

# DECLARATION OF EMERGENCY

## Department of Health Office of Public Health

### Sanitary Code—Food Service Establishment Violations (LAC 51:I.113, XXIII.101, and 4311)

The Louisiana Department of Health, Office of Public Health (LDH/OPH), pursuant to R.S. 40:4, R.S. 40:5, and the emergency rulemaking authority granted by R.S. 40:4(A)(13), and in cognizance of SR159 (2022 Regular Session), hereby adopts the following Emergency Rule for the protection of public health. This Emergency Rule is promulgated specifically in accordance with R.S. 49:962 of the Administrative Procedure Act (R.S. 49:950, et seq.).

The LDH/OPH finds it necessary to promulgate an Emergency Rule effective July 21, 2023. This Emergency Rule is necessary to prevent imminent peril to the public health, safety, or welfare. This Emergency Rule will ensure that a violation by a food service establishment of R.S. 40:5.5.4, which deprives Louisiana consumers of their right to know whether the establishment serves crawfish or shrimp imported from a foreign country, which may pose a health risk, is classified in the Sanitary Code as both a “Critical Item” and a “Class A” violation.

Accordingly, the following Emergency Rule, effective July 21, 2023, shall remain in effect for a maximum of 180 days, or until the final Rule is promulgated, whichever occurs first.

#### Title 51

### PUBLIC HEALTH—SANITARY CODE

#### Part I. General Provisions

#### Chapter 1. General

### §113. Suspension/Revocation/Civil Fines or Penalties [formerly paragraph 1:007-21]

A. - A.2. ...

3. impose a civil fine:

a. these civil fines shall not exceed \$10,000 per violator per calendar year applicable to each specific establishment, facility, or property that the violator owns, manages, operates or leases. The schedule of civil fines by class of violations shall be as follows:

i. Class A. Violations that create a condition or occurrence, which may result in death or serious harm to the public. These violations include, but are not limited to the following: cooking, holding or storing potentially hazardous food at improper temperatures; failure to follow schedule process in low acid canned foods or acidified food production; poor personal hygienic practices; failure to sanitize or sterilize equipment, utensils or returnable, multi-use containers; no water; unapproved water source; cross contamination of water; inadequate disinfection of water before bottling; sewage back up; sewage discharge on to the ground; sewage contamination of drinking water; failure to comply with human drug current good manufacturing practices (CGMP); inadequate labeling of foods or drugs regarding life threatening ingredients or information; failure to provide consumer advisories; failure to comply with any applicable requirement of R.S. 40:5.5.4; non-compliant UV lamps or termination control switch on tanning equipment; the inadequate handling and disposal of potentially infectious biomedical wastes; or failure to obtain food safety

certification in accordance with §305 of Part XXIII. Class A civil fines shall be \$100 per day per violation;

3.a.ii. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 40:4, and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), repromulgated LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), LR 41:148 (January 2015), LR 49:

### Part XXIII. Retail Food Establishments

#### Chapter 1. Definitions

### §101. Definitions

#### [formerly paragraph 23:001]

A. Terms not defined or referenced herein shall have the meanings as defined in LAC 51:I. In any instance where a term defined herein is also defined in one or more Parts of LAC 51, the definition contained in this Part shall govern this Part.

\* \* \*

*Critical Item*—a provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup or improper sewage disposal, severe insect or rodent infestation, failure to comply with any applicable requirement of R.S. 40:5.5.4, and chemical contamination.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. R.S. 40:4, and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1405 (June 2002), amended LR 28:2531 (December 2002), LR 49:

#### Chapter 43. Inspections and Enforcement

### §4311. Enforcement, Critical Violations

#### [formerly paragraph 22:43-2]

A. Critical items, (as defined in this Part) noted at the time of inspection shall be corrected immediately or by a time set by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. R.S. 40:4, and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002), LR 49:

#### Public Comment

Michael Vidrine, Sanitarian Services, is responsible for responding to inquiries regarding this Emergency Rule.

Stephen Russo, JD  
Secretary  
and  
Joseph Kanter, MD, MPH  
State Health Officer

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