NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Affairs and Criminal Investigations Division

Recycling Tax Credit Reduction

(LAC 33:VII.10415) (SW065)

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 Solid Waste regulations, LAC 33:VII.10415 (SW065).

This Rule reduces the amount of the credit, related to purchase of qualified new recycling manufacturing, process equipment, and/or a qualified service contract pertaining to equipment, from 20 to 14 percent.

Louisiana Revised Statute 47:6055 authorizes an income tax credit for purchase of new recycling manufacturing, process equipment, and/or a service contract pertaining to the equipment. Act 400 of the 2017 Regular Legislative Session made the reduction credit permanent for equipment or service contracts. The Rule implements the change in R.S. 47:6055. The basis and rationale of this Rule is to conform with revisions to the Louisiana statutes. 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.

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW065. Such comments must be received no later than April 8, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations 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 SW065. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

**Public Hearing**

A public hearing will be held on April 1, 2019, 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are 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; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson

General Counsel

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 104. Credit for New Recycling Manufacturing or Process Equipment and/or Service Contracts

**§10415. Amount of Credit**

A. The maximum total credit related to a purchase of qualified new recycling manufacturing or process equipment and/or a qualified service contract that may be allowable for all taxable periods is ~~20~~14 percent of the cost of the qualified recycling equipment or qualified service contract, less the amount of any other Louisiana tax credits for the purchase of the equipment or the cost of the service contract. The total tax credits allowed under this Chapter shall be limited to five million dollars per tax year. Example:

|  |  |
| --- | --- |
| Cost of equipment | $1,000,000 |
|  | X ~~.20~~.14 |
|  | $ ~~200,000~~140,000 |
| Less other Louisiana credit on purchase | $ ~~100,000~~40,000 |
| Maximum credit for all taxable periods | $ 100,000 |

B. ~~One-fifth (20 percent)~~Fourteen percent of the maximum total credit related to a purchase of qualified recycling equipment and/or a qualified service contract is earned each taxable period in which the equipment or service contract continues to be in use exclusively in the state of Louisiana to a maximum of five periods. Example:

|  |  |
| --- | --- |
| Maximum credit for all taxable periods | $ 100,000 |
|  | X ~~.20~~.14 |
| Credit earned for this taxable period | $ ~~20,000~~14,000 |

C. — E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES LOG #: SW065

Person

Preparing Don Caffery

Statement: [donelson.caffery@la.gov](mailto:scott.guilliams@la.gov) Dept.: Environmental Quality

(email address)

Phone: 225-219-3452 Office: Environmental Services

Return Rule

Address: 602 North Fifth Street Title: Solid Waste Regulations Update

(LAC 33:VII.10415)

Date Rule

Baton Rouge, LA 70802 Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

LDEQ does not anticipate any costs or savings by implementing the proposed rule.

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

There will be an indeterminable increase in revenue collections for the state as a result of this proposed rule change.

Act 400 of 2017 made permanent a reduction from 20% to 14% of the tax credit related to purchases of qualified new recycling manufacturing or process equipment and/or qualified service contracts.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be a reduction in economic benefits for individuals who apply for this tax credit. Otherwise there should be little or no net effect to costs and/or economic benefits for the regulated community.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no effect on competition and employment.

Signature of Agency Head or Designee Legislative Fiscal Officer or Designee

Herman Robinson, General Counsel

Typed Name and Title of Agency Head or Designee

Date of Signature Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

Louisiana statutes (R.S. 47:6005) authorize a corporate income tax credit for purchase of new recycling manufacturing or process equipment, and/or a service contract pertaining to same. Act 400 of 2017 made permanent a reduction of this credit, from 20% to 14% of the cost of the equipment or contract. This is a corresponding rule change to implement the change in the statute.

B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

This regulation change is required to implement Act 400 of 2017.

C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule change will result in no increase in the expenditure of funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) Yes. If yes, attach documentation.

(b) No. If no, provide justification as to why this rule change should be published at this time.

Since the proposed rule change will result in no increase in the expenditure of funds, this question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS FY18-19 FY19-20 FY20-21

PERSONAL SERVICES 0 0 0

OPERATING EXPENSES 0 0 0

PROFESSIONAL SERVICES 0 0 0

OTHER CHARGES 0 0 0

EQUIPMENT 0 0 0

TOTAL 0 0 0

MAJOR REPAIR & CONSTR

POSITIONS (#) \_ 0 0 0

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Any costs that LDEQ incurs by implementing the proposed rule should be minimal because the change is only to the amount of the tax credit; the cost of processing the tax credit applications should not be affected.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE FY18-19 FY19-20 FY20-21

STATE GENERAL FUND 0 0 0

AGENCY SELF-GENERATED 0 0 0

DEDICATED 0 0 0

FEDERAL FUNDS 0 0 0

OTHER (Specify) 0 0 0

TOTAL 0 0 0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

LDEQ currently has sufficient funds to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There should be no impact on local governmental units, as the tax credits only involve the taxpaying entities and the state Department of Revenue.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE FY18-19 FY19-20 FY20-21

STATE GENERAL FUND INCREASE INCREASE INCREASE

AGENCY SELF-GENERATED 0 0 0

RESTRICTED FUNDS\* 0 0 0

FEDERAL FUNDS 0 0 0

LOCAL FUNDS 0 0 0

TOTAL INCREASE INCREASE INCREASE

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The proposed rule will have no effect on revenue collected by LDEQ, since LDEQ is not involved in administering or collecting tax credits. The rule should have a slight positive effect on the state general fund revenue as shown.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Persons or non-governmental groups who have been issued an approval for recycling tax credits in accordance with LAC 33:VII would be directly affected by the proposed action. There will be a reduction from 20% to 14% in the amount of the tax credit. There should be no additional costs to the affected taxpaying entities.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There should be a slight negative impact on net income for these groups as shown above because of the proposed rule.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule should have no effect on competition and employment in the public and private sectors.