

§6005. Qualified new recycling manufacturing or process equipment and/or service contracts

A. Definitions.

For the purposes of this Section:

(1) "Beneficial use" means the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

(2) "Conventional disposal" means the disposal as waste in a cell at a landfill. It shall not include any application specifically approved by the department as a beneficial use (e.g., alternate daily cover).

(3)(a) "Industrial solid waste" means solid waste generated by a manufacturing, industrial, or mining process, or which is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment.

(b) This term shall not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste which is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

(4) "Post-consumer waste material" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, marketing, and disposition and which does not include secondary waste material, hazardous waste, or demolition waste.

(5)(a) "Process" means a method or technique, including recycling, recovering, compacting (but not including compacting which occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport; reduced in volume; or amenable for recovery, storage, reshipment, or resale.

(b) The definition of process shall not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither shall the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

(6)(a) "Qualified new recycling manufacturing or process equipment" means new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both, and manufacturing machinery used exclusively to produce finished products, the composition of which is at least fifty percent post-consumer waste material, recovered material, or both.

(b) For purposes of this Section, "qualified new recycling manufacturing or process equipment" shall not include vehicles, structures, machinery, equipment, or devices used to store or incinerate waste material, or construction equipment or farm equipment used in the process.

(7) "Qualified service contracts" means any service contracts utilized by a non-hazardous industrial waste generator or a nonhazardous industrial waste beneficial user to implement Department of Environmental Quality-approved beneficial use programs for nonhazardous industrial waste streams as defined under the department's Solid Waste Rules and Regulations so as to avoid conventional disposal of such waste in a landfill.

(8) "Recovered material" means recovered materials as defined in R.S. 30:2412 and which would otherwise be processed or disposed of as nonhazardous solid waste.

(9) "Secondary waste material" means waste material generated after the completion of a

manufacturing process.

(10)(a) "Solid waste" means any garbage, refuse, or sludge from a wastewater-treatment plant, water-supply treatment plant, or air pollution-control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities.

(b) Solid waste shall not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows; industrial discharges that are point sources subject to permits under R.S. 30:2075; source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended; or hazardous waste subject to permits under R.S. 30:2171 et seq.

B.(1) In order to qualify for the tax credit provided for in this Section, the taxpayer shall apply for certification from the secretary of the Department of Environmental Quality that the qualified new recycling manufacturing or process equipment purchased or the services contracted for are qualified new recycling manufacturing or process equipment or qualified service contracts as defined herein. Included with the application for certification shall be a statement acknowledging that the taxpayer shall use a good faith effort to utilize post-consumer waste material or recovered material, or has used the equipment or services contracted for to implement a Department of Environmental Quality-approved beneficial use program for a nonhazardous industrial waste stream, which was generated within the state or was destined to be landfilled within the state.

(2) The certification shall specify the following:

(a) The date of purchase of the qualified new recycling manufacturing or process equipment, the description of the equipment, and the cost.

(b) The date of the qualified service contract, a description of such contract, and its cost.

(c) The equipment and/or service has not previously qualified for a credit pursuant to this Section either for the owner or for a previous owner.

(3) Prior to certification, the secretary of the Department of Environmental Quality shall determine that any recovered material proposed to be recycled or beneficially used is a nonhazardous solid waste or nonhazardous industrial solid waste under applicable state and federal law or regulation.

(4) Upon certification, the secretary of the Department of Environmental Quality shall submit a copy thereof to the taxpayer and the secretary of the Department of Revenue. The secretary shall also submit a copy of the certification to the commissioner of administration who shall approve the certification prior to a credit being granted.

C.(1) A taxpayer who purchases qualified new recycling manufacturing or process equipment and/or qualified service contracts as defined in this Section and certified by the secretary of the Department of Environmental Quality to be used or performed exclusively in this state shall be entitled to a credit against any income and corporation franchise taxes imposed by the state in an amount equal to twenty percent of the cost of the new recycling manufacturing or process equipment and/or qualified service contract less the amount of any other tax credits received for the purchase of such equipment and/or contract.

(2)(a) When filing a tax return that includes a claim for a credit pursuant to this Section, the taxpayer shall include a copy of the certification and a statement that the new recycling manufacturing or process equipment is in use or the applicable service contract was contracted for in the applicable taxable period and the equipment and/or the service contracted for is used or was performed, exclusively in Louisiana. The taxpayer shall include with the statement an estimate of the amount of post-consumer waste material or recovered material utilized, or the amount of nonhazardous industrial waste beneficially used.

(b) If the qualified new recycling manufacturing or process equipment is sold or exchanged

before the entire credit is claimed, the portion of the credit otherwise allowable shall be allowed in the period of sale or exchange and any unused credit shall be canceled for all future periods. Any credit shall be valid in the taxable period in which the certification is approved.

D.(1) The amount of the credit claimed in the taxable period for which certification of equipment is received, and the amount of credit claimed therefor in each taxable period thereafter, shall not exceed twenty percent of the amount of the total credit allowable. In no case shall the credit claimed exceed fifty percent of the tax liability which would be otherwise due for that taxable period. Any unused credit for a taxable year in which a credit is allowed may be carried forward to subsequent years until the credit is exhausted. Total credits certified by the secretary of the Department of Environmental Quality in any calendar year shall not exceed five million dollars.

(2)(a) Notwithstanding any other provision of this Subsection to the contrary, steelworks and blast furnaces, including coke ovens and rolling mills, which are classified as SIC 3312 by the Standard Industrial Classification Code, may claim one hundred percent of any credit and the total amount of any credit carry-forward provided for in this Section as provided in this Paragraph. If the credit or credit carry-forward claimed exceeds the amount of tax due by any such taxpayer, the amount of credit or credit-forward not used to offset taxes due shall be paid to the taxpayer from current collections of the taxes collected pursuant to Chapter 1 and Chapter 5 of Subtitle II of this Title.

(b) The provisions of this Paragraph are applicable solely for credits for qualified recycling equipment certified by the secretary of the Department of Environmental Quality as provided in this Chapter on or before April 1, 1999. Any credit claimed pursuant to this Paragraph must be claimed by the taxpayer prior to July 1, 2002 and shall be payable solely and exclusively from current collections attributable to the state fiscal year commencing on July 1, 2001.

E. The secretary of the Department of Environmental Quality, in consultation with the secretary of the Department of Revenue, shall promulgate rules and regulations establishing technical specifications and certification requirements for the qualification of new recycling manufacturing or process equipment and/or service contracts for the credit established pursuant to this Section.

F. In addition to the information required in R.S. 47:1517, the annual tax exemption budget shall include information setting forth the number of certifications that were approved during the preceding fiscal year, the cost of each type of new recycling manufacturing or process equipment and/or service contract which has been certified as qualifying for the credit, the total amount of post-consumer waste material or recovered material utilized, or the amount of nonhazardous industrial waste reused, and other applicable information in addition to the information required by R.S. 47:1517.

Acts 1991, No. 359, §1; Acts 1991, No. 1052, §1, eff. July 29, 1991; Acts 1996, No. 26, §1; Acts 1998, No. 8, §1; Acts 2002, 1st Ex. Sess., No. 38, §1, eff. April 18, 2002; Acts 2005, No. 319, §1, eff. June 30, 2005.