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Emergency Rules

DECLARATION OF EMERGENCY

State Board of Elementary and Secondary Education

(Editor's Note: The following emergency rules were adopted on November 20, 1975, by the State Board of Elementary and Secondary Education as an immediate response to the need for guidelines for the distribution and administration of adult Indo-Chinese refugee education funds.)

Additions to Section 5.2 of the Louisiana 1975-1976 Annual Program Plan for Adult Education

5.2 Adult Indo-Chinese Refugee Education Program

All adult Indo-Chinese refugee education funds allocated to the State of Louisiana shall be used to supplement ongoing adult education programs conducted under the provisions of the Adult Education Act and provide for the initiation, development, and/or expansion of Adult Basic Education, Adult Secondary Education, and bilingual education programs for adult Indo-Chinese refugees, sixteen years of age and older who are not currently required to be enrolled in school, offering them the opportunity to receive academic instruction with emphasis on speaking, reading, writing, computational skills, services necessary to promote literacy for the purpose of enabling them to become responsible and productive members of American society, meet requirements to receive a high school equivalency diploma, and promote the integration of Indo-Chinese refugees into American society with proper respect for the preservation of their own culture and language.

5.21 State Administration

A maximum of 7.5 percent of the total allotment to the State may be utilized for state administrative purposes by the Bureau of Adult and Community Education of the Louisiana State Department of Education and the State Board of Elementary and Secondary Education to pay additional costs incurred in the administration of the Indo-Chinese Refugees Adult Education Program.

5.22 Base Allocation to Local School Systems

A minimum of eighty percent of the total allotment for adult Indo-Chinese refugee education programs to the State shall be allocated to local public school systems through a base allocation of funds computed on the number of adult Indo-Chinese refugees, age eighteen and over, settling in a local school system, as it bears percentagewise to the total number of Indo-Chinese refugees initially resettling within the State from the relocation centers. (Allocations shall be based on figures submitted to the U.S. Commissioner of Education by the Interagency Task Force on Indo-China).

The available State funds multiplied by this percentage will give the amount available to be initially allocated to the local school board.

Example:

1. In Louisiana there was an initial estimate of 1,301 adult Indo-Chinese refugees age eighteen years and over.
2. Suppose 130 is the total number of adult Indo-Chinese refugees settling within a local parish or city school system.
3. The parish or city percent then is 1,301 divided by 130 or ten percent.
4. Suppose \$80,000 is the available State funds to be allocated to all local systems in the State.
5. The local school system's allocation then would be: \$80,000 x ten percent of \$8,000.00

It must not be assumed by any parish or city school authority that the initial allocation to a school system can automatically be increased or that expenditures made in excess of their initial allocation will be reimbursed to that system.

5.23 Supplemental Allocations to Local School Systems

All adult education Indo-Chinese refugee education funds relinquished to the state office by a local school system which does not plan to utilize its total allocation prior to the end of the

fiscal year may be reallocated to other local school systems based on the submission of a "Supplementary Plan and Request for Allocation of Funds" (Form DE 520, Exhibit I of the Louisiana 1975-76 Annual Program Plan for Adult Education under the Adult Education Act of 1966) with a letter justifying the need for additional funds from the local superintendent.

Supplementary requests for funds shall be approved by the State Board of Elementary and Secondary Education based upon recommendation of the Bureau of Adult and Community Education, Louisiana State Department of Education.

5.24 Teacher Training

A maximum of 12.5% of the total state allotment may be utilized for teacher training programs specifically designed for teachers of adult Indo-Chinese refugee education programs provided sufficient funds are available after state administration, base allocations, and supplemental allocations have been approved.

Funds may be approved and utilized for teacher training purposes in accordance with the provisions of Section 309 of the Adult Education Act and as outlined in Section 5.15 of the Louisiana 1975-76 Annual Program Plan for Adult Education.

5.25 Use of Funds by Local School Systems

5.251 Eligibility to Participate

In order for a local school system to participate in the adult Indo-Chinese refugee program it must comply with the following:

- (1) meet all requirements to participate in the Adult Education Program as stipulated in Section 1.342 of the Louisiana 1975-76 Annual Program Plan for Adult Education.
- (2) certify by letter from the local superintendent to the Bureau of Adult and Community Education that all funds will be expended solely for adult education programs and services for adult Indo-Chinese refugees.

- (3) submit to the Bureau of Adult and Community Education and local assessment of the number of adult Indo-Chinese refugees eighteen years of age and older who have resettled in the parish or city school system.

- (4) certify by letter from the local Superintendent to the Bureau that priority will be given to continuation of existing programs by those local agencies and/or organizations currently providing adult Indo-Chinese refugee education services based on local education agency evaluation of those existing programs. The local superintendent is required to contact all local agencies, private and public, which might be involved in programs for Indo-Chinese refugees.

- (5) submit to the Bureau of Adult and Community Education for approval by the State Board of Elementary and Secondary Education an intent to participate in the program by completing a "Plan and Request for an Allocation of Funds" (Form DE-520) justifying projected expenditures for the fiscal year.

5.252 Rate of Reimbursement

The rate of reimbursement to the local school system by the State Department of Education to support the adult Indo-Chinese refugee education program must be equal to the exact expenditures of the operational cost of the program each month, with the total amount of approved allocations.

Reimbursement of expenditures to the local school systems will be made monthly by the State Department based upon receipt and approval of a separate Form DE-506—"Monthly Report and Request for Reimbursement" justifying adult Indo-Chinese refugee education program expenditures from the local superintendent. Form DE-506 is included as Exhibit H of the Louisiana 1975-76 Annual Program Plan for Adult Education.

5.2521 Local Operational Expenditures

Local school systems may use funds allocated to them for instructional costs incurred in the operation of the adult

Indo-Chinese refugee education classes only.

Section 166.67, Sub-part G, Adult Indo-Chinese Refugee Education Program.

Instructional costs in the local adult Indo-Chinese refugee education program shall consist of the following:

Earl Ingram
Director

- (1) teachers' salaries
- (2) paraprofessionals' salaries used in an instructional capacity
- (3) employer's contribution to retirement and/or social security for instructional personnel
- (4) teacher travel (when required)
- (5) in-service education
- (6) instructional supplies, books, and materials

All local operational expenditures for the above eligible instructional costs of the adult Indo-Chinese refugee education program shall be made in accordance with the procedures set forth in Section 6.0 of the Louisiana 1975-76 Annual Program Plan for Adult Education.

5.253 Records and Reports

Each local school system participating in the adult Indo-Chinese refugee education program must prepare and submit separate forms for this program to the State Department of Education for accounting expenditures and compile all program statistics each fiscal year as stipulated in Section 6.8 of the Louisiana 1975-76 Annual Program Plan for Adult Education in order to assure non-commingling of funds.

In addition, the local agency will make two copies of the identification card issued to each Indo-Chinese refugee participant keeping one of its official Adult and Community Education. The copies of these identification cards can be used to justify the total number of refugees served in the adult education program.

The Bureau of Adult and Community Education of the Louisiana State Department of Education shall be responsible for compiling all local reports into a separate composite state report to the U.S. Commissioner of Education as a part of the financial and narrative reporting requirements under the Adult Education Act and include all information requested under

DECLARATION OF EMERGENCY

**Louisiana Health and Human Resources Administration
Division of Health
Office of Milk and Dairy Products**

The Louisiana Health and Human Resources Administration, Division of Health, is revising the State Sanitary Code to provide for administrative hearings to an applicant upon the denial of permits under Section 5.B.4 of the State Sanitary Code and for the payment of expenses incurred in connection with permits issued under that section of the State Sanitary Code. The following is an amended version of Section 5.B.4 of the State Sanitary Code which is adopted on an emergency basis effective January 19, 1976, pursuant to R.S. 49:953B:

5.B.4 Imported Milk and Milk Products. (1) It shall be unlawful for any person, firm, or corporation to ship milk or milk products (except Extra and Standard grades of dry milk and dry milk products) into Louisiana from without the State without first obtaining a permit from the State Health Officer. (2) All milk and milk products (except Extra and Standard grades of dry milk and dry milk products) brought into Louisiana from without the State shall be of Grade A quality. The production sources may be inspected by a duly authorized representative of the State Health Officer, or in lieu thereof, the State Health Officer may accept the certificate of inspection of a duly authorized governmental representative, agent or agency of such other state wherein such products are produced. Any denial of a permit as required in (1) above shall be made only after an administrative hearing has been held and if that hearing is requested by the applicant within fifteen days of said denial. Said hearing shall afford the applicant an opportunity to prove that its milk and milk products, raw and pasteurized, meet the requirements of the Louisiana State Sanitary Code. The Health Officer or his duly authorized representative may require a reasonable deposit in advance and full reimbursement to the State of Louisiana, Division of Health, for total costs incurred including salary, travel, per diem, expenses, or fees incurred for inspection of the milk and milk sources located outside of the State of Louisiana, whether said inspection is ordered made by Louisiana officials or by

governmental representatives of another state. (3) All dry milk and dry milk products brought into Louisiana from without the state shall meet minimum requirements for at least one of the following grade designations and shall be labeled accordingly: (a) Grade A, as defined in Section 5.K.15 of this code; (b) Extra, as defined in Section 5.K.16 of this code; (c) Standard, as defined in Section 5.K.17 of the code. Production sources and processing plants may be inspected by a duly authorized representative of the State Health Officer, or in lieu thereof, the State Health Officer may accept the certificate of inspection of a duly authorized governmental representative, agent or agency of such other state wherein such products are produced.

Copies of the emergency rule are available for public examination at the Office of the Louisiana Health and Human Resources Administration, Division of Health, Milk and Dairy Products, Room 408 Louisiana State Office Building, 325 Loyola Avenue, New Orleans, Louisiana 70112.

William H. Stewart, M.D.
Commissioner

DECLARATION OF EMERGENCY

Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission at its regular monthly meeting held at its office in New Orleans on November 18, 1975, considered and approved, as an emergency item, rules and administrative procedures for Act 811 of 1975, otherwise known as the Certificate of Exemption from Louisiana Sales and Use Taxes, approved by the Governor on August 4, 1975.

In view of the fact that many of our shrimp fishermen are in serious economic circumstances and require funds to allow them to shrimp this current season, the Commission is doing all that is possible to expedite full participation in securing the exemption certificates as provided for in the Act.

The text of the emergency rule follows:

Definitions

Act: When used in these regulations and procedures, the term "Act" refers to Act 811 of the Regular Legislative Session of 1975, creating the sales tax exemption in favor of Louisiana commercial fishermen.

Commission: The Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana,

which has been delegated the authority to issue regulations to enforce the provisions of the Act.

Louisiana Commercial Fisherman: Any Louisiana resident domiciled in the State who possesses a current commercial fishing license and is an owner-operator of a vessel principally and predominantly used for commercial fishing ventures and whose catch shall be for human consumption.

Owner-Operator: The owner of a vessel or one that is being purchased under a lease purchase arrangement who physically operates or hires an employee to operate the vessel. The rental or leasing without purchase option of a vessel shall not be construed to be included within this classification and is excluded from the provisions of this Act.

Principally and Predominantly: Any percentage of use that exceeds fifty percent.

Human Consumption: That portion of the catch that is consumed by humans directly and is the principal reason for the catch.

Application for Exemption: The official form as revised from time to time issued by Louisiana Wildlife and Fisheries Commission to any person who wishes to apply for and obtain exemption certificates provided for by the Act.

Certificate of Exemption: The official form issued by Louisiana Wildlife and Fisheries Commission without charge to a Louisiana commercial fisherman for the sales tax exemption provided by the Act for each vessel owned by the said fisherman, used by him predominantly for commercial fishing ventures.

Taxes: Louisiana Sale and Use taxes only which:

(1) apply to materials and supplies necessary for repairs to a vessel if they are purchased by a Louisiana commercial fisherman and later become a component part of the vessel;

(2) apply to materials and supplies purchased by a Louisiana commercial fisherman where such materials and supplies are loaded upon a vessel for use or consumption in the maintenance and operation thereof for commercial fishing ventures whether the said vessel is engaged in interstate, foreign, or intrastate commerce;

(3) apply to repair services performed for a vessel owned by a Louisiana commercial fisherman whether the said vessel is engaged in intrastate, interstate, or foreign commerce;

(4) apply to the purchase of diesel fuel and lubricant for a vessel owned by the Louisiana commercial fisherman.

Rules and Procedures

1. All applications for certificates of exemption may be obtained at the office of the Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana, or at any of its district offices throughout the State.

2. An application so obtained shall be completed, with the applicant furnishing all the information requested, shall be signed and filed with the Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana.

3. Exemption from the sales and use taxes provided by the Act as defined in these rules and procedures is available for each vessel owned by a Louisiana commercial fisherman and used in commercial fishing.

4. A separate application for each vessel is required to be filed with the Commission, and a separate certificate for exemption shall be issued for each exempted vessel.

5. Upon the receipt of the application, the Louisiana Wildlife and Fisheries Commission shall determine whether or not the applicant is eligible for a tax exemption and upon favorable determination shall issue a certificate of exemption to each qualified Louisiana commercial fisherman for each exempted vessel.

6. The Louisiana Wildlife and Fisheries Commission shall issue blank certificates prepared for the qualified Louisiana commercial fisherman to be completed by him and presented to each vendor by him as his authorization for the tax exemption.

7. Each vendor shall be notified by notation on the exemption certificates that the exemption certificates so presented to him by the qualified Louisiana commercial fisherman must be maintained at the office of the vendor in support for the exempted sales claimed by him on his Louisiana sales tax returns. No taxfree purchases may be made without the certificate of exemption.

8. The blank exemption forms shall be available at the Louisiana Wildlife and Fisheries Commission, 400 Royal Street, New Orleans, Louisiana, and at its district offices and will be furnished with the exemption certificates and upon request.

9. The Louisiana Wildlife and Fisheries Commission may require reasonable substantiation of the application for exemption and may refuse to issue a certificate of exemption to applicants who are determined to be unqualified. The applicants shall be so notified in writing and advised of his right to appeal to the Civil District Court for the Parish of Orleans in accordance with the provisions of the Act.

10. The Louisiana Wildlife and Fisheries Commission will maintain on file at its office at 400 Royal Street, New Orleans, Louisiana all applications for exemption filed and all certificates of exemption issued to commercial fishermen with all supporting documentation.

11. The certificates of exemption will expire concurrent with the expiration date of the holder's commercial fishing license, unless sooner revoked by law, and must be surrendered to the Louisiana Wildlife and Fisheries Commission if the holder is no longer qualified and entitled to the exemption. At the end of the exemption period, should the certificate still be valid, the holder thereof shall surrender same to the Commission for cancellation and must again apply to the Commission for the certificate of exemption in accordance with the rules and procedures herein provided.

12. There shall also be exempt from Louisiana sale and use taxes the purchase of any vessel which the Commission determines will be used principally and predominantly for commercial fishing ventures. The Louisiana commercial fisherman has the burden to demonstrate the vessel's qualification for the exemption.

13. The Commission's determination can be made either before or after the purchase. In the event the Commission makes the determination that the purchase is exempt but the taxes have been paid, the Department of Revenue of the State of Louisiana shall rebate the taxes paid by the Louisiana commercial fisherman upon his presenting to the proper authority within the Department of Revenue a certificate of exemption issued by the Commission.

14. The exclusions provided by the Act and in these rules and administrative procedures apply to sale and use taxes imposed by the State of Louisiana, and do not apply to such taxes authorized and levied by any school board, municipality, or other local taxing authority.

J. Burton Angelle, Sr.
Director

Rules

RULES

State Board of Architectural Examiners

(Editor's Note: The following rules were adopted by the State Board of Architectural Examiners on December 18, 1975, to be effective on January 20, 1976.)

Amendment to Part VII of the Rules and Regulations

- A) The Louisiana State Board of Architectural Examiners directs the administrative agency of the Board to mail a letter to each Louisiana resident architect on or about the first Friday in March of each year, stating that the Board will accept nominees for the Architectural Selection Board, as provided in Act 721 of 1975, on the following basis: Any resident architect holding a current valid Louisiana license who on or before the first Friday in April of the year in which the election is held furnishes a petition by certified mail to be received by 4:15 p.m. on that day, and verified by the administrative agency of the Board. The petition shall contain:
- 1) the signatures of ten qualified (Louisiana licensed) architects endorsing his nomination,
 - 2) name, signature, and license number of the endorsee,
 - 3) biographical statement of 150 words or less.
- B) The Louisiana State Board of Architectural Examiners shall have election ballots printed for each registered resident Louisiana architect (as of May 1 of the year in which the election is held), and the ballots shall contain the embossed seal of the State Board of Architectural Examiners. Three envelopes shall be printed; one envelope will be used to mail the ballot package and one of the two remaining envelopes will be used as the return envelope which shall contain the ballot which has been sealed within the third envelope. A place shall be printed on the return envelope for the signature and license number of the qualified voter.
- C) The ballot, containing the names of nominees, shall be mailed to resident architects the second Friday in May of the year in which the election is held, and shall include the following:
- “Since four candidates are to be chosen, vote for four nominees. If more or less than four candidates are voted for, the ballot will be voided.”
- D) Rules governing election:
- The four nominees elected will be based on plurality. No write-in candidates will be counted.
- The two candidates receiving the largest number of votes will serve a one year term beginning July 1 of the year in which the election is held; the two receiving the lesser number of votes will serve a one year term beginning January 1 of the year following the election.
- If two or more candidates are elected from the same firm, the ones with the least number of votes will be eliminated. A runoff election will be held if two or more candidates from the same firm receive the same number of votes.
- E) The official ballot shall be returned to the Louisiana State Board of Architectural Examiners, P. O. Box 44095, Capitol Station, Baton Rouge, Louisiana 70804, and shall be received by 4:15 p.m. the last Friday in May of the year in which the election is held.
- F) The Tabulation Committee shall consist of at least three members of the Architectural Licensing Board, and a representative of the administrative agency for the Board. All votes shall be tabulated on the first Friday in June in the year in which the election is held.

Alvin J. Unick, Director
Department of Occupational Standards

RULES

Department of Civil Service

(Editor's Note: The following rules were adopted by the Civil Service Commission on January 7, 1976, to be effective February 10, 1976.)

Chapter 1:

Amend and reenact Rule 1.5.1 to read as follows:

1.5.1 'Bona Fide Student' means a person enrolled in an accredited high school, college, or university in the State, or a person enrolled in a State-operated vocational-technical school, in a sufficient number of courses and classes in such institution to be classified as a full-time regular student under the criteria used by the institution in which he is enrolled; or a person enrolled in an off-campus college work-study program in a proprietary institution of higher education as defined in Section 461(b) of the Higher Education Act of 1965, as amended. A bona fide student shall not lose his status as such because of vacations during the academic year or because of his failure to attend summer school.

Chapter 1:

Enact Rule 1.25.1 to read as follows:

1.25.1 'Preference Employee' means an employee who is an ex-member of the armed forces and his or her dependents as defined in Rule 7.11.

Chapter 1:

Amend and reenact Rule 1.32 to read as follows:

1.32 'Reallocation' means a change in the allocation of a position from one class to another class wherein the duties of the position have undergone a change.

Chapter 1:

Enact Rule 1.40.1 to read as follows:

1.40.1 'Title Change' means a change in the title of the class to which a position is allocated without change in the position's duty and responsibility content.

Chapter 2:

Amend and reenact Rule 2.9(c) to read as follows:

2.9(c) To conduct investigations whenever it has reason to believe the provisions of the Civil Service Article or Rules are being violated or have been violated by any person or department; and to hold public hearings when charges

of such violations have been filed with it. The Commission may issue appropriate orders in any such case, in addition to those orders provided for in Subsections (k) and (1) of this Rule.

Chapter 2:

Enact Rule 2.9(k) to read as follows:

2.9(k) To issue orders withholding compensation from any person who, after investigation by public hearing, has been found by the Commission to be employed or paid by the State contrary to the provisions of the Constitution or the Rules adopted thereunder. Such orders may be directed to the officer having the authority to approve the payroll or assign the paycheck for such employee; and the officer to whom it is directed and any other person to whom such order is directed shall make no payment of compensation or authorize the making of any such payment to such person until authorized by the Commission upon penalty of personal liability for the sum so paid contrary to the order of the Commission and such other penalties as are otherwise provided by the Constitution and/or the Rules.

Chapter 2:

Enact Rule 2.9(1) to read as follows:

2.9(1) To enforce its rules, regulations, and orders in the courts of this State by mandamus or injunction suits.

Chapter 3:

Enact Rule 3.1(p) and (q) to read as follows:

3.1(p) To develop and propose to the Commission uniform classification and pay plans and amendments thereto.

3.1(q) To develop and propose to the Commission, rules and amendments thereto governing employment conditions for employees in the Classified Service.

Chapter 5:

Enact Rule 5.7 to read as follows:

5.7 Status of Incumbents when Position is Affected by Title Change.

When a position is affected by a title change, the incumbent shall be entitled to serve therein without change in status.

Chapter 6:

Amend and reenact Rule 6.4(c) to read as follows:

6.4(c) Subject to the provisions of Subsection (a) of this Rule, the pay of an employee reentering the Classified Service, other than one being restored to duty following military service, may be fixed at a rate within the range for the new position which does not exceed the highest salary he previously earned while serving with permanent status in a classified position under other than detail to special duty, provided:

Chapter 6:

Enact Rule 6.15(d)(8) to read as follows:

6.15(d)(8) A title change.

Chapter 6:

Amend and reenact Rule 6.25(b)(1) to read as follows:

6.25(b)(1) While he is occupying a position for which the current minimum of the pay range is \$896 per month or more, unless this limitation has been removed through the application of the provisions of Rule 11.29(j).

Chapter 6:

Enact Rule 6.29(a) and (b) to read as follows:

6.29 Rate of Pay on Title Change.

- (a) When a position is changed from one class to another class, both classes of which have the same minimum rate of pay, the employee's pay shall not be changed by reason of the title change.
- (b) When a position is changed to another class having a different minimum rate of pay, the employee's pay shall be fixed according to the provisions of Rule 6.12.

Chapter 7:

Amend and reenact Rule 7.4(d) and (e) as follows:

7.4(d) An applicant who is admitted to and takes

an examination shall not be admitted to another examination for the same class of position until a period of at least four weeks has elapsed from the date he took the examination, provided, that no such applicant shall be admitted to an examination for the same class of position more than three times in any twelve-month period. The applicant's official grade shall be the one obtained on his most recent examination.

(e) Repealed, effective February 10, 1976.

Chapter 7:

Amend and reenact Rule 7.14 to read as follows:

7.14 Rating Candidate in Lower Classes than the One Applied For.

Whenever a candidate has successfully passed an examination for which he has applied which includes questions on subject matter applicable to a lower class for which he has not applied, the Director may, with the consent of the candidate and his representation that he is available for appointment in the lower class, place his name on the eligible list for the lower class with the same final rating earned by him on the examination which he successfully passed.

Chapter 8:

Amend and reenact Rule 8.8(b) to read as follows:

8.8(b) If a certified eligible indicates unavailability for appointment, or if he fails to reply to an availability inquiry within seven calendar days after mailing of notification, the appointing authority may consider his name as having been removed from the certificate.

Chapter 8:

Amend and reenact Rule 8.18(c) to read as follows:

8.18(c) Repealed, effective February 10, 1976.

Chapter 8:

Enact Rule 8.26 to read as follows:

8.26 Status of Unclassified Employees Upon Constitutional Reorganization of State Government.