WEST VIRGINIA CODE: §11-6F-2

§11-6F-2. Definitions.

As used in this article, the term:

"Certified capital addition property" means all real property and personal property included within or to be included within a qualified capital addition to a manufacturing facility that has been certified by the State Tax Commissioner in accordance with §11-6F-4 of this code: *Provided*, That airplanes and motor vehicles licensed by the Division of Motor Vehicles are not certified capital addition property.

"Manufacturing" means any business activity classified as having a sector identifier, consisting of the first two digits of the six-digit North American Industry Classification System code number of 31, 32, or 33. For purposes of this article, manufacturing also includes the processing of raw natural gas or oil to recover or extract liquid hydrocarbons, which activity is classified under North American Industry Classification System code number 211130. This definition does not mean or include any other processes or activities classified, categorized, grouped, or identified under North American Industry Classification System code number 211130.

"Manufacturing facility" means any factory, mill, chemical plant, refinery, warehouse, building or complex of buildings, including land on which it is located, and all machinery, equipment, improvements, and other real property and personal property located at or within the facility used in connection with the operation of the facility in a manufacturing business.

"Personal property" means all property specified in §2-2-10(q) of this code and includes, but is not limited to, furniture, fixtures, machinery, and equipment, pollution control equipment, computers, and related data processing equipment, spare parts, and supplies.

"Qualified capital addition to a manufacturing facility" means either:

(1) All real property and personal property, the combined original cost of which exceeds $50 million to be constructed, located, or installed at or within two miles of a manufacturing facility owned or operated by the person making the capital addition that has a total original cost before the capital addition of at least $100 million. If the capital addition is made in a steel, chemical, or polymer alliance zone as designated from time-to-time by executive order of the Governor, then the person making the capital addition may, for purposes of satisfying the requirements of this subsection, join in a multiparty project with a person owning or operating a manufacturing facility that has a total original cost before the capital addition of at least $100 million if the capital addition creates additional production capacity of existing or related products or feedstock or derivative products respecting the manufacturing facility, consists of a facility used to store, handle, process, or produce raw materials for the

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manufacturing facility, consists of a facility used to store, handle, or process natural gas to produce fuel for the generation of steam or electricity for the manufacturing facility or consists of a facility that generates steam or electricity for the manufacturing facility, including, but not limited to, a facility that converts coal to a gas or liquid for the manufacturing facility's use in heating, manufacturing or generation of electricity. When the new capital addition is a facility that is or will be processing raw natural gas or oil to recover or extract liquid hydrocarbons, or is a manufacturing facility that uses product produced at a facility engaged in processing of raw natural gas or oil to recover or extract liquid hydrocarbons, then wherever the term "100 million" is used in this subsection, the term "20 million" shall be substituted and where the term "50 million" is used, the term "10 million" shall be substituted; and where the term "50 million" is used, the term "10 million" shall be substituted; and that beginning on and after July 1, 2021, when the new capital addition is a facility that is or may be classified under the North American Industry Classification System with a six-digit North American Industry Classification System code for a product produced at a facility with code numbers 332992 or 332994, as defined on January 1, 2021, then wherever the term "100 million" is used in this subsection, the term "2 million" shall be substituted and where the term "50 million" is used, the term "1 million" shall be substituted; or

(2)(A) All real property and personal property, the combined original cost of which exceeds $2 billion to be constructed, located, or installed at a facility, or a combination of facilities by a single entity or combination of entities engaged in a unitary business, that:

(i) Is or will be engaged in processing of raw natural gas or oil to recover or extract liquid hydrocarbons; or

(ii) Is a manufacturing facility that uses one or more products produced at a facility described in subparagraph (i) above; or

(iii) Is a manufacturing facility that uses one or more products produced at a facility described in subparagraph (ii) of this subdivision.

(B) All real property and personal property, the combined original cost of which exceeds $2 million to be constructed, located, or installed at a facility, or a combination of facilities by a single entity or combination of entities engaged in a unitary business, that is or may be classified under North American Industry Classification System with a six-digit code number 332992 or 332994 as defined on January 1, 2021.

(C) No preexisting investment made, or in place before the capital addition is required for property specified in this subdivision. The requirements set forth in subdivision (1) of this subsection do not apply to property specified in this subdivision relating to:

(i) Location or installation of investment at or within two miles of a manufacturing facility owned or operated by the person making the capital addition;

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(ii) Total original cost of preexisting investment before the capital addition of at least $100 million or $20 million; or

(iii) Multiparty projects.

“Real property” means all property specified in §2-2-10(p) of this code and includes, but is not limited to, lands, buildings, and improvements on the land such as sewers, fences, roads, paving, and leasehold improvements: *Provided*, That for capital additions certified on or after July 1, 2011, the value of the land before any improvements shall be subtracted from the value of the capital addition and the unimproved land value shall not be given salvage value treatment.

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