

1 §502. Definitions

2 *Addition to a Manufacturing Establishment -*

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

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

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

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

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

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

20 *Board*—Board of Commerce and Industry.

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

25 *Department*—Louisiana Department of Economic Development.

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

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

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

2 *ITEP Ready*—a parish that has provided for continuous local governmental
3 entity approval or rejection for all industrial ad valorem tax exemption applications
4 within the parish.

5 *Job*—positions of employment that are:

- 6 1. new (not previously existing in the state) or retained;
- 7 2. permanent (without specific term);
- 8 3. full-time (working 30 or more hours per week);
- 9 4. employed directly, by an affiliate or through contract labor;
- 10 5. based at the manufacturing establishment;
- 11 6. filled by a United States citizen who is domiciled in Louisiana or who
12 becomes domiciled in Louisiana within 60 days of employment; and
- 13 7. any other terms of employment as negotiated in the exhibit A,
14 including a requirement that in order to qualify as a job, a basic health benefits plan
15 is or has been offered in conjunction with the position of employment.

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

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

21 *Manufacturer*—a person or business who engages in manufacturing at a
22 manufacturing establishment. A manufacturer shall not include a wind or solar farm.

23 *Manufacturing*—working raw materials by means of mass or custom
24 production, including fabrication, applying manual labor or machinery into wares
25 suitable for use or which gives new shapes, qualities or combinations to matter which
26 already has gone through some artificial process. The resulting products must be
27 suitable for use as manufactured products that are placed into commerce for sale or
28 sold for use as a component of another product to be placed, and placed into

1 commerce for sale. Manufacturing shall not include the creation of any product by
2 a wind or solar farm.

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

5 1. 500 jobs, employed directly, only, and otherwise meeting the
6 definition of jobs, which shall generate a minimum of \$20,000,000 in net new
7 payroll within three years of the beginning of operations; and

8 2. a minimum of \$100,000,000 in capital expenditures. A wind or solar
9 farm shall not be considered a mega-project.

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

14 *Qualified Disaster*—

15 1. a disaster which results from:

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

17 or

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

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

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

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

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

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

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

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

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

17 BE IT FURTHER RESOLVED that the rules as amended by the provisions of this
18 Resolution shall apply to industrial ad valorem tax exemption applications filed on or after
19 July 1, 2022.

20 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
21 Office of the State Register.

22 BE IT FURTHER RESOLVED that the office of the state register is hereby directed
23 to have the amendments to LAC 13:I.502 printed and incorporated into the Louisiana
24 Administrative Code.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 6 Original

2022 Regular Session

McCormick

Abstract: Removes wind farms and solar farms from the Industrial Ad Valorem Tax Exemption (ITEP).

Present law comes from administrative rules promulgated by the Department of Economic Development.

The rules comprising present law serve as the regulatory framework for a state incentive program which offers a tax incentive for manufacturers that make a commitment to jobs and payroll in the state.

Present law defines terms, including "manufacturer", "manufacturing", and "mega-project" as follows:

- (1) "Manufacturer" means a person or business who engages in manufacturing at a manufacturing establishment.
- (2) "Manufacturing" means 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.
- (3) "Mega-Project" means a manufacturing establishment that provides all of the following:
 - (a) Five hundred 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
 - (b) A minimum of \$100,000,000 in capital expenditures.

Proposed law retains the definitions in present law but amends the three definitions listed above to provide the following, respectively:

- (1) A "manufacturer" shall not include a wind or solar farm.
- (2) "Manufacturing" shall not include the creation of any product by a wind or solar farm.
- (3) A wind or solar farm shall not be considered a "mega-project".

Proposed law would apply to industrial ad valorem tax exemption applications filed on or after July 1, 2022.

The changes made to present law in proposed law have the net effect of removing wind and solar farms from the ITEP incentive program.

(Amends LAC 13:I.502)