

### Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

### Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

### Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on June 10, 2018. No preamble is available.

Mike Strain, DVM  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Horticulture and Quarantine Programs Roseau Cane Scale Quarantine

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

The proposed rule change will not result in additional savings or expenditures for state or local governmental units.

The proposed rule change codifies the existing emergency rule and establishes a quarantine on regulated articles that are susceptible to infestation by the Roseau Cane Scale, *Nipponaclerda biwakoensis* in following parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Feliciana, East Baton Rouge, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. Landry, St. John, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion, Vernon, Washington, West Baton Rouge, and West Feliciana. The establishment of the quarantine will result in a workload increase for Louisiana Department of Agriculture and Forestry (LDAF) for additional inspections. The increased workload will be absorbed by LDAF utilizing existing budget authority and personnel.

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

The proposed rule change will have no effect on revenue collections of state or local governmental units.

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

The proposed rule change will not result in any costs or economic benefits to directly affected persons or nongovernmental groups.

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

The proposed rule change will have no effect on competition and employment.

Dane Morgan  
Assistant Commissioner  
1805#050

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Economic Development Office of Business Development

#### Industrial Ad Valorem Tax Exemption Program (LAC 13:I.Chapter 5)

The Louisiana Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 hereby provide notice of their intent to amend the rules of the Industrial Tax Exemption Program in LAC 13:I.Chapter 5 to implement further programmatic changes in alignment with Executive Order 16-73 and the rules effective on June 20, 2017.

#### Title 13

#### ECONOMIC DEVELOPMENT

#### Part I. Financial Incentive Programs

#### Chapter 5. Industrial Ad Valorem Tax Exemption Program

#### §501. Statement of Purpose

##### A. New Rules

1. These rules amend and restate prior rules and upon adoption are to implement two important policies for the industrial property tax exemption. The first is as a competitive incentive for job creation and under compelling circumstances, job retention. The second is to provide for input from local parish and municipal governments, school boards and sheriffs as to the extent of, and other terms and conditions for the industrial tax exemption.

2. On all projects, applicant manufacturers are to demonstrate a genuine commitment to investing in the communities in which they operate, and a genuine commitment to creating and retaining jobs in those communities. These are the expectations for the program's future, and the board will continue to operate it in a way that makes Louisiana competitive with other states in securing good jobs for our citizens while giving local governments a voice in their taxation. These rules are to be interpreted in a manner so as to promote these goals.

B. Applicability of rules in effect prior to June 24, 2016. Just as the board is promoting job growth and economic development and extending fairness to communities, the board is promoting fairness to manufacturers who have acted in accordance with prior rules. Contracts for the industrial property tax exemption and the renewal of the exemption and projects found to be pending as defined by Executive Orders JBE 16-26 and JBE 16-73 are to be treated fairly under the rules that were in place at the time of the contracts and prior to the new rules. Louisiana honors its commitments and the rules governing existing contracts and applications not subject to the new rules are to be interpreted in order to promote fairness and commitment. Therefore, only those applications with an advance notification form filed after June 24, 2016, are subject to the 2017 and 2018 rules changes.

#### C. Going Forward

1. Louisiana values its manufacturers and their contributions to its economy. The board's policies going forward are to provide all a seat at the table to determine the best investment outcome for our industries and our communities.

2. All rules in this chapter are intended to align with the above purpose while providing a process that balances accountability with reasonable administrative burden for state and local government and applicants.

3. For those applications with an advance notification form filed after June 24, 2016, but before July 1, 2018, the applicant has the option of choosing whether to proceed under the rules effective June 20, 2017, or the rules effectuated in 2018. Applications with an advance notification form filed after June 24, 2016, but before October 21, 2016, shall be subject to the rules effectuated on June 20, 2017, except that the industrial property tax exemption granted may be up to 100 percent for an initial contract term of no more than 5 years and may be renewed for no more than an additional 5 year contract term at up to a 100 percent exemption based upon performance of the applicant's obligations as delineated in exhibit A.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 43:1132 (June 2017), amended LR 44:

#### §502. Definitions

##### *Addition to a Manufacturing Establishment—*

l.a. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

b. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or

c. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness;

2. maintenance capital, required environmental capital upgrades, and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment;

3. expenses associated with the rehabilitation or restoration of an establishment as provided for in §511 shall be included as an addition to a manufacturing establishment.

*Beginning of Construction*—the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins.

*Board*—Board of Commerce and Industry.

*Capital Expenditure*—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business.

*Department*—Louisiana Department of Economic Development.

*Establishment*—an economic unit at a single physical location.

*Exhibit A*—a fully executed agreement between the department and the applicant specifying the terms and conditions of the granting of the exemption contract.

*Integral*—required to make whole the product being produced.

*Job*—positions of employment that are:

1. new (not previously existing in the state) or retained;

2. permanent (without specific term);

3. full-time (working 30 or more hours per week);

4. employed directly, by an affiliate or through contract labor;

5. based at the manufacturing establishment;

6. filled by a United States citizen who is domiciled in Louisiana or who becomes domiciled in Louisiana within 60 days of employment; and

7. any other terms of employment as negotiated in the exhibit A, including a requirement that in order to qualify as a job, a basic health benefits plan is or has been offered in conjunction with the position of employment.

*Local Governmental Entity*—the parish governing authority, school board, sheriff, and any municipality in which the manufacturing establishment is or will be located.

*Maintenance Capital*—costs incurred to conserve as nearly as possible the original condition.

*Manufacturer*—a person or business who engages in manufacturing at a manufacturing establishment.

*Manufacturing*—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be "suitable for use" as manufactured products that are placed into commerce for

sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

**Mega-Project**—a manufacturing establishment that provides all of the following:

1. 500 jobs, employed directly, only, and otherwise meeting the definition of jobs, which shall generate a minimum of \$20,000,000 in net new payroll within three years of the beginning of operations; and

2. a minimum of \$100,000,000 in capital expenditures.

**Obsolescence**—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

**Qualified Disaster**—

1. a disaster which results from:

a. an act of terror directed against the United States or any of its allies; or

b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;

2. any disaster which, with respect to the area in which the manufacturing establishment is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal state or local government or agency of instrumentality thereof; or

4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable.

**Rehabilitation**—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility.

**Required Environmental Capital Upgrades**—upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty. Environmental upgrades demonstrated to be in excess of state and federal governmental agency requirements shall not be considered required environmental capital upgrades.

**Restoration**—repairs to bring a building or structure to at least its original form or an improved condition.

**Secretary**—secretary of the Louisiana Department of Economic Development.

**Site**—one or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, LR 43:1132 (June 2017), amended LR 44:

### **§503. Advance Notification; Application**

A. An advance notification of intent to apply for tax exemption shall be filed with the department on the prescribed form prior to the beginning of construction or

installation of facilities on all projects for tax exemption except as provided in §505.A and B of these rules. An advance notification fee of \$250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification. The estimated project ending date as stated on the advance notification may be amended by the applicant if the amendment is made prior to the estimated project ending date.

B. All financial incentive programs for a given project shall be filed at the same time and on the same advance notification. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

C. An application for tax exemption may be filed with the department on the prescribed form, subject to the following conditions:

1. the filing may be either concurrent with or after filing the advance notification, but no later than 90 days after the beginning of operations or end of construction, whichever occurs first;

2. the deadline for filing the application may be extended pursuant to §523;

3. an applicant filing an application prior to the beginning of operations or end of construction of the project shall file an annual status report with the department on the prescribed form by December 31, until the project completion report and affidavit of final cost are filed. If the applicant fails to timely file a status report the board may, after notice to the applicant, terminate the contract;

4. an application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$500 and in no case shall a fee exceed \$15,000 per project;

5. The department reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the form is incomplete or incorrect, or the correct fee is not submitted. The document may be resubmitted with the correct information and fee.

6. If the application is submitted after the filing deadline, the term of exemption available under an initial contract and renewal thereof shall be reduced by one year for each year or portion thereof that the application is late, up to a maximum reduction up to the maximum remaining term. The board may impose any other penalty for late filing that it deems appropriate.

D. The department will provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) for review. LDR may require additional information from the applicant. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action.

E. In order to receive the board's approval, applications with advance notifications filed after June 24, 2016, shall include an exhibit A containing the following terms and conditions:

1. either the number of jobs and payroll to be created at the project site or the number of jobs and payroll to be retained at the project site where applicable;

2. that the initial exemption contract shall be for a term of no more than five years and may provide for an ad valorem exemption of 80 percent, except that the initial exemption contract for mega projects shall be for a term of no more than five years and may provide for an ad valorem exemption of up to 93 percent;

3. that the applicant can apply for a renewal exemption contract, the consideration of which will be based upon the applicant's performance during the initial term of the contract and that the renewal exemption contract shall be for a term of no more than five years and may provide for an ad valorem exemption of 80 percent, except that the renewal exemption contract for mega projects shall be for a term of no more than five years and may provide for an ad valorem exemption of up to 93 percent;

4. that the department, on behalf of the board, will notify the local governmental entities and the assessor when jobs and/or payroll requirements are not met in accordance with the exhibit A;

5. a provision addressing the penalty for failure to create the requisite number of jobs and/or payroll at the manufacturing establishment, including but not limited to, payment of stipulated sums to the taxing authorities, a reduction in term, reduction in percentage of exemption, or termination of the exemption; and

6. a statement of return on investment (ROI) as determined by the secretary.

F.1. Applications which provide for a new manufacturing establishment or which provide for an addition to a manufacturing establishment with the creation of new jobs or a compelling reason for the retention of existing jobs shall be favored by the board.

2. In determining whether a company has presented a compelling reason for the retention of existing jobs, the following non-exclusive situations may be considered:

a. to prevent relocation to another state or country;

b. to provide an advantage for investment from a company with multi-state operations with an established competitive capital project program;

c. to employ best practice or innovative, state of the art technology for the establishment's industry which shall be deemed to extend the life of the manufacturing establishment;

d. to increase maximum capacity or efficiency;

e. to provide the state a competitive advantage as determined by the secretary or by the board; or

f. upon the sharing of financial information as to the profit/loss of the facility accompanied by evidence that the exemption will prolong the life of, and employment at, the manufacturing establishment.

G. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered by the board. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost. An application filed prior to completion of construction may be considered by the board and a contract may be executed based upon the best available estimates, subject to adjustments, as necessary, upon review and approval of the project completion report and affidavit of

final cost. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, terminate the contract.

H. Upon the board's approval of an application, the department, on behalf of the board, shall, within three business days, transmit a copy of the approval and Exhibit A by mail or electronic mail to each local governmental authority and the assessor and the department shall post notice of the board's approval of an application on the department's website within three business days of approval, upon which date shall begin a notice period of 30 days for the parish governing authority (speaking on behalf of the parish and all parish bodies who are located outside the boundary of any affected municipality who receive a millage), the school board, any applicable municipality (speaking on behalf of the municipality and all municipal bodies who receive a millage) and the sheriff to initiate action to approve or reject the board's action as provided hereinafter.

1. Within the 30-day notice period, the parish governing authority, the school board, or any affected municipality may identify the application on the agenda of a public meeting notice and the sheriff may issue a letter approving or denying the application, and notice of these actions shall be given to the department within 3 business days. A local governmental entity that places the application on the agenda for a public meeting will have an additional 30 days (for a total of 60 days from the start of the notice period) to conduct a public meeting issuing a resolution approving or rejecting the board approved application, and notice of the issuance shall be given to the department within 3 business days. If a local governmental entity does not take action or provide notice as required herein, then the application will be deemed approved by each such entity.

2. Within 60 days of the promulgation of these rules, the local governmental entities for each parish (in consultation with the parish assessor and, upon request, with guidance from the department), shall make best efforts to develop reasonable guidelines for application approval and/or denial and if so desired, penalty guidelines for failure to achieve and maintain jobs and/or payroll as required by the exhibit A.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:2318 (November 2015), LR 43:1133 (June 2017), LR 44:

#### **§505. Miscellaneous Capital Additions**

A. The renewal of miscellaneous capital addition contracts approved in accordance with JBE 16-26 and 16-73 shall be treated in accordance with prior rules.

B. Miscellaneous capital additions which had pending contractual applications on June 24, 2016, and which provide for new jobs at the completed manufacturing establishment shall be considered by the board.

C. Miscellaneous capital additions which did not have a pending contractual application as of June 24, 2016 or those

with pending applications as of June 24, 2016, but do not provide for new jobs, are not eligible for the property tax exemption.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:2318 (November 2015), LR 43:1135 (June 2017), LR 44:

**§507. Eligible Property—Buildings and Facilities Used in Manufacturing; Leased Property; Capitalized Materials**

A. The board shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §§517 and 519) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities that are operated specifically in the manufacturing of a product. The board recognizes two categories of ownership:

1. owners who engage in manufacturing at said facilities; and

2. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:

a. buildings to house a manufacturing establishment;

b. facilities that consist of manufacturing equipment operated specifically in the manufacturing process;

3. owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.

B. Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.

C. Capitalized materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing establishment. Some examples of these are:

1. ammonia in a freezing plant;
2. solvent in an extraction plant; and
3. catalyst in a manufacturing process.

D. To be eligible for exemption, a manufacturing establishment must be in an operational status and engaged in manufacturing. An owner of a new manufacturing establishment under construction may apply for an exemption with the expectation that the manufacturing establishment will become operational. If the manufacturing establishment fails to become operational or ceases operations without a reasonable expectation of recommencing operations, the facility shall no longer be eligible for exemption and its contract shall be subject to termination under §531.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 43:1135 (June 2017), LR 44:

**§509. Integral Parts of the Manufacturing Operation**

A. Property that is an integral part of the manufacturing operation is eligible for the tax exemption.

B. The following activities are considered to be integral to the manufacturing process:

1. quality control/quality assurance;
2. packaging;
3. transportation of goods on the site during the manufacturing process;
4. other on site essential activities as approved by the secretary and the board.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1135 (June 2017), LR 44:

**§511. Rehabilitation and Restoration of Property**

A. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted if it is not maintenance. If replacements or upgrades are made as part of a rehabilitation or restoration to an establishment, only the capital expenditures in excess of original cost shall be eligible for tax exemption. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed \$50,000,000.

B. Exemption may be granted on the costs of rehabilitation or restoration of a partially or completely damaged facility, but only on the amount in excess of the original cost.

C. Original costs deducted from rehabilitation or restoration made or rebuilding shall be clearly documented.

D. A deduction for the original cost of property to be replaced as part of a rehabilitation or restoration, as provided by Subsections A or B, shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1135 (June 2017), LR 44:

**§513. Relocations**

A. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted at the original location.

B. If a manufacturing establishment moves from one location in the state to another location within the state, the

company shall be required to seek approval of the parish governing authority, the school board, the sheriff, and any municipality in which the manufacturing establishment will be located if these local governing authorities are different than those that approved the exemption at the original site.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 29:2633 (December 2003), LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§515. Used Equipment**

A. Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§517. Ineligible Property**

A. Maintenance capital, required environmental capital upgrades and new replacements to existing machinery and equipment, except those replacements required in the rehabilitation or restoration of a facility, are not eligible for the tax exemption.

B. If the establishment or addition is on the taxable rolls and property taxes have not been paid, the establishment or addition is not eligible for the exemption unless the assessor and local governmental entity agree in writing to remove the establishment or addition from the taxable rolls should the tax exemption be granted.

C. The board shall not consider for tax exemption any property previously subject to an ad valorem tax exemption that has expired or otherwise been terminated.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§519. Land**

A. The land on which a manufacturing establishment is located is not eligible for tax exemption.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§521. Inventories**

A. The following are not eligible for tax exemption:

1. inventories of raw materials used in the course of manufacturing;
2. inventories of work-in-progress or finished products;
3. any other consumable items.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§523. Extension of Time**

A. The department may grant an extension of up to six months for the filing of an application (§503.B), a project completion report (§525), or an affidavit of final cost (§527), provided the request for extension is received prior to the filing deadline.

B. Additional extensions of time may be granted for good cause.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:

#### **§525. Effective Date of Contract; Project Completion Report**

A. The owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with the department on the prescribed project completion report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of \$250 shall be submitted with the form. The deadline for filing the project completion report may be extended pursuant to §523.

B. The effective date of tax exemption contracts for property located in parishes other than Orleans Parish shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever occurs first. The effective date of tax exemption contracts for property located in Orleans Parish shall be July 31 of the applicable year.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development LR 37:2379 (August 2011), LR 41:2318 (November 2015), LR 43:1136 (June 2017), LR 44:

#### **§527. Affidavit of Final Cost**

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, the owner of a manufacturing establishment or addition shall file on the prescribed form an affidavit of final cost showing complete cost of the exempted project. A fee of \$250 shall be filed

with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by the department, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable. The deadline for filing the affidavit of final cost may be extended pursuant to §523.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:

#### **§529. Renewal of Tax Exemption Contract**

A. Application for renewal of the exemption must be filed with the department on the prescribed form not more than six months before, and not later than, the expiration of the initial contract. A fee of \$250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of compliance with the initial contract of exemption, a renewal contract of exemption may be approved by the board for an additional period of no more than five years and provide for an ad valorem exemption of up to 80 percent.

B. Eligibility of the applicant and the property for renewal of the exemption will be reviewed by the board using the same criteria that was used for the initial contract, and based upon the facts and circumstances existing at the time the renewal application is considered.

C. The board shall have the option of submitting a board approved renewal application to the local governmental entities for approval in accordance with the procedures for approval of the initial exemption contract.

D. The term of the renewal contract shall be reduced by one year for each calendar month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:

#### **§531. Violation of Rules or Documents; Inspection**

A. The board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct an inspection. During the inspection, the department may cause to be made a full investigation on behalf of the board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the applicant and complainants. Results of the investigation will be presented to the board.

B. All contracts of exemption shall be subject to inspection. If an inspection indicates that the applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the board may conduct a hearing to reconsider the contract of exemption, after giving the applicant not less than 60 days' notice.

C. If the board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the board may terminate or otherwise modify the contract.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1137 (June 2017), LR 44:

#### **§533. Reporting Requirements for Changes in Operations**

A. The department is to be notified immediately of any change which affects the tax exemption contract. This includes, but is not limited to, any changes in the ownership or operational name of a firm holding a tax exemption contract. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any material changes constitutes a breach of contract and, with approval by the board, shall result in restriction or termination.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:

#### **§535. Sale or Transfer of Exempted Manufacturing Establishment**

A. In the event an applicant should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. A fee of \$250 shall be filed with a request to transfer the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting applicant. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

**AUTHORITY NOTE:** Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:868 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:

**§537. Reporting to the Parish Assessor**

A. The applicant shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.

B. All property exempted shall be listed on the assessment rolls and submitted to the Tax Commission or its successor, and up to 80 percent of the taxes shall be collected thereon during the period of exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, September 1974, amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1138 (June 2017), LR 44:

**Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

**Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

**Public Comments**

Interested persons should submit written comments on the proposed Rule to Tam Bourgeois through the close of business on Friday, June 22, 2018 at the Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Tam.Bourgeois@la.gov.

**Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 9:30 a.m. on Monday, June 25, 2018 at the LaSalle Building, 617 North Third Street, La Belle Room, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Industrial Ad Valorem  
Tax Exemption Program**

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

The proposed rule changes will not result in any costs or savings for state or local governmental units. The Department of Economic Development (DED) intends to administer the program with existing resources and personnel and anticipates the same for local governmental units. However, DED, as well as the LA Department of Revenue (LDR) may incur additional, though likely marginal, administrative costs associated with implementing the proposed rule changes. Local governmental units may realize marginal expenditure increases to the extent the proposed rule changes require additional public meetings to discuss applications for contracts under the Industrial Tax Exemption Program (ITEP).

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

The proposed rule changes will have an indeterminable impact on revenue collections for local governmental units, but could increase local governmental revenues over time as projects filing advance notifications under previous Industrial Tax Exemption Program (ITEP) rules (providing 100% exemptions for up to 10 years) exit the program and new projects enter the program under the revised ITEP terms included in the Notice of Intent (NOI). Furthermore, the current posture of the proposed rule may result in various contract terms and exemption amounts.

The proposed rule changes allow firms filing advance notifications for ITEP after June 24th, 2016, and before July 1st, 2018, to choose rules promulgated on June 20th, 2017, related to contract terms and exemption amounts, or operate under the proposed rule changes included in this NOI. For reference, the rules promulgated on June 20th, 2017, allow for 5-year initial contracts with a 100% property tax exemption and for 3-year renewal contracts with an 80% property tax exemption. The proposed rule changes included in this NOI allow for 5-year initial contracts with an 80% property tax exemption and 5-year renewal contracts with an 80% property tax exemption. Furthermore, for projects meeting the criteria of a "mega project" under the proposed rule changes, contracts and contract renewals will have 5-year terms, but with a property tax exemption of up to 93%.

In addition, the proposed rule changes make ITEP applications associated with advance notifications filed between June 24, 2016, and October 21, 2016, subject to the rules promulgated on June 20, 2017. However, the proposed rule changes allow the aforementioned applications to have initial contract terms of five years with a tax exemption of up to 100% with renewal contracts of five years with up to a 100% property tax exemption.

The current posture of the proposed rule changes includes overlapping windows, June 24th, 2017 to July 1st, 2018, and June 24th, 2016 to October 21st, 2016, with differing contract terms and exemption amounts as outlined in the preceding two paragraphs. As a result, the contract terms and exemption amounts certain projects may be subject to is unclear if they have filed advanced notifications between June 24th, 2016, and October 21, 2016.

In the aggregate, due to the various contract terms and exemption amounts, the initial effect on revenue collections is indeterminable. However, as projects subject to previous



contract terms and tax exemptions exit the program and are replaced by projects with contract terms of five years and 80% tax exemptions, revenue collections for local governments will begin immediately. This will result in local governments being able to collect property tax revenues in Year 1 of an initial contract for a given project, rather than until the first year of a renewal contract. Furthermore, as a result of the advanced timeline of collections, local governments will be able to levy taxes on properties with higher assessed values, rather than on properties that have depreciated for five years prior to being subject to property taxes.

Lastly, as with the current rules, firms are no longer be able to receive tax exemptions for required environmental capital upgrades under the proposed rules. Increased local government revenue collections associated with this provision remain speculative and cannot be determined.

The proposed rule changes will not affect revenue collections for state governmental units.

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

Firms participating in ITEP filing applications associated with advance notifications filed between June 24, 2016, and October 21, 2016, have the potential to realize the greatest economic benefit from the proposed rule changes, as they can petition local governmental entities to have initial contract terms of five years with a property tax exemption of up to 100% with renewal contracts of five years with up to a 100% tax exemption.

Firms filing advance notifications for ITEP between June 24, 2016, and July 1, 2018, that are not subject to exception in the preceding paragraph will realize economic benefits associated with the ITEP rules they choose to use. To the extent such firms participate using the rules promulgated on June 20, 2017, they would be eligible for 5-year initial contracts of up to a 100% property tax exemption and for 3-year renewal contracts of up to 80% property tax exemption. To the extent such firms participate using the rules included in this NOI they would be eligible for 5-year initial contracts with an 80% property tax exemption and 5-year renewal contracts with an 80% property tax exemption.

However, the current posture of the proposed rule changes include overlapping windows, June 24th, 2017 to July 1st, 2018, and June 24th, 2016 to October 21st, 2016, with differing contract terms and exemption amounts as outlined in the preceding two paragraphs. As a result, the contract terms and exemption amounts certain projects may be subject to is unclear if they have filed advanced notifications between June 24th, 2016, and July 1, 2018.

New firms participating under the proposed rule changes would realize a reduced economic benefit relative to previous iterations of the ITEP rules, but will be eligible for 5-year initial contracts with an 80% property tax exemption and 5-year renewal contracts with an 80% property tax exemption. However, to the extent firms subject to the rules included in this NOI are engaged in projects defined as "mega projects," property tax exemptions up to 93% may be granted.

Lastly, as with current rules, firms are no longer be able to receive tax exemptions for required environmental capital upgrades.

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

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits. With regard to employment, the rule changes maintain

the accountability of program applicants to create or retain jobs.

Anne G. Villa  
Undersecretary  
1805#052

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities (LAC 28:XI.Chapter 97)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities*: §9701, Definitions; §9702, Energy; §9703, General Development Principles; §9704, Earth's Systems; §9705, Elementary School—Prekindergarten-Grade Four; §9706, Waves and Their Applications; §9707, Middle School—Grades Five-Eight; §9708, Inheritance and Variation of Traits; §9709, High School—Grades Nine-Twelve; §9710, Matter and Its Interactions; §9711, Ecosystems: Interactions, Energy, and Dynamics; §9712, Biological Evolution: Unity and Diversity; §9713, Earth's Place in the Universe; §9714, Earth's Systems; §9715, Motion and Stability: Forces and Interactions; §9716, From Molecules to Organisms: Structures and Processes; §9717, Ecosystems: Interactions, Energy, and Dynamics; §9718, Heredity: Inheritance and Variation of Traits; §9719, Overview; §9720, Earth's Systems; §9721, Benchmark Codes; §9722, Energy; §9723, Extended Standard Numbering; §9724, From Molecules to Organisms: Structure and Processes; §9725, Complexity Levels; §9726, Earth's System; §9727, Science as Inquiry; §9728, Matter and Its Interactions; §9729 Conclusion; §9730, Matter and Energy in Organisms and Ecosystems; §9731, Fourth Grade; §9732, Ecosystems; §9733, Eighth Grade; §9734, Earth's Systems; §9735, Eleventh Grade; §9736, Matter and Its Interactions; §9737, Motion and Stability: Forces and Interactions; §9738, Energy; §9739, Waves and Their Applications in Technologies for Information Transfer; §9740, Earth's Place in the Universe; §9741, Earth and Human Activity; §9742, From Molecules to Organisms: Structures and Processes; §9743, Ecosystems: Interactions, Energy, and Dynamics; §9744, Matter and Its Interactions; §9745, Energy; §9747, Earth's Systems; §9748, Earth and Human Activity; §9749, From Molecules to Organisms: Structures and Processes; §9750, Ecosystems: Interactions, Energy, and Dynamics; §9751, Heredity: Inheritance and Variation of Traits; §9752, Heredity: Biological Evolution: Unity and Diversity; §9753, Matter and Its Interactions; §9754, Energy; §9755, Earth's Place in the Universe; §9756, Earth's Systems; §9757, Earth and Human Activity; §9758, From Molecules to Organisms: Structures and Processes; §9759, Heredity: Inheritance and