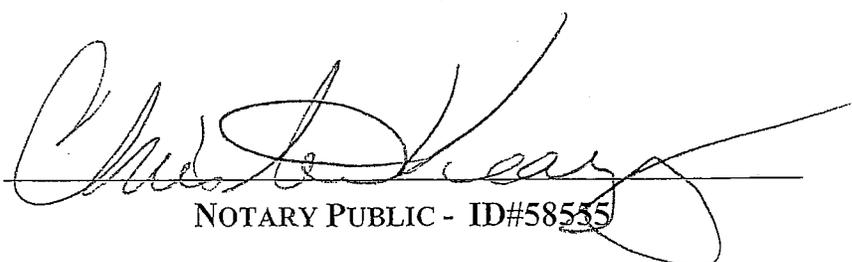
**NOTICE OF INTENT**  
**Department of Environmental Quality**  
**Office of the Secretary**  
**Legal Affairs Division**  
**Emissions from Abrasive Blasting**  
**(LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333) (AQ249)**

was published in **THE ADVERTISER** on the following dates:

**\*Friday, October 13, 2006**

  
\_\_\_\_\_  
**ROSE PENFOLD**  
LEGAL CLERK

Sworn to and subscribed before me this 16 day of October, 2006.

  
\_\_\_\_\_  
NOTARY PUBLIC - ID#58535

## NOTICE OF INTENT

Department of  
Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Emissions from  
Abrasive Blasting  
(LAC 33:111.1323, 1325,  
1327, 1329, 1331, and  
1333) (AQ249)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Air regulations, LAC 33:111.1323, 1325, 1327, 1329, 1331, and 1333 (Log #AQ249).

This proposed rule is intended to reduce particulate matter emissions from any facility that engages in or contracts to provide abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37, or under SIC Code 1622 or 1721. The current rule is vague and not consistently followed. This rule clarifies the existing regulation by specifying the following standards of performance for abrasive blasting: prohibited materials and methods that cannot be used in abrasive blasting activities; requirement to control emissions through either enclosure or establishment of Best Management Practices; maintenance of control equipment; and recordkeeping requirements. Abrasive blasting is a common practice in Louisiana and is not currently regulated in a consistent manner. Many of the complaints received by the department are related to abrasive blasting emissions. This situation can be ameliorated by setting clear performance standards that apply equally to all businesses that engage in abrasive blasting. The basis and rationale for this rule are to improve air quality by reducing particulate matter emissions.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on November 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ249. Such comments must be received no later than December 5, 2006, at 4:30 p.m., and

should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ249. This regulation is available on the Internet at [www.deq.louisiana.gov](http://www.deq.louisiana.gov) under Rules and Regulations, Monthly Regulation Changes.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson,  
CPM  
Executive Counsel

CERTIFIED COPY

NOV 06 2006

Publisher of THE ADVOCATE

LDEQ/OSEC/LAD REGULATION DEVELOPMENT SECTIC

AQ249

PROOF OF PUBLICATION

The hereto attached notice was published in THE ADVOCATE, a daily newspaper of general circulation published in Baton Rouge, Louisiana, and the official Journal of the State of Louisiana, the City of Baton Rouge, and the Parish of East Baton Rouge, in the following issues:

10/13/06

[Handwritten signature of Susan A. Bush]

Susan A. Bush, Public Notices Clerk

Sworn and subscribed before me by the person whose signature appears above:

October 13, 2006

[Handwritten signature of Pegeen Singley]

Pegeen Singley, Notary Public, #66565 My Commission Expires: Indefinite Baton Rouge, Louisiana

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ249. Such comments must be received no later than December 5, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302 Baton Rouge, LA 70821-4302 or to FAX (225) 219-3562 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ249. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, Monthly Regulation Changes. This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1623 Highway 548, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471. Herman Robinson, CPM Executive Counsel 3435954-oct 13-11

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Emissions from Abrasive Blasting (LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333) (AQ249)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Air regulations, LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333 (Log #AQ249).

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This proposed rule meets an exception listed in R.S. 30:2019 (D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on November 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

DEQ - OSEC/LAD REGULATION REMENDER WEATHERSPOON PO BOX 4302 BATON ROUGE

3435954

LA 70821-4314

AFFIDAVIT OF PUBLICATION

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SEC

( A Correct Copy of Publication )

NOTICE OF INTENT  
Department of  
Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Emissions from  
Abrasive Blasting  
(LAC 33:111.1323, 1325,  
1327, 1329, 1331, and  
1333) (AQ249)

Under the authority of  
the Environmental  
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30:2001 et seq., and in  
accordance with the  
provisions of the Ad-  
ministrative Procedure  
Act, R.S. 49:950 et seq.,  
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through either enclo-  
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by reducing particulate  
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This proposed rule  
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30:2019(D)(2) and R.S.  
49:953(G)(3); there-  
fore, no report regard-  
ing environmental/  
health benefits and  
social/economic costs  
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A public hearing will  
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Oliver Pollock Confer-  
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Fifth Street, Baton  
Rouge, LA 70802. Inter-  
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als with a disability  
need an accommoda-  
tion in order to partici-  
pate, contact Judith A.  
Schuerman, Ph.D., at  
the address given be-  
low or at (225) 219-  
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Galvez Garage is free  
with a validated park-  
ing ticket.

All interested persons  
are invited to submit  
written comments on  
the proposed regula-  
tion. Persons com-  
menting should refer-  
ence this proposed reg-  
ulation by AQ249. Such  
comments must be re-  
ceived no later than  
December 5, 2006, at  
4:30 p.m., and should  
be sent to Judith A.  
Schuerman, Ph.D., Of-  
fice of the Secretary,  
Legal Affairs Division,  
Box 4302, Baton Rouge,  
LA 70821-4302 or to  
FAX (225) 219-3582 or  
by e-mail to  
judith.schuerman@la.g  
ov. Copies of this pro-  
posed regulation can  
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or money order is re-  
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each copy of AQ249.  
This regulation is  
available on the Inter-  
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under Rules and Regu-  
lations, Monthly Regu-  
lation Changes.

This proposed regula-  
tion is available for in-  
spection at the follow-  
ing DEQ office loca-  
tions from 8 a.m. until  
4:30 p.m.: 602 N. Fifth  
Street, Baton Rouge,  
LA 70802; 1823 High-  
way 546, West Monroe,  
LA 71292; State Office  
Building, 1525 Fairfield  
Avenue, Shreveport,  
LA 71101; 1301 Gadwall  
Street, Lake Charles,  
LA 70615; 111 New Cen-  
ter Drive, Lafayette,  
LA 70508; 110  
Barataria Street,  
Lockport, LA 70374; 645  
N. Lotus Drive, Suite  
C, Mandeville, LA  
70471.

HERMAN ROBINSON,  
CPM  
Executive Counsel

(10) 18

I, Bill Buschmann, Advertising Sales Manager

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Public Notice AQ249

advertisement, as per clipping attached, was

published in the regular and entire issue of said

newspaper, and not in any supplement thereof

for one insertion commencing with the issue

dated October 18, 2006 and ending with the

issue dated October 18, 2006.

*Bill Buschmann*

Subscribed and sworn to before me

this 23<sup>rd</sup> day of October, 2006

*[Signature]*

Notary Number 0191182

NOTICE OF INTENT  
Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division  
Emissions from Abrasive Blasting  
(LAC 33:111.1323, 1325, 1327, 1329, 1331, and 1333) (AQ249)

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**CERTIFIED COPY**

**Affidavit of Publication**

RECEIVED

OCT 16 2006

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

STATE OF LOUISIANA  
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

*Card Dickson*

who being duly sworn, deposes and says:

He/She is a duly authorized agent of  
**LAKE CHARLES AMERICAN PRESS**  
a newspaper published daily at 4900 Highway 90 East,  
Lake Charles, Louisiana, 70615. (Mail address: P.O. Box 2893  
Lake Charles, LA 70602)

The attached Notice was published in said newspaper in its issue(s)  
dated:

00298072 - \$41.00  
October 12, 2006

AQ249

00053262  
LA. DEQ OSEC/LARD  
REGULATION DEVELOPMENT  
REMENDER WEATHERSPOON  
P.O. BOX 4302  
BATON ROUGE, LA 70821-4302

*Card Dickson*

Duly Authorized Agent

Subscribed and sworn to before me on this 12th day of October, 2006 at  
Lake Charles, LA

*Gwendolyn R. Dugas*

Notary Public

00053262

LA. DEQ OSEC/LARD

Gwendolyn R. Dugas  
#0053262

given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

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October 12, 2006  
00298072

RECEIVED

OCT 26 2006

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTION

NOTICE OF INTENT

Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Emissions from Abrasive Blasting  
(LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333)  
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Herman Robinson, CPM  
Executive Counsel

Monroe, LA  
October 19, 2006

Publisher of

THE NEWS-STAR  
MONROE, LOUISIANA  
PROOF OF PUBLICATION

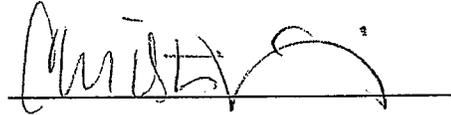
The hereto attached advertisement  
Was published in the NEWS-STAR.

A daily newspaper of general circulation.

Published in Monroe, Louisiana.

Parish of Ouachita in the issues of:

October 19, 2006



LEGAL AD DEPT.

Sworn and subscribed before me by

The person whose signature appears above in Monroe, LA on this

19 day of October 20 06 AD



Steven L. Turner # 43154

NOTARY PUBLIC

OCT 17 2006

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECTIC

# The Times

## PROOF OF PUBLICATION

### NOTICE OF INTENT

Department of  
Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Emissions from Abrasive  
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STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

Who being duly sworn, deposes and says that she is the Assistant to the  
Classified Advertising Manager of The Times, and that the attached  
Advertisement entitled:

NOTICE NOTICE OF INTENT (Log #AQ249)

As per copy of advertisement hereto annexed, was published in The Times  
on the following dates to wit:

October 12, 2006

(Signed) Altheas Critton

Sworn to and subscribed before me this 12<sup>th</sup> day of October, 2006

Diana W. Barber

DIANA W. BARBER, NOTARY PUBLIC # 60491  
CADDO PARISH, LOUISIANA  
MY COMMISSION IS FOR LIFE

(Notary)



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Herman Robinson  
CPM  
Executive Counsel

The Times  
October 12, 2006

The Times-Picayune

LDEQ/OSEC/LAD  
REGULATION DEVELOPMENT SECT

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70140-1097

TELEPHONE (504) 826-3206

AQ249

NOTICE OF INTENT  
Department of Environmental  
Quality  
Office of the Secretary  
Legal Affairs Division

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Herman Robinson, CPM  
Executive Counsel

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Robert J. Chiasson who deposes and says that he is the Accounts Receivable Manager, of The Times-Picayune Publishing Corporation, a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached LEGAL NOTICE

Re: Notice of intent Emission from Abrasive Blasting  
Lac 33:III.1323,1325,1327,1329, 1331, & 1333)AQ249

Advertisement of Dept. of Environmental Quality

P.O. BOX 4302  
Baton Rouge, La. 70821-4302

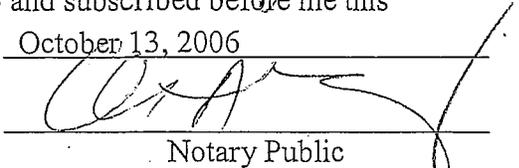
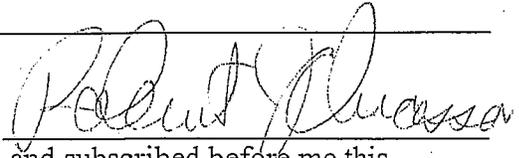
Was published in The Times Picayune

3800 Howard Ave.  
New Orleans, La. 70125

On the following dates October 13, 2006

Sworn to and subscribed before me this

13th Day of October 13, 2006



Notary Public

My commission expires at my death.  
Charles A. Ferguson, Jr.

### Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0776NI)

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 10, 2006, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge  
General Counsel

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Scholarship/Grant Programs Higher Education**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no costs or savings to state or local governmental units due to this change. The change allows home study completers to compete with high school graduates for the limited number of Rockefeller State Wildlife Scholarships. In addition, the change sets the payment level to be paid for TOPS Tech eligible students attending a Louisiana Association of Independent Colleges and Universities affiliated school at the same level paid during the 2005-2006 Program Year (Non-academic Program).

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Home study completers will receive a small benefit since they will now be able to compete for a Rockefeller State Wildlife Scholarship. There are no estimated effects on economic benefits to non-governmental groups resulting from these measures.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge  
General Counsel  
0610#002

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Environmental Quality Office of the Secretary Legal Affairs Division

Abrasive Blasting Emissions  
(LAC 33:III.1323, 1325, 1327,  
1329, 1331, and 1333)(AQ249)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Air regulations, LAC 33:III.1323, 1325, 1327, 1329, 1331, and 1333 (Log #AQ249).

This proposed rule is intended to reduce particulate matter emissions from any facility that engages in or contracts to provide abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37, or under SIC Code 1622 or 1721. The current rule is vague and not consistently followed. This rule clarifies the existing regulation by specifying the following standards of performance for abrasive blasting: prohibited materials and methods that cannot be used in abrasive blasting activities; requirement to control emissions through either enclosure or establishment of Best Management Practices; maintenance of control equipment; and recordkeeping requirements. Abrasive blasting is a common practice in Louisiana and is not currently regulated in a consistent manner. Many of the complaints received by the department are related to abrasive blasting emissions. This situation can be ameliorated by setting clear performance standards that apply equally to all businesses that engage in abrasive blasting. The basis and rationale for this rule are to improve air quality by reducing particulate matter emissions.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 13. Emission Standards for Particulate Matter

#### Subchapter F. Abrasive Blasting

#### §1323. Emissions from Abrasive Blasting

A. Purpose. The purpose of this Subchapter is to reduce particulate matter emissions from facilities that engage in abrasive blasting.

B. Scope. This Subchapter applies to any facility in the state that engages in or contracts to provide on-site abrasive blasting and that is classified under a Standard Industrial Classification (SIC) Code beginning with 34, 35, or 37 or under SIC Code 1622 or 1721.

C. Compliance with these regulations does not eliminate the requirement to comply with any other state or federal regulation or any specific condition of a permit granted by the department.

1. Any new facility that is constructed after promulgation of these regulations shall comply with all of the requirements of this Subchapter before operation may commence.

2. Existing affected facilities shall comply with all of the requirements of this Subchapter as soon as practicable, but no later than one year after promulgation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

#### §1325. Definitions

A. Terms used in this Subchapter are defined in LAC 33:III.111 with the exception of the terms specifically defined below.

*Abrasive Material (Abrasives, Abrasive Media)*—any material used in abrasive blasting operations including, but not limited to, sand, slag, steel shot/grit, garnet, CO<sub>2</sub>, or walnut shells.

*Abrasive Blasting*—the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

*Abrasive Blasting Equipment*—any equipment utilized in abrasive blasting operations.

*Emission Control Equipment*—any device or contrivance, operating procedure, or abatement scheme, including, but not limited to, filters, ventilation systems, shrouds, or best management practices, that prevents or reduces the emission of air contaminants from blasting operations.

*Enclose*—to place tarps, shrouds, or a solid structure on all sides and the top of an area used for abrasive blasting, or to fully enclose a structure to be blasted.

*Hydroblasting*—abrasive blasting using high-pressure liquid as the propelling force or as the active cleaning agent.

*Indoor Abrasive Blasting*—abrasive blasting conducted inside of a permanent building equipped with a particulate matter collection system.

*Nuisance*—any condition of the ambient air beyond the property line of the offending source that is offensive to the senses, or that causes or constitutes an obstruction to the free use of property, so as to unreasonably interfere with the comfortable enjoyment of life or property. In determining whether or not a nuisance exists, the department may consider factors including, but not limited to, the following:

- a. the frequency of the emission;
- b. the duration of the emission;
- c. the intensity and offensiveness of the emission;
- d. the number of persons impacted;
- e. the extent and character of the detriment to the complainant; and
- f. the source's ability to prevent or avoid harm.

*Shade Factor*—for shrouds, the percent of area impermeable to particles 100 grit or greater, or to sunlight.

*Shroud or Tarp*—a device that is designed to enclose or surround the blasting activity to minimize the atmospheric dispersion of fine particulates and direct that material to a confined area for subsequent removal and disposal.

*Surround*—to place tarps, shrouds, or a solid structure on all sides of an area used for abrasive blasting.

*Wet Abrasive Blasting*—abrasive blasting with the addition of water to the air abrasive stream.

*Vacuum Blasting*—abrasive blasting in which a seal is maintained between the assembly and the blasting surface, thereby allowing the spent abrasive, surface material, and dust to be immediately collected by a vacuum device, equipped with a high efficiency (at least 95 percent) particulate filtration system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

### **§1327. Blasting Operations**

#### **A. Abrasive Materials and Methods**

1. Material derived from hazardous, toxic, medical, and/or municipal waste is prohibited from use as abrasive material.

2. Abrasives shall contain less than 10 percent (by weight) of fines that would pass through a No. 80 sieve as documented by the supplier. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992.

3. Abrasives shall not be reused for abrasive blasting unless they meet the requirements of Paragraph A.2 of this Section.

B. The following abrasives and blasting methods are exempt from the provisions of Paragraph A.2 of this Section and LAC 33:III.1329.A and F and LAC 33:III.1333.A.4-5:

1. abrasive blasting using iron or steel shot/grit;
2. abrasive blasting using CO<sub>2</sub>;
3. hydroblasting or wet abrasive blasting;
4. vacuum blasting; and
5. abrasive blasting using other abrasives, as approved

by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

### **§1329. Performance Standard**

A. Affected facilities shall either:

1. fully enclose the structure or item to be blasted; or
2. prepare and implement a best management practices (BMP) plan as described in LAC 33:III.1331.

B. Blast cabinet exhaust shall be re-circulated to the cabinet or vented to emission control equipment.

C. If tarps are used to confine emissions due to abrasive blasting, the tarps shall:

1. have overlapping seams to prevent leakage of particulate matter;
2. have a shade factor of 80 percent or greater; and
3. be repaired prior to use if any single tear greater than 1 foot in length is present or if multiple tears greater than 6 inches in length each are present.

D. If blasting is performed in a permanent building with a particulate matter collection system, the collection system shall be exhausted through effective control equipment with a particulate matter outlet grain loading of 0.05 g/dscf or less, as documented by the control equipment manufacturer.

E. When abrasive blasting is performed over waters of the state, no blasting material or visible floating solids shall reach waters of the state unless such a discharge is authorized according to the LPDES permit program.

F. Abrasive blasting activities shall not create a nuisance.

G. The facility shall maintain stockpiles of new and/or spent abrasive material in a manner that will minimize fugitive airborne emissions. Measures to minimize emissions shall include, but not be limited to, the following:

1. covering stockpiled material;
2. wetting stockpiled material; or
3. keeping stockpiled material in containers.

H. All emission control equipment shall be used and diligently maintained in proper working order according to the manufacturer's specifications whenever any emissions are being generated that can be controlled by the facility, even if the ambient air quality standards in affected areas are not exceeded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

### §1331. Best Management Practices (BMP) Plans

A. Facilities that decide to use a BMP plan to comply with this Subchapter shall comply with all the requirements of this Section.

B. A complete copy of the BMP plan shall be kept at the facility and be made available to authorized representatives of the department upon request. Plans need not be submitted to the department unless requested by an authorized representative of the department.

C. Each facility shall have a designated person who is accountable for the implementation and effectiveness of the BMP plan.

#### D. Amendment of BMP Plan

1. After review of the plan by the department and/or upon receiving notice of a complaint, the department may require the owner/operator of the facility to amend the plan if there are indications that the plan does not adequately prevent nuisances and/or adverse off-site impacts.

2. The plan shall be amended whenever physical or operational modification of the facility renders the existing plan inadequate. The amendment shall be implemented prior to or concurrent with the facility modification.

E. Periodic Review of BMP Plan. The owner/operator of a facility shall review the plan every three years to determine if the plan adequately reduces nuisances and adverse off-site impacts. If it is determined that the plan is not adequate, the plan shall be amended within 90 days of the review to include more effective emission prevention and control technology.

F. Contents of BMP Plan. The BMP plan shall be prepared in accordance with sound engineering practices and must be site-specific. The plan information shall be presented in the following sequence:

1. the name, mailing address, and location of the facility;
2. the name of the operator of the facility;
3. the date and year of initial facility operation;
4. a description of the facility, including an indication of any nearby recreational areas, residences, or other structures not owned or used solely by the facility, and their distances and directions from the facility;
5. a description of any nearby waters of the state that may be affected, and their distances and directions from the facility;
6. a statement of the facility's procedures for preventing nuisances and/or adverse off-site impacts, including a description of any emission control equipment;
7. a statement of the facility's capability and procedures for taking corrective actions and/or countermeasures when nuisances and/or adverse off-site impacts occur;
8. written procedures for self-monitoring and self-inspection of the facility;
9. personnel training records as required by this Subchapter; and
10. signatures of responsible officials.

G. Provisions for personnel training shall be included in the BMP plan as follows.

1. Any employee and/or contractor conducting abrasive blasting shall be trained on proper abrasive blasting methods, proper handling of abrasive and spent material and floatable solids, the facility's plan, and good housekeeping practices for the facility.

2. Employees and contractors shall receive training pertaining to the plan at least once a year or when significant changes are made to the plan that affect their activities.

3. Employees, contractors, and customer representatives shall be instructed not to dispose of abrasive, spent, or floatable materials to air and water bodies or to drains, drainage channels, or trenches that lead to water bodies.

4. Contractors shall be notified of and required to perform in accordance with the provisions of the plan applicable to activities related to their contract.

#### H. Inspections and Records

1. The BMP plan shall be reviewed every three years to ensure that the plan meets the requirements of this Subchapter. Records of this review shall be signed or initialed by the person conducting the review, and an appropriate supervisor or the facility designee, and shall be retained for a minimum of three years.

2. In addition to other recordkeeping and reporting requirements of this Section, the following records should be maintained on the facility premises:

- a. self-inspection reports;
- b. documentation of employee and contractor training, including dates, subjects, and hours of training and a list of attendees with signatures.

I. Verification by the Department. Facilities to which this Subchapter applies may be inspected by an authorized representative of the department to ensure implementation and adequacy of the facility's BMP plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

### §1333. Recordkeeping and Reporting

A. The facility owner/operator shall maintain the following records on the facility premises at all times, and present them to an authorized representative of the department upon request:

1. permit application approval records and the facility's permit to construct/operate, where applicable;
2. a description of the type of *emission control equipment*, as defined in LAC 33:III.1325, employed at the facility;
3. descriptions and diagrams showing the locations of blasting operations on-site;
4. a monthly record of abrasive material usage, including weight percent of fines in abrasive material *per* the manufacturer or *per* sampling, if abrasive material is being reused. For the purpose of determining weight percent of fines in abrasive material, samples shall be taken according to ASTM standard ASTM D 75-87, reapproved 1992;
5. applicable results, and data derived from results, of containment, ventilation, air, soil, fines, and other monitoring activities;
6. records of how spent material is handled, recycled, reused, or disposed of, including the names of, and any

manifests or receipts from, any off-site facilities that accept the spent material; and

7. for abrasive blasting that is performed outside of a full enclosure or a blast cabinet, the following:

- a. observations of wind direction, recorded hourly;
- b. visual observations of particulate matter emissions, recorded hourly;
- c. a daily record of actual operating times when such blasting is performed, based on a 24-hour clock.

B. Records required by this Subchapter or any BMP plan used to attain compliance with this Subchapter shall be maintained on a 30-day rolling basis with a three-year retention period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on November 28, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ249. Such comments must be received no later than December 5, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ249. This regulation is available on the Internet at [www.deq.louisiana.gov](http://www.deq.louisiana.gov) under Rules and Regulations, Monthly Regulation Changes.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: Abrasive Blasting Emissions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not expected to increase or reduce the cost to the state. No permitting requirements above

those already in existence will be required. There will be no implementation costs or savings to local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no change in revenue collections due to the proposed rule changes.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs and/or economic benefits to directly affected persons or non-governmental groups are minimal. Most facilities already utilize the required materials to meet the current standards.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment within the industry will be negligible. The proposed rule change will affect the regulated community equally.

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Executive Counsel  
0610#039

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

#### Department of Environmental Quality Office of the Secretary Legal Affairs Division

#### IBR of Administrative Reporting Exemption for Certain Air Releases of NO<sub>x</sub> (NO and NO<sub>2</sub>) (LAC 33:I.3931)(OS076ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.3931 (Log #OS076ft).

This proposed rule is identical to federal regulations found in 71 FR 58525-58533, No. 192, October 4, 2006, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates by reference EPA administrative reporting exemptions for releases that are a result of combustion of less than 1000 pounds of nitrogen oxide (NO) and less than 1000 pounds of nitrogen dioxide (NO<sub>2</sub>) to the air in 24 hours. The noncombustion-related releases of NO and NO<sub>2</sub> reportable quantities remain at 10 pounds. This rule is required to make the state regulations equivalent to federal regulations. The basis and rationale for this rule are to mirror the federal regulations.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.