



February 10, 2025

To Whom It May Concern:

Louisiana Economic Development (“LED”) hereby announces its plan to proceed with rule-making by finalizing the Industrial Ad Valorem Tax Exemption Program Rules, first published as an Emergency Rule in the May, 2024 *Louisiana Register* on pages 637- 643, renewed as an Emergency Rule in the November, 2024 *Louisiana Register* on pages 1618-1623, then finally as a Notice of Intent in the December, 2024 *Louisiana Register* on pages 1874- 1882.

Since February, 2024 LED and the Board of Commerce and Industry Rules Committee (“BCI”) have worked diligently with interested stakeholders and gathered proposed rule change feedback from assessors, sheriffs, local governing authorities, industry and local stakeholders. Following months of focused collaboration, LED and BCI now submit rules that manifest a more streamlined administrative process for project based applications.

The Board of Commerce and Industry Rules Committee conducted six public hearings to consider draft rules on the following dates: May 3, 2024, June 4, 2024, June 26, 2024, October 18, 2024, November 14, 2024 and November 18, 2024.

LED conducted a public hearing to consider comments on the published Notice of Intent on January 30, 2025. Representatives from LED, BCI, Entergy and various consultancy firms were in attendance. The hearing was live-streamed and is available for review on LED’s website. The overall tone was positive and in support of proceeding to final rule. No written comments on the Notice of Intent were received.

LED appreciates the knowledgeable input from all interested parties and now proposes to proceed as is with no further changes.

Proposed amendments to Executive Order JML 24-23 in keeping with this proposed final rule have been submitted to the Governor’s Office for consideration. Subject to legislative oversight by the House or Senate Committees on Commerce, and in anticipation of future executive action, LED intends to submit for final publication as a Rule in the March 2025 *Louisiana Register*.

As always, we welcome your consideration. If you should have any questions, please contact me at (225) 342-5406 or Anne Villa, LED Deputy Secretary at (225) 342-5395.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephanie Le Grange".

Stephanie Le Grange  
Deputy General Counsel

cc: Senate, Committee on Commerce, Consumer Protection, and International Affairs  
House of Representatives, Committee on Commerce



EXECUTIVE DEPARTMENT  
OFFICE OF THE GOVERNOR  
EXECUTIVE ORDER NUMBER JML 24-23

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***CONDITIONS FOR PARTICIPATION IN THE INDUSTRIAL TAX  
EXEMPTION PROGRAM***

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**WHEREAS**, Louisiana values its manufacturers and their contributions to its economy;

**WHEREAS**, most states offer some form of property tax exemption to manufacturers;

**WHEREAS**, to attract larger, high-quality projects, it is necessary to offer competitive property tax exemptions to manufacturers;

**WHEREAS**, La. Const. art. 7, § 21(F) provides that the Board of Commerce and Industry, with the approval of the governor, may enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment, on such terms and conditions as the board, with the approval of the governor, deems to be in the best interest of the state;

**WHEREAS**, the Board of Commerce and Industry is authorized to administer the granting of the exemption from ad valorem taxes provided by La. Const. art. 7, § 21(F) and, with the assistance of the Louisiana Department of Economic Development (“LED”), established the Industrial Tax Exemption Program (“ITEP”);

**WHEREAS**, ITEP projects involve capital investment in regions across Louisiana;

**WHEREAS**, consistent with the authority provided to it by the Constitution, the Board of Commerce and Industry promulgated rules and regulations for ITEP that promote the best interests of the state;

**WHEREAS**, the governor also plays a vital role in determining which projects will receive ITEP, and it is essential to set forth criteria that the governor will consider for purposes of deciding what is in the best interests of the state and which ITEP projects will be approved;

NOW THEREFORE, I, JEFF LANDRY, Governor of the State of Louisiana, by the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

Section 1:

The governor will consider the criteria set forth herein for purposes of determining what is in the best interests of the state for consideration of ITEP contracts. The Board of Commerce and Industry will also consider criteria set forth in its rules and regulations for purposes of determining what is in the best interests of the state for consideration of ITEP contracts.

Section 2:

ITEP contracts are to demonstrate a genuine commitment to investing in the communities in which they operate.

Section 3:

ITEP contracts must meet the constitutional definition of "manufacturing establishment" determined by the Board of Commerce and Industry.

Section 4:

ITEP applicants are required to file an advance notification of intent to apply for tax exemption, both for new and expansion projects, in order to be considered for approval by the governor. Applications for miscellaneous capital additions and applications for tax exemptions for 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 be considered or approved.

Section 5:

All contracts for ITEP shall include approval by the Local ITEP Committee and the decision of the committee shall be reflected in the form of a resolution to be submitted as Exhibit "A" to the contract. The Local ITEP Committee shall consist of the following local officials or employees: 1.) the parish president or the president of the police jury; 2.) the president of the school board or the superintendent of the school board, as elected by the school board; 3.) the sheriff or

his designee, and 4.) the mayor, if the project is located in a municipality. Ex-officio non-voting members may include the assessor, the parish's highest-ranking economic development staff, members of the local economic development organization, or if no local economic development organization exists, a representative from the regional economic development district. Decisions by the Local ITEP Committee are not dispositive and do not bind the governor or the Board of Commerce and Industry. Local government officials are also encouraged to provide public comment when an application is filed with the Board of Commerce and Industry.

Section 6:

Input from the Local ITEP Committee is important for consideration of an industrial tax exemption; however, it should not unduly delay the ITEP application process. Upon the Board of Commerce and Industry's approval of an ITEP application, LED shall transmit a copy of the approval within three business days of approval, upon which date shall begin a notice period of 15 days. The notice shall be transmitted to members of the Local ITEP Committee. Within the 15-day notice period, the Local ITEP Committee may notice a public meeting, in accordance with the Open Meetings Law, to be held at a location customarily used by the parish council or police jury for public meetings for purposes of considering the ITEP application. If the Local ITEP Committee places the application on the agenda for a public meeting, the committee will have an additional 30 days (for a total of 45 days from the start of the notice period) to conduct a public meeting.

Section 7:

The Board of Commerce and Industry shall revise its rules to align with the Executive Order relative to providing local input in the ITEP application process.

Section 8:

The Board of Commerce and Industry also may address by rule any other contractual arrangements that it deems necessary for applicants, and it may submit these requirements to the governor for his consideration via the ITEP contract.

Section 9:

The Department of Revenue ("LDR") shall review the ITEP application and may require additional information from the applicant. LED must receive a letter of no objection or a letter of approval from LDR before the Board of Commerce and Industry takes action on the ITEP application. LDR shall, in coordination with the LED, implement procedures to assure compliance with existing law, this Executive Order, and the terms of the ITEP contract.

Section 10:

The exemption for ITEP projects shall be for an initial term of no more than five calendar years and may be renewed for an additional time period of up to five years.

Section 11:

All property exempted shall be listed on the assessment rolls and submitted to the Louisiana Tax Commission, but no taxes shall be collected during the period of exemption.

Section 12:

In considering new contracts and renewals for approval, the governor will only approve those contracts or renewals having a term of five years or less and providing for an ad valorem exemption of 80%.

Section 13:

The terms for the governor's approval of the contracts for ITEP, as provided for in this Executive Order, represent the primary cause for the governor's approval of an ITEP contract. Any occurrence that operates to change, suspend, or breach the terms of the contract shall render the approval of the governor null and void.

Section 14:

This order is effective for advance notifications filed on or after February 21, 2024. The requirements of this Executive Order do not apply to advance notifications filed before February 21, 2024, or ITEP projects approved before February 21, 2024. However, nothing in this Executive

Order shall be interpreted to relieve any participants in the Industrial Tax Exemption Program from their contractual obligations.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 21<sup>st</sup> day of February, 2024.

  
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Jeff Landry  
GOVERNOR OF LOUISIANA

ATTEST BY THE  
SECRETARY OF STATE

  
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Nancy Landry  
SECRETARY OF STATE

will be completed, and outline the steps the child-placing agency plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

L.2. - N.4. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019, LR 46:681 (May 2020), effective June 1, 2020, amended LR 47:350 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021), amended LR 47:1847 (December 2021), LR 50:848 (May 2023), effective June 1, 2023, LR 50:

## **Chapter 75. Juvenile Detention Facilities**

### **§7507. Licensing Requirements**

A. - I.7. ...

#### **J. Corrective Action Plan (CAP)**

1. A corrective action plan (CAP) shall be submitted for all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The CAP and related documents shall be submitted using the Sanswrite licensee portal or by a method as requested by the department. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from receipt of the deficiencies. Receipt of the deficiencies by any staff person constitutes notice to the juvenile detention facility. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) will be completed, and outline the steps the juvenile detention facility provider plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days.

2. - 3. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1110.

**HISTORICAL NOTE:** Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019, LR 50:848 (May 2023), effective June 1, 2023, LR 50:

David N. Matlock  
Secretary

## **DECLARATION OF EMERGENCY**

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

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

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:962 (A)(1)(a) which provide for emergency procedures to establish rules, and R.S. 51:921 and R.S. 36:104 which allows the Department of Economic Development ("Department") to promulgate rules and regulations to protect the welfare and prosperity of the citizens of the state.

The Department and the Board of Commerce and Industry have an immediate need to amend the rules of the Industrial Tax Exemption Program (LA Const. Art. VII, Section 21) to implement programmatic changes in alignment with Executive Order JML 24-23. A delay in imposition would hinder effective administration of this program and delay access to the program by qualified applicants, resulting in an adverse financial impact on local governing authorities, the state, the Department, Louisiana businesses and taxpayers.

This Emergency Rule shall be effective April 24, 2024, and shall remain in effect for a period of 180 days unless renewed by the Department or until adoption of final rules, whichever occurs first.

#### **Title 13**

### **ECONOMIC DEVELOPMENT**

#### **Part I. Financial Incentive Programs**

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

#### **Subchapter B. ITEP Rules for Projects with Advances Filed on or after February 21, 2024**

#### **§539. Statement of Purpose**

##### **A. Purpose**

1. Louisiana values its manufacturers and their contributions to its economy.

2. Article VII, Section 21(F) of the Louisiana Constitution of 1974 provides that the Board of Commerce and Industry (Board), with the approval of the Governor, may enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment on such terms and conditions as the Board, with the approval of the Governor, deems is in the best interest of the state.

##### **B. Best Interest of the State**

1. The provisions set forth in this Subchapter establish the criteria that the governor and the board will consider for purposes of deciding what is in the best interest of the state.

##### **C. Applicability**

1. The provisions set forth in this Subchapter shall apply to projects with advances filed on or after February 21, 2024.

2. The provisions set forth in this Subchapter shall not apply to projects with advances filed prior to February 21, 2024, or ITEP projects approved by the board prior to February 21, 2024.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### §541. Definitions

*Addition to a Manufacturing Establishment—*

1.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.

*Committee—*Local ITEP Committee

*Department—*Louisiana Department of Economic Development.

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

*Exhibit A—*a resolution from the Local ITEP Committee signifying its approval or denial of an exemption contract for a specific ITEP application.

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

*LDR—*Louisiana Department of Revenue.

*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.

*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 or 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 State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### §543. Ineligible Items: Property, Land, Inventories

A. The following items are ineligible for the tax exemption:

1. Property

a. Miscellaneous capital additions, 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, are not eligible for the tax exemption.

b. If the establishment or addition is on the taxable rolls and property taxes have been paid at more than 20 percent, the establishment or addition is not eligible for the exemption.

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.

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

3. Inventories

a. inventories of raw materials used in the course of manufacturing;

b. inventories of work-in-progress or finished products;

c. 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:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50.

**§545. Eligible Items: Buildings and Facilities Used in Manufacturing, Leased Property, Capitalized Materials, Integral Parts of the Manufacturing Operation, Rehabilitation and Restoration of Property, Relocations, Used Equipment.**

A. The following items may be eligible for the tax exemption.

1. Buildings and Facilities Used in Manufacturing.

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 §543) 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:

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

b. 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:

i. buildings to house a manufacturing establishment;

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

c. 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.

2. Leased Property. 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.

3. Capitalized Materials

a. 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:

i. ammonia in a freezing plant;

ii. solvent in an extraction plant; and

iii. catalyst in a manufacturing process.

b. 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 §569.

4. Integral Parts of the Manufacturing Operation. Property that is an integral part of the manufacturing operation is eligible for the tax exemption.

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

i. quality control/quality assurance;

ii. packaging;

iii. transportation of goods on the site during the manufacturing process;

iv. other on site essential activities as approved by the secretary and the board.

5. 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 sections a or b above, 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.

6. 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.

7. Used Equipment. 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 State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§547. Advance Notification**

A. An advance notification of intent to apply for tax exemption shall be filed with the department through the department's online Fastlane portal prior to the beginning of construction or installation of facilities on all projects for tax exemption. 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. A separate advance shall be required for each program. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

C. An advance notification shall include but not be limited to a project description, NAICS code, project start and end dates.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§549. Application**

A. An application for tax exemption may be filed with the department through the department's online Fastlane portal, 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 §561;

3. an applicant shall file an individual application for any calendar year in which property becomes operational or usable;

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.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§551. Consultation with the LDR**

A. 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.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§553. Department Presentation to the Board**

A. After its review and determination of eligibility, the department will prepare the application information in a format suitable for presentation to the board.

B. The board must approve the application prior to a contract being issued.

C. Applicant or its representatives will be notified of the board meeting date at which their application will be considered. The applicant should have someone present who is able to answer any questions the board may have regarding the information contained in the application, otherwise the application may be deferred or denied.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§555. Board Consideration of Application**

A. 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.

1. Applications which provide for a new manufacturing establishment or which provide for an expansion of, or an addition to an existing manufacturing establishment, shall be favored by the board.

2. The board will receive all public comment given at the board meeting, or any written comments filed with LED prior to the board meeting date.

B. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost.

C. 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.

1. 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.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

**§557. Local ITEP Committee—Establishment, Consideration of Application, Meetings, and Determination**

**A. Establishment**

1. The following local officials or employees shall be voting members and collectively comprise an ad hoc Local ITEP Committee (the Committee):

- a. the parish president or the president of the police jury;
- b. the president of the school board or the superintendent of the school board, as elected by resolution of the school board; and
- c. the sheriff or his designee; and, if applicable,
- d. the mayor, if the project is located in a municipality;

2. Additional, ex-officio non-voting members may include:

- a. the assessor;
- b. the parish's highest-ranking economic development staff;
- c. members of the local economic development organization; or
- i. if no local economic development organization exists, a representative from the regional economic development organization.

**B. Consideration of ITEP Applications**

1. The summary agenda and the summary tables on all applications on the agenda for the regular meetings of the board shall be posted on LED's website at least one week prior to the meeting, but no later than 24 hours from when the board packet is provided to the board when feasible.

a. the committee is encouraged, but not required, to send comments to the board prior to the assigned meeting date for consideration of an application.

2. Upon the board's approval of an ITEP application, LED shall transmit notice documents regarding the approved application, which may include but not be limited to:

- a. a copy of the ITEP application;
- b. a notice of board approval;

3. Notice documents shall be transmitted to the Local ITEP Committee as follows:

- a. directly to the individual voting members with email addresses on-file with LED, or if applicable and preferred, to one centralized Local ITEP Committee email address on file with LED; and
- b. shall be made available to ex-officio non-voting members and the public via a posting on the department's website;
- c. such notice shall be transmitted or posted by the department within three business days of the approval.

**C. Meetings**

1. Upon receipt of notice, a 15-day notice period begins.

2. The committee is not required to hold a meeting, however, any such meeting held to consider an ITEP application shall be considered public business and conducted by officials in accordance with Open Meetings laws.

3. Within the 15 day notice period, the committee may notice a public meeting to be held at a location customarily used by the parish council or police jury for public meetings for purposes of considering the ITEP application.

4. If the committee places the application on the agenda for a public meeting, the committee will have an additional 30 days (for a total of 45 days from the start of the notice period) to conduct a public meeting.

**D. Determination**

1. The committee shall submit to the department a resolution stating the approval or rejection of industrial ad valorem tax exemption applications within its jurisdiction.

2. Any resolution shall be submitted to the department no later than 45 days from the start of the notice period.

3. If the committee does not take action or provide a resolution as required herein, then the application will be deemed approved by such entity.

**E.** Decisions by the committee are not dispositive and do not bind the governor or 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 State Board of Commerce and Industry and the Department of Economic Development, LR 50:

**§559. The Contract**

**A.** Upon board approval of an application and subsequent receipt of the Local ITEP Committee's determination, LED shall draft a contract setting forth the terms and conditions, which may include but not be limited to the following:

1. an initial term of no more than five calendar years;
2. a term of renewal for an additional time period of up to five years; and
3. an ad valorem exemption of 80 percent.

**B.** The contract shall be submitted to the business electronically via LED's electronic document signing system, or other method as may otherwise be approved by all parties.

**C.** The business must execute its portion of the contract within 90 days. If the contract is not executed and submitted to the department within 90 days, the board's approval shall be deemed rescinded.

**D.** Once the contract has been executed by the business and the board, the contract, including any Local ITEP Committee determination reflected in the form of a resolution, included as Exhibit "A" to the contract, shall be submitted to the governor for review and consideration.

**E.** The governor may approve or deny the contract, and a contract shall not be considered effective or binding upon the state until signed by the governor.

**F.** The terms for the governor's approval of the contracts for ITEP, as provided for in Executive Order JML 24-23, represent the primary cause for the governor's approval of an ITEP contract. Any occurrence that operates to change, suspend, or breach the terms of the contract shall render the approval of the governor null and void.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

**§561. Extension of Time**

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

B. Additional extensions of time may be granted by the secretary for good cause. Good cause may include but not be limited to events beyond the reasonable control of the parties, such as an act of God, an act of war, an act of terrorism, a cyberattack, or a natural disaster due to earthquake, landslide, fire, flood, tornado, tropical storm or hurricane. The business shall have the burden of establishing 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 State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§563. 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 §551.

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:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§565. 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 §561.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

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

A. Application for renewal of the exemption must be filed with the department through the department's online Fastlane portal 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 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:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§569. 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:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

#### **§571. 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 State Board of Commerce and Industry and the Department of Economic Development, LR 50:

**§573. 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 State Board of Commerce and Industry and the Department of Economic Development, LR 50:

**§575. 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 not be collected thereon during the period of exemption.

C. Taxes shall be exempted in accordance with the provisions of the contract, which are available to Parish Assessors through the department's online Fastlane portal.

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

**HISTORICAL NOTE:** Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR 50:

Susan B. Bourgeois  
Secretary

2405#005

**DECLARATION OF EMERGENCY**

**Department of Health  
Health Standards Section**

Hospitals Licensing Standards  
(LAC 48:I.9303 and 9353)

The Department of Health, Health Standards Section amends LAC 48:I.9303 and §9353 as authorized by R.S. 36:254 and R.S. 40:2100-2115. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in

effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Health Standards Section amends the provisions governing the licensing of hospitals in order to add a new definition, and to include provisions for the distribution of naloxone nasal spray to patients and/or non-patients who present in the hospital.

This action is being taken due to the drastic increase in the number of fatal opioid overdoses in Louisiana. To prevent the imminent peril to the health, safety, and welfare of the public, access to a life-saving medication to reverse opioid overdose will be expanded. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2023-2024. This action is effective April 29, 2024.

**Title 48**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 93. Hospitals**

**Subchapter A. General Provisions**

**§9303. Definitions**

\* \* \*

*Naloxone Nasal Spray*—an over-the-counter (OTC) Food and Drug Administration (FDA) approved medication that rapidly reverses the effects of opioid overdose.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1475 (October 2019), LR 49:1221 (July 2023), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1934 (November 2023), amended by the Department of Health, Health Standards Section, LR 50:

**Subchapter D. Pharmaceutical Services**

**§9353. Delivery of Services**

A. - L. ...

M. Naloxone nasal spray, as an over-the-counter (OTC) non-prescription drug, may be distributed by the hospital to patients and/or non-patients who present in the hospital. Other non OTC formulations and dosages of naloxone will remain available by prescription only.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2100-2115.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2411 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:

**Public Comments**

Tasheka Dukes, RN, Health Standards Section, is responsible for responding to inquiries regarding this Emergency Rule.

Ralph L. Abraham, M.D.  
Secretary

2405#009

1. safeguarding MDU controlled substances in the event the MDU breaks down or is disabled for any reason (e.g., mechanical failure, accident, fire); and

2. ensuring that the controlled substances are removed, secured, and accounted for at the OTP's parent facility.

G. OTPs shall maintain all DEA-mandated reports and records at the parent facility, and shall provide copies to the SOTA upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2758 (November 2022), amended by the Department of Health, Health Standards Section, LR 51:

#### Public Comments

Tasheka Dukes, RN, Health Standards Section, is responsible for responding to inquiries regarding this Emergency Rule.

Michael Harrington, MBA, MA  
Secretary

2411#058

### DECLARATION OF EMERGENCY

#### Louisiana Economic Development Office of Business Development

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

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:962 (A)(1)(a) which provide for emergency procedures to establish rules, and R.S. 51:921 and R.S. 36:104 which allows Louisiana Economic Development ("LED") to promulgate rules and regulations to protect the welfare and prosperity of the citizens of the state.

LED and the Board of Commerce and Industry have an immediate need to amend the rules of the Industrial Tax Exemption Program (LA Const. Art. VII, Section 21) to implement programmatic changes in alignment with Executive Order JML 24-23. A delay in imposition would hinder effective administration of this program and delay access to the program by qualified applicants, resulting in an adverse financial impact on local governing authorities, the state, LED, Louisiana businesses and taxpayers.

Since February 2024, LED and the BCI Rules Committee have worked diligently with interested stakeholders and gathered proposed rule change feedback from tax assessors, sheriffs, local governing authorities, industry and local stakeholders. While progress has been made on streamlining the administrative process, some further refinements are still necessary before a Notice of Intent can be presented for consideration. Therefore, at a meeting of the BCI Rules Committee on October 18, 2024, BCI approved and this Emergency Rule is being promulgated in order to continue the provisions of the April 24, 2024 Emergency Rule, for the maximum period allowed under the Administrative Procedure Act.

This Emergency Rule shall be effective October 22, 2024, and shall remain in effect for a period of 180 days or until adoption of final rules, whichever occurs first.

#### Title 13

#### ECONOMIC DEVELOPMENT

#### Part I. Financial Incentive Programs

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

#### Subchapter B. ITEP Rules for Projects with Advances Filed on or after February 21, 2024

#### §539. Statement of Purpose

##### A. Purpose

1. Louisiana values its manufacturers and their contributions to its economy.

2. Article VII, Section 21 (F) of the Louisiana Constitution of 1974 provides that the Board of Commerce and Industry ("Board"), with the approval of the Governor, may enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment on such terms and conditions as the Board, with the approval of the Governor, deems is in the best interest of the state.

##### B. Best Interest of the State

1. The provisions set forth in this Subchapter establish the criteria that the governor and the board will consider for purposes of deciding what is in the best interest of the state.

##### C. Applicability

1. The provisions set forth in this Subchapter shall apply to projects with advances filed on or after February 21, 2024.

2. The provisions set forth in this Subchapter shall not apply to projects with advances filed prior to February 21, 2024, or ITEP projects approved by the board prior to February 21, 2024.

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

HISTORICAL NOTE: Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

#### §541. Definitions

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

1.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.

*Committee*—Local ITEP Committee

*Department*—Louisiana Economic Development.

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

*Exhibit A*—a resolution from the Local ITEP Committee signifying its approval or denial of an exemption contract for a specific ITEP application.

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

*LDR*—Louisiana Department of Revenue.

*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.

*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 or 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 Louisiana 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 Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

#### §543. Ineligible Items: Property, Land, Inventories

A. The following items are ineligible for the tax exemption:

1. Property

a. Miscellaneous capital additions, 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, are not eligible for the tax exemption.

b. If the establishment or addition is on the taxable rolls and property taxes have been paid at more than 20 percent, the establishment or addition is not eligible for the exemption.

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.

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

3. Inventories

a. inventories of raw materials used in the course of manufacturing;

b. inventories of work-in-progress or finished products;

c. 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: Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

#### §545. Eligible Items: Buildings and Facilities Used in Manufacturing, Leased Property, Capitalized Materials, Integral Parts of the Manufacturing Operation, Rehabilitation and Restoration of Property, Relocations, Used Equipment.



A. The following items may be eligible for the tax exemption:

1. Buildings and Facilities Used in Manufacturing. 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 §543) 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:

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

b. 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:

i. buildings to house a manufacturing establishment;

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

c. 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.

2. Leased Property. 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.

3. Capitalized Materials

a. 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:

i. ammonia in a freezing plant;

ii. solvent in an extraction plant; and

iii. catalyst in a manufacturing process.

b. 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 §569.

4. Integral Parts of the Manufacturing Operation. Property that is an integral part of the manufacturing operation is eligible for the tax exemption.

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

i. quality control/quality assurance;

ii. packaging;

iii. transportation of goods on the site during the manufacturing process;

iv. other on site essential activities as approved by the secretary and the board.

5. 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 sections a or b above, 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.

6. 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.

7. Used Equipment. 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 Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

§547. Advance Notification

A. An advance notification of intent to apply for tax exemption shall be filed with the department through the department's online Fastlane portal prior to the beginning of construction or installation of facilities on all projects for tax exemption. 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. A separate advance shall be required for each program. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

C. An advance notification shall include but not be limited to a project description, NAICS code, project start and end dates.



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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§549. Application**

A. An application for tax exemption may be filed with the department through the department's online Fastlane portal, 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 §561;

3. an applicant shall file an individual application for any calendar year in which property becomes operational or usable;

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.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§551. Consultation with the LDR**

A. 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.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§553. Department Presentation to the Board**

A. After its review and determination of eligibility, the department will prepare the application information in a format suitable for presentation to the board.

B. The board must approve the application prior to a contract being issued.

C. Applicant or its representatives will be notified of the board meeting date at which their application will be considered. The applicant should have someone present who is able to answer any questions the board may have regarding the information contained in the application, otherwise the application may be deferred or denied.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§555. Board Consideration of Application**

A. 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.

1. Applications which provide for a new manufacturing establishment or which provide for an expansion of, or an addition to an existing manufacturing establishment, shall be favored by the board.

2. The board will receive all public comment given at the board meeting, or any written comments filed with LED prior to the board meeting date.

B. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost.

C. 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.

1. 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.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§557. Local ITEP Committee—Establishment, Consideration of Application, Meetings, and Determination**

A. Establishment

1. The following local officials or employees shall be voting members and collectively comprise an ad hoc Local ITEP Committee (the committee):

a. the parish president or the president of the police jury;

b. the president of the school board or the superintendent of the school board, as elected by resolution of the school board; and

c. the sheriff or his designee; and, if applicable,

d. the mayor, if the project is located in a municipality;

2. Additional, ex-officio non-voting members may include:

a. the assessor;

b. the parish's highest-ranking economic development staff;

c. members of the local economic development organization; or

i. if no local economic development organization exists, a representative from the regional economic development organization.

B. Consideration of ITEP Applications

1. The summary agenda and the summary tables on all applications on the agenda for the regular meetings of the board shall be posted on LED's website at least one week prior to the meeting, but no later than 24 hours from when the board packet is provided to the board when feasible.

a. the committee is encouraged, but not required, to send comments to the board prior to the assigned meeting date for consideration of an application.

2. Upon the board's approval of an ITEP application, LED shall transmit notice documents regarding the approved application, which may include but not be limited to:

- a. a copy of the ITEP application;
  - b. a notice of board approval;
3. Notice documents shall be transmitted to the Local ITEP Committee as follows:
- a. directly to the individual voting members with email addresses on-file with LED, or if applicable and preferred, to one centralized Local ITEP Committee email address on file with LED; and
  - b. shall be made available to ex-officio non-voting members and the public via a posting on the department's website;
  - c. such notice shall be transmitted or posted by the department within three business days of the approval.

**C. Meetings**

- 1. Upon receipt of notice, a 15-day notice period begins.
- 2. The committee is not required to hold a meeting, however, any such meeting held to consider an ITEP application shall be considered public business and conducted by officials in accordance with Open Meetings laws.
- 3. Within the 15 day notice period, the committee may notice a public meeting to be held at a location customarily used by the parish council or police jury for public meetings for purposes of considering the ITEP application.
- 4. If the committee places the application on the agenda for a public meeting, the committee will have an additional 30 days (for a total of 45 days from the start of the notice period) to conduct a public meeting.

**D. Determination**

- 1. The committee shall submit to the department a resolution stating the approval or rejection of industrial ad valorem tax exemption applications within its jurisdiction.
- 2. Any resolution shall be submitted to the department no later than 45 days from the start of the notice period.
- 3. If the committee does not take action or provide a resolution as required herein, then the application will be deemed approved by such entity.

E. Decisions by the committee are not dispositive and do not bind the governor or 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 Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§559. The Contract**

A. Upon board approval of an application and subsequent receipt of the Local ITEP Committee's determination, LED shall draft a contract setting forth the terms and conditions, which may include but not be limited to the following:

- 1. an initial term of no more than five calendar years;
- 2. a term of renewal for an additional time period of up to five years; and
- 3. an ad valorem exemption of 80 person.

B. The contract shall be submitted to the business electronically via LED's electronic document signing system, or other method as may otherwise be approved by all parties.

C. The business must execute its portion of the contract within 90 days. If the contract is not executed and submitted to the department within 90 days, the board's approval shall be deemed rescinded.

D. Once the contract has been executed by the business and the board, the contract, including any Local ITEP Committee determination reflected in the form of a resolution, included as Exhibit "A" to the contract, shall be submitted to the governor for review and consideration.

E. The governor may approve or deny the contract, and a contract shall not be considered effective or binding upon the state until signed by the governor.

F. The terms for the governor's approval of the contracts for ITEP, as provided for in Executive Order JML 24-23, represent the primary cause for the governor's approval of an ITEP contract. Any occurrence that operates to change, suspend, or breach the terms of the contract shall render the approval of the governor null and void.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§561. Extension of Time**

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

B. Additional extensions of time may be granted by the secretary for good cause. Good cause may include but not be limited to events beyond the reasonable control of the parties, such as an act of God, an act of war, an act of terrorism, a cyberattack, or a natural disaster due to earthquake, landslide, fire, flood, tornado, tropical storm or hurricane. The business shall have the burden of establishing 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 Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§563. 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 §551.

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:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

**§565. 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 §561.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

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

A. Application for renewal of the exemption must be filed with the department through the department's online Fastlane portal 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 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:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

#### **§569. 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:** Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

#### **§571. 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 Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

#### **§573. 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 Board of Commerce and Industry and the Louisiana Economic Development, LR 51:

#### **§575. 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 not be collected thereon during the period of exemption.

C. Taxes shall be exempted in accordance with the provisions of the contract, which are available to Parish Assessors through the department's online Fastlane portal.

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

HISTORICAL NOTE: Promulgated by the Board of Commerce and Industry and the Louisiana Economic Development. LR 51:

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Susan B. Bourgeois  
Secretary

**Louisiana Economic Development  
Board of Commerce and Industry**

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

Louisiana Economic Development (LED) and the Board of Commerce and Industry, 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 to set forth the criteria the Board of Commerce and Industry will consider for purposes of determining what is in the best interests of the state for consideration of ITEP contracts, and also to implement procedural revisions for more effective program administration.

**Title 13**

**ECONOMIC DEVELOPMENT**

**Part I. Financial Incentive Programs**

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

**Subchapter A. ITEP Rules for Projects with Advances Filed Prior to February 21, 2024**

**§529. Renewal of Tax Exemption Contract; Amendment of Tax Exemption Contract**

A. Application for renewal of the exemption must be filed with LED through its online Fastlane portal not more than six months before, and not later than, the expiration of the initial contract. A renewal fee, and late filing fee if applicable, shall be filed with the renewal application, in accordance with LED's fee schedule, as defined in R.S. 36:104. 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. - D. ...

E. Companies with ITEP contracts existing under 2017 and 2018 Rules may "opt out" of the jobs, payroll and compliance components by amending Exhibit A's to reflect zero jobs and zero payroll regardless of whether the contract is up for renewal. Because the amendment of jobs and payroll will have no impact on the local tax exemption, the amendment will not require approval by the local governmental entities.

F. Application for a contract amendment, including but not limited to an Exhibit A amendment, must be filed with LED through its online Fastlane portal and shall include a filing fee, in accordance with LED's fee schedule, as defined in R.S. 36:104.

**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 44:1423 (August 2018), amended by the Louisiana Economic Development and Board of Commerce and Industry, LR 51:

**§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 taxes shall not be collected for the portion of taxes deemed exempt 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 44:1424 (August 2018), amended by the Louisiana Economic Development and Board of Commerce and Industry, LR 51:

**Subchapter B. ITEP Rules for Projects with Advances Filed on or after February 21, 2024**

**§539. Statement of Purpose**

**A. Purpose**

1. Louisiana values its manufacturers and their contributions to its economy.

2. Article VII, Section 21 (F) of the Louisiana Constitution of 1974 provides that the Board of Commerce and Industry ("board"), with the approval of the governor, may enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment on such terms and conditions as the board, with the approval of the governor, deems is in the best interest of the state.

**B. Best Interest of the State**

1. The provisions set forth in this Subchapter establish the criteria that the governor and the board will consider for purposes of deciding what is in the best interest of the state.

**C. Applicability**

1. The provisions set forth in this Subchapter shall apply to projects with advances filed on or after February 21, 2024.

2. The provisions set forth in this Subchapter shall not apply to projects with advances filed prior to February 21, 2024, or ITEP projects approved by the board prior to February 21, 2024.

**D. Property Exemption rates**

1. As a general rule, approved projects may be eligible for an ad valorem tax exemption rate of 80 percent;

2. In exceptional circumstances, mega projects may be eligible for an increased ad valorem tax exemption rate range beginning at 93 percent up to 100 percent, if so recommended by the local ITEP Committee, or as otherwise approved by the governor.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

## §541. Definitions

### *Addition to a Manufacturing Establishment—*

1. 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. Sustaining capital expenditure, proactive environmental capital upgrades, and replacement parts shall qualify as an addition to a manufacturing establishment only if required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, and described in the project application.

3. a capital expenditure associated with the rehabilitation or restoration of an establishment as provided for in §545 shall be included as an addition to a manufacturing establishment.

4. a capital expenditure associated with the expansion of an existing manufacturing establishment may be considered an addition, if the expansion project is a planned initiative to increase the size, capacity, scope, or reach of an existing establishment, or adds new components or features to accommodate growth.

*Annual Project Property Report*—the required annual filing submitted to LED by the company which may include but not be limited to: a description of the project progress over the last year and a listing of any asset or group of assets being placed in service, within the scope of the approved project, as required by §559.

*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, or BCI.

*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.

*Committee*—Local ITEP Committee

*Contiguous*—Property that is adjoining. Rights of way do not prevent property from being considered contiguous. Two or more parcels of land with a common boundary or separated solely by a roadway or other right of way.

*Department*—Louisiana Department of Economic Development.

*Exemption Period*—the period of the exemption for an asset or group of assets, which shall begin when placed in service, as set forth in company's annual project property report (APPR) annual filings submitted to LED.

*Integral*—equipment, structures or materials needed to make the product in accordance with applicable environmental, health and safety requirements, and associated activities supporting operations at the Site, as approved by LED.

*ITEP Contract*—a contract for exemption between applicant company, BCI, and the governor, setting forth the

project period, the exemption percentage and the general terms and conditions of the contract deemed in the best interest of the state.

*LED*—Louisiana Economic Development, formerly known as the Department or the Louisiana Department of Economic Development.

*LDR*—Louisiana Department of Revenue.

*LWC*—Louisiana Workforce Commission

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

*Maintenance Capital*—expenditures made for routine maintenance, turnarounds, and for the repair of existing equipment.

*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.

*Manufacturing Establishment*—a new plant or establishment or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process.

*Mega-Project*—a manufacturing establishment expansion or addition project, with capital expenditures meeting or exceeding the following benchmarks, in accordance with statewide data posted on LED's website, to be updated annually:

1. 200 percent of the 10 year parish average for capital expenditures by completed ITEP Projects; if none,

2. 200 percent of the 10 year regional average for capital expenditures by completed ITEP Projects;

a. In accordance with the geographic boundaries of the 8 regional economic development organizations; if none,

3. 200 percent of the 10 year statewide average for capital expenditures by completed ITEP Projects.

*Miscellaneous Capital Additions*—capital expenditures that are not part of the project.

*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.

*Place in Service and Placed in Service*—the date when an asset is substantially complete and ready for its intended use, as reflected in a company's fixed asset register, books or records.

*Proactive Environmental Capital Upgrades*—voluntary improvements or modifications to infrastructure or equipment that go beyond legal or regulatory compliance to reduce environmental impact and enhance sustainability, efficiency, and environmental performance.

*Project*—a brief but adequate description of the general scope of work intended by the company at a single site, for



which ITEP benefits are being pursued, and as stated by the company on the project application. This should include what is planned to be constructed, added, the purpose of the project, and the calendar years in which assets or groups of assets will be placed in service within the project period. If a project spans two or more parishes, one project application may be submitted, however, separate annual filings with a breakdown of assets by parish will be required.

*Project Period*—the designated project period during which the applicant company may place in service new assets or spend capital expenditures on assets within the scope of the approved project.

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

*Regional Economic Development Organization*—any of the following eight organizations: the Baton Rouge Area Chamber; the Central Louisiana Economic Development Alliance; Greater New Orleans, Inc.; the Northeast Louisiana Economic Alliance; the North Louisiana Economic Partnership; One Acadiana; the South Louisiana Economic Council; the Southwest Louisiana Economic Development Alliance, or any of their successors. Abbreviated and also known as “REDO”.

*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, as a result of an enforcement action by said agency.

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

*Secretary*—secretary of the Louisiana 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. Assets leading to and from the project boundary, such as pipelines, rail lines, or other forms of transporting goods to and from the site or between sites that reside on easements or right of ways shall not be included as the contiguous area of the entire manufacturing operation.

*Sustaining Capital Expenditure*—investments in new equipment, property, or plant to replace existing outmoded

assets without necessarily increasing the business's output capacity.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§543. Ineligible Property**

A. Notwithstanding any provision to the contrary, the following property is ineligible for the tax exemption:

1. Property
  - a. Miscellaneous capital additions;
  - b. 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, are not eligible for the tax exemption.
  - c. If the establishment or addition is on the taxable rolls and property taxes have been paid at more than 20 percent, the establishment or addition is not eligible for the exemption, unless one or more of the following conditions are met:
    - i. if the applicant paid the taxes under protest, then the property may be eligible for exemption once the protest and appeals process concludes and concludes in favor of the tax payer;
    - ii. if the applicant has a change order approved by the Louisiana Tax Commission and the change order results in a reimbursement of property taxes paid on eligible property, then such property, or the proportional value thereof, may be considered by exemption.
  - d. 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.
2. Land. The land on which a manufacturing establishment is located is not eligible for tax exemption.
3. Inventories of the following items:
  - a. inventories of raw materials used in the course of manufacturing;
  - b. inventories of work-in-progress or finished products;
  - c. any other consumable items.
4. Maintenance and repair costs not eligible for capitalization shall not qualify.
5. Moveable, non-permanent property, such as mobile computers, phones, cameras, vehicles licensed for highway use, or other non-manufacturing equipment that is not permanently located at 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 Louisiana Economic Development, Board of Commerce and Industry, LR 51:

**§545. Illustrative Examples of Eligible Items**

A. The following items may be eligible for the tax exemption:

1. Buildings and Facilities Used in Manufacturing. 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 §543) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that

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

**HISTORICAL NOTE:** Promulgated by Louisiana Economic Development, Board of Commerce and Industry, LR 51:

#### **§545. Illustrative Examples of Eligible Items**

A. The following items may be eligible for the tax exemption:

1. Buildings and Facilities Used in Manufacturing. 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 §543) 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:

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

b. 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:

i. buildings to house a manufacturing establishment;

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

c. 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.

2. **Leased Property.** 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.

3. **Capitalized Materials.** 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:

- a. ammonia in a freezing plant;
- b. solvent in an extraction plant; and
- c. catalyst in a manufacturing process.

i. 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 §563.

4. **Integral Parts of the Manufacturing Operation.** The following may be considered an integral part of the manufacturing operation:

- a. quality control/quality assurance;
- b. packaging;
- c. transportation of goods on the Site during the manufacturing process;
- d. portable equipment that is necessary to the operation of the manufacturing process, and permanently located at the manufacturing establishment.
- e. other on site essential activities as approved by the secretary and the board.

5. **Rehabilitation and Restoration of Property.**

a. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted 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 sections a or b above, 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.

## 6. 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 local ITEP Committee in which the manufacturing establishment will be located if this is a different entity than that which approved the exemption at the original Site.

7. **Used Equipment.** Used equipment is eligible for tax exemption provided no more than 20 percent of 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 Board of Commerce and Industry and Louisiana Economic Development, LR 51:

## §547. Project Application

A. A project application for tax exemption may be filed with LED through its online Fastlane portal, subject to the following conditions:

1. the filing shall be prior to the beginning of construction or installation of facilities on all projects for tax exemption;

2. an application fee shall be submitted with the application, in accordance with LED's fee schedule, as defined in R.S. 36:104.

B. Project applications shall include but not be limited to the following information: a project description, legal description of the project site, NAICS code, project start and end dates.

1. Documents that further define and show the boundaries of a project site, such as surveys or boundary maps, may be submitted to LED.

C. LED reserves the right to request additional information necessary to make an eligibility determination, or if the correct fee is not submitted. Such information or fees shall be provided to LED within 90 days of written request.

D. Project applications with insufficient fees or inadequate information after this time frame may result in a determination of ineligibility of the project, and subsequent cancellation of the application.

a. Project applications with insufficient fees or inadequate information shall not be cancelled unless the deficiency is more than 90 days delinquent with no bi-lateral communications between LED and the company during these 90 days.



E. Project applications shall be made available for review by the local ITEP Committee as soon as practicable after LED has completed its review.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§549. Local ITEP Committee**

##### **A. Establishment**

1. If local governmental entities wish to provide input to the governor or BCI on pending ITEP Project Applications, local officials or employees, collectively comprising an ad hoc local ITEP Committee (the Committee) shall follow the procedures outlined in this Section.

2. If a local ITEP Committee is to be established, it shall be composed of one voting member representative from each of the following local governmental entities; the parish or police jury, as applicable; the school board; the sheriff; and the mayor, if applicable;

a. Representatives shall be elected by each local governmental entity, by a majority vote at a public meeting conducted in accordance with open meetings laws;

b. Each local ITEP Committee shall submit to LED within 45 calendar days of the promulgation of these rules, or prior to consideration of an ITEP Project in any given jurisdiction, whichever is later, the following information: each designated representative's name, provision for a designee if desired, and one centralized point of contact information for receipt of ITEP related communications. Thereafter, updated information may be submitted annually to LED by January 31 of any calendar year.

i. LED shall make the local ITEP Committee contact information available to the public via a posting on its website and upon written request.

c. If a local ITEP Committee does not take action or provide information as required herein, then the ITEP project application shall be deemed accepted by each such entity.

3. Additional, ex-officio non-voting members may include:

a. the assessor;

b. the parish's highest-ranking economic development staff;

c. representatives of the local economic development organization; or

i. if no local economic development organization exists, a representative from the regional economic development organization.

4. One representative of the local economic development organization can serve as coordinator for the Committee, to provide administrative capacity and project management expertise.

##### **B. Consideration of ITEP Applications**

1. Project applications shall be made available for review by the local ITEP Committee as soon as practicable after LED has completed its review.

##### **C. Meetings**

1. Upon receipt of notice, a 45-calendar day notice period begins.

a. in exceptional circumstances a notice of project application may be submitted to the local ITEP Committee

for consideration within the standard 45-day notice time frame.

b. Therefore, in order for a project application to be placed on an upcoming BCI Meeting Agenda, the company must provide evidence to LED of either:

i. written recommendation from the Committee, or

ii. 45 calendar days' notice to the committee.

2. The committee is not required to hold a meeting, however, any such meeting held to consider an ITEP application shall be considered public business and conducted by officials in accordance with open meetings laws.

##### **D. Recommendation**

1. The committee shall submit notice of the issuance of a resolution to LED with its recommendation for issuance of industrial ad valorem tax exemption applications within its jurisdiction, except that Committees composed of four voting members may also indicate a tie vote.

2. When considering mega project applications, any resolution by the committee shall indicate a recommended applicable ad valorem tax exemption amount rate, at either the base rate of 80 percent, or an increased rate range from 93 percent up to 100 percent.

3. If the committee does not take action or provide a resolution as required herein, then the application will be deemed accepted by such entity.

E. Recommendations by the committee are not dispositive and do not bind the governor or 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 Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§551. Consultation with the LDR and LWC**

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

B. If a company has no employees at the time of project application, LED may elect to provide a copy of the project application and all relative information to the Louisiana Workforce Commission (LWC) for review to verify assigned or anticipated NAICS codes and appropriate industry sector classification. LWC may require additional information from the applicant. LWC may submit a letter of objection to LED within 14 calendar days of receipt of project application. If LWC does not take action or provide information as required herein, then the ITEP project application shall be deemed approved.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§553. Presentation to the Board**

A. After its review and determination of eligibility, LED will prepare the project application information in a format suitable for presentation to the board.

B. The board must approve the project application prior to a contract being issued.

C. Applicant or its representatives will be notified of the board meeting date at which their project application will be considered. The applicant should have someone present who is able to answer any questions the board may have regarding the information contained in the project application, otherwise the project application may be deferred or denied.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§555. Board Consideration of Project Application**

A. 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 project application is considered by the board.

1. Applications which provide for a new manufacturing establishment or which provide for an expansion of, or an addition to an existing manufacturing establishment, shall be favored by the board.

2. The board will receive all public comment given at the board meeting, or any written comments filed with LED prior to the board meeting date.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§557. The Contract**

A. Upon board approval of a project application and receipt of the Local ITEP Committee's recommendation, if any, LED shall draft an ITEP contract setting forth the terms and conditions, which may include but not be limited to the following:

1. an initial term of no more than five calendar years;
2. a term of renewal for an additional time period of up to five years;
3. the applicable ad valorem exemption percentage; and
4. contract holder business name; and if applicable, a list of any contract holder affiliates that may seek tax exemption for assets related to the approved project, which shall be included as Schedule I to the contract.

B. The ITEP contract effective date shall be the project start date, as specified in the project application, but no earlier than the project application submission date.

1. The beginning of construction for the ITEP contract project must occur prior to the completion of the initial five-year ITEP contract term.

2. If company is compliant with the terms of its ITEP Contract, including but not limited to its annual APPR filings, then company may request the Board to consider a change of its ITEP contract effective date.

C. During the initial five-year ITEP contract term, the company may place in service an asset or group assets that are eligible for the exemption and that are related to the project.

1. The exemption period of any asset or group of assets shall be established through the company's annual project property report (APPR) submitted to LED.

D. The ITEP contract shall be submitted to the company electronically via LED's electronic document signing system, or other method as may otherwise be approved by all parties.

E. The company must execute its portion of the contract within 90 days of receipt of notification from LED's electronic document signing system. If the ITEP contract is not executed and submitted to LED within 90 days, the company shall submit documentation of continued eligibility prior to reissuance for company signature and further processing. Documentation may include but not be limited information from the applicable taxing authority verifying that either property taxes have not been paid at more than 20 percent, or as otherwise authorized pursuant to §543.

F. Once the ITEP contract has been executed by the company and the board, the ITEP contract, including any Local ITEP Committee recommendation, included as an exhibit to the ITEP contract, shall be submitted to the governor for review and consideration.

G. The governor may approve or deny the ITEP contract, and an ITEP contract shall not be considered effective or binding upon the state until signed by the governor.

H. Any occurrence that operates to change, suspend, or breach the terms of the contract shall render the approval of the governor null and void.

I. The exemption period of certain assets placed in service during the term of the ITEP Contract and associated tax exemption benefits may extend beyond the ITEP contract term.

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

**HISTORICAL NOTE:** Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§559. Annual Project Property Reports**

A. Company or its named affiliates listed on Schedule I shall file an annual project property report (APPR) with LED on or before March 31 of each calendar year (or before October 31 for assets located in Orleans Parish) following Board approval of the project application and shall continue annually during the term of the ITEP contract until the project is complete.

1. Provided company requests an extension to file its APPR in writing on or before March 31 of each calendar year, LED shall grant an extension to file the APPR to April 30.

2. Late APPR filings shall be subject to penalties. The penalty shall be the loss of one year of exemption from the exemption period of the related late APPR filing for each calendar year or portion thereof, that the filing is late.

a. Companies may make a special request of the board for reconsideration of the above late filing penalties. Board shall consider each request and make a determination based on the merits of the request and on the Board's judgement as to what is in the best interest of the State.

B. The APPR shall include but may not be limited to the following:

1. An ITEP contract project status update;
2. A list of assets, if any, directly related to the project that were placed into service during the prior calendar year and eligible for the exemption.

C. The APPR shall establish the Exemption Period for assets eligible for the exemption.

1. For assets physically located in parishes other than Orleans Parish, the exemption period for each asset or group of assets listed on the APPR, and approved by LED, shall begin December 31 of the calendar year in which the asset or group of assets were placed in service or construction was completed.

a. The exemption period shall be for 10 consecutive years and subject to the provisions of the ITEP contract and surviving provisions thereof.

2. For property located in Orleans Parish, the exemption period for each asset or group of assets listed on the APPR, and approved by LED, shall begin July 31 of the calendar year in which the asset or group of assets were placed in service or construction was completed.

a. The exemption period shall be reflected on the APPR.

D. The company may submit an amended APPR.

E. Processing fee(s) shall be submitted with the APPR or amended APPR, in accordance with LED's fee schedule, as defined in R.S. 36:104.

F. LED shall review the APPR filing to ensure the placed in service date for the asset or group of assets and the completion of construction date includes the proper calendar year, and to ensure the asset or group of assets are in accordance with the terms and conditions of the fully-executed ITEP contract.

G. LED may perform a detailed examination of at least 10 percent of all APPR's received, to ensure that only qualifying assets, within the scope of the approved project, are submitted for exemption.

1. Upon notice that their application has been selected for detailed examination, the applicant shall provide all applicable supporting documentation requested by LED.

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

HISTORICAL NOTE: Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

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

A. Application for renewal of the exemption must be filed with LED through its online Fastlane portal within the final year of the initial contract term but prior to expiration of the initial contract. A renewal fee shall be filed with the renewal application, in accordance with LED's fee schedule, as defined in R.S. 36:104. 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, including but not limited to filing of all required annual project property reports, 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 applicable ad valorem exemption percentage.

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. ITEP contracts shall be renewed unless the particular circumstances indicate bad faith on the part of the company.

C. 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: Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§563. 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, LED 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: Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

#### **§565. Reporting Requirements for Changes in Operations or Contract Amendment**

A. LED shall be notified in writing on or before December 31 of any proposed amendments to company's ITEP contract.

1. ITEP Contract amendments that do not require Board approval include:

a. A physical change of the manufacturing location occurring in the same Parish.

i. A physical change of the manufacturing location to a different Parish than originally indicated on the project application shall require a new project application that shall include an exemption term no longer than the remaining term of the current ITEP contract.

b. A change in the manufacturing site boundaries, but within the bounds of the project site indicated on the project application.

c. Project start date amendments, provided the amendment request is received in writing by LED prior to the listed start date.

2. ITEP contract amendments that require Board approval include:

a. any changes in the ownership or operational name of a legal entity holding an ITEP contract.

b. any change to affiliates listed on Schedule I, only as required for the sale or transfer of property between contract holder and named affiliates, in accordance with §567.

3. Changes in operations that require board approval include:

- a. a cessation in whole or in part of the manufacturing operations at the ITEP contract site.
- b. the board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation.

B. The board shall consider all such ITEP contract amendments strictly on the merits of the request.

C. Failure by company to report any of the changes listed above constitutes a breach of the ITEP contract and could result in a restriction or the termination of the ITEP contract or a reduction of an exemption term for an APPR.

D. A filing fee shall be submitted with a request for any contract amendment, in accordance with LED's fee schedule, as defined in R.S. 36:104.

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

HISTORICAL NOTE: Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

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

A. In the event a named contract holder should sell or otherwise dispose of all property covered by a contract of exemption, to an unrelated third party, 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 transfer fee shall be filed with a request to transfer the contract, in accordance with LED's fee schedule, as defined in R.S. 36:104. 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.

B. In the event a named contract holder should sell or otherwise dispose of some but not all property covered by a contract of exemption, to a named affiliate listed on Schedule I to the ITEP contract, no board approval or transfer fee shall be required.

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

HISTORICAL NOTE: Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

### **§569. Reporting to the Assessor**

A. The applicant shall file annually with the appropriate taxing authority 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 the applicable percentage of the taxes shall not be collected thereon during the period of exemption.

C. Taxes shall be exempted in accordance with the provisions of the contract, which are available to Parish Assessors through LED's online Fastlane portal.

D. All property for which an ITEP contract has been approved by the Board, but awaiting a final determination by

the governor. Shall be reported by the company to the appropriate taxing authority as "pending exemption".

1. Any property identified as "pending exemption" that fails to receive final approval from the governor by August 31 shall be subject to taxation for that year.

2. Applicant company may follow the proper guidelines as outlined by the Louisiana Tax Commission to have taxes paid under protest and prevail or have a change order approved and the paid taxes refunded to have such property reconsidered and eligible for exemption.

E. Any new asset shall be subject to property tax unless the item is included on the applicable annual project property report and attached to a fully executed ITEP contract as of August 31 following the January 1 in which the items are first subject to tax assessment.

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

HISTORICAL NOTE: Promulgated by the Board of Commerce and Industry and Louisiana Economic Development, LR 51:

### **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 Rules to Robin Porter through the close of business on January 29, 2025 at Louisiana Economic Development, 617 North 3<sup>rd</sup> Street, 11<sup>th</sup> Floor, Baton Rouge, LA 70802 or via email to Robin.Porter@la.gov.

### **Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on January 30, 2025 at the La Salle Building, 617 North Third Street, La Belle Room, Baton Rouge, LA 7080

Susan B. Bourgeois  
Secretary

## **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. Louisiana Economic Development (LED) intends to administer the program with existing resources and personnel and anticipates the same for local governmental units. LED may incur additional administrative costs associated with implementing the proposed rule changes. Local governmental units may realize marginal expenditure increases to the extent the proposed rule changes allow for the creation of a Local ITEP Committee and possible 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 reduce revenue collections by an indeterminable magnitude for local governmental units, due primarily to reduced restrictions on ITEP eligibility and on the size of the exemption that may be granted. Proposed rules increase the maximum exemption percentage for Mega Projects from 93% to 100%, and additionally provide that the Governor or the Board of Commerce and Industry (BCI) may overrule local denials of ITEP project applications. LED will likely realize a marginal decrease in self-generated revenues, estimated at up to \$250,000 per year, to the extent that associated filing fees are reduced, consolidated, or eliminated.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)**

Firms participating in ITEP, with advance notification filed on or after February 21, 2024 or ITEP projects approved after February 21, 2024, to be governed by the proposed rules, shall no longer be subject to job creation or payroll thresholds requirements. Participating firms will likely enjoy administrative efficiencies and cost savings associated with diminished record keeping requirements.

**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.

Anne G. Villa  
Deputy Secretary  
2412#030

Ben Vincent  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Energy and Natural Resources  
Office of Conservation  
Injection and Mining Division**

**Class VI Injection Wells  
(LAC 43:XVII.Chapter 36)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the power delegated under the laws of the state of Louisiana, notice is hereby given that the Department of Energy and Natural Resources, Office of Conservation, Injection and Mining Division proposes to amend Statewide Order No. 29-N-6 (LAC 43:XVII. Subpart 6. Chapter 36) to facilitate the permitting, siting, construction, operation, monitoring, and site closure of Class VI injection wells, which are used to injection carbon dioxide for the purposes of geologic sequestration.

The Department of Energy and Natural Resources, Office of Conservation, Injection and Mining Division proposes to

amend provisions governing the oversight of the Class VI carbon sequestration program within the Underground Injection Control (UIC) Program located within the Office of Conservation. Class VI wells are a federally-designated well class for wells that inject carbon dioxide gas underground for long-term containment or sequestration, ultimately limiting net emissions for this greenhouse gas. The UIC Program received primary enforcement authority (primacy) from the United States Environmental Protection Agency on February 5, 2024, modifying the UIC Program oversight to include Class VI wells in addition to current oversight authority for Class I, II, III, IV, and V wells.

**Title 43**

**NATURAL RESOURCES**

**Part XVII. Injection and Mining**

**Subpart 6. Statewide Order No. 29-N-6**

**Chapter 36. Class VI Injection Wells**

**§3601. Definitions**

A. ...

\* \* \*

*Administratively Complete Application*—the complete electronic submission of the Form UIC-60 CCS, or successor form, geologic narrative/site characterization, planned well operations, area or review, corrective action plan, testing and monitoring plan, injection well plugging plan, post-injection site care and site closure plan, emergency and remedial response plan, injection well construction plan, pre-operational testing, and financial responsibility demonstration.

\* \* \*

*Carbon Dioxide Stream*—the carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

\* \* \*

*Technically Complete Application*—an application that has been fully reviewed, meets all requirements under this Chapter, and can proceed to the draft permit process.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq., 30:22 et seq., and 30:1101 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Energy and Natural Resources, Office of Conservation, LR 47:53 (January 2021), amended by the Department of Energy and Natural Resources, Office of Conservation, Injection and Mining Division, LR 51:

**§3603. General Provisions**

A. - E.1.a. ...

**F. Identification of Underground Sources of Drinking Water and Exempted Aquifers**

1. The commissioner may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an underground source of drinking water. Aquifer exemptions shall not be issued for Class VI injection wells. Even if an aquifer has not been specifically identified by the commissioner, it is an underground source of drinking water if it meets the definition.

G - H.4. ...