

A REGULATION TO ELIMINATE USE OF ARTIFICIAL TRANS FAT IN CAMBRIDGE FOOD SERVICE ESTABLISHMENTS

Statement of Purpose

Trans fat (also known as trans fatty acids) is a partially hydrogenated fat formed when liquid vegetable oils are hydrogenated. Hydrogenation is used to increase the shelf life and flavor stability of foods. Although trans fat can occur naturally in trace amounts in foods, artificial trans fat is found more prominently in many processed foods.

Unlike other dietary fat, artificial trans fat is neither required nor beneficial for health. Consuming artificial trans fat increases the risk of coronary heart disease—the principal type of heart disease—because it increases the level of LDL cholesterol (“bad” cholesterol) and decreases the level of HDL cholesterol (“good” cholesterol).¹

Heart disease is the second-leading cause of death in Cambridge and the state. During 2000-2005, a total of 474 Cambridge men and women died from coronary heart disease.² In 2005 alone, there were 1,295 hospitalizations among Cambridge residents due to coronary heart disease or related causes.³

The Institute of Medicine concluded that there is no safe level of artificial trans fat consumption because any incremental increase in trans fatty acid intake increases risk of coronary heart disease.⁴ The 2005 Dietary Guidelines Advisory Committee recommended that trans fat consumption (naturally occurring trans fat or artificial trans fat) by all people of all ages should be less than 1% of energy intake, which is less than 2 grams per day.⁵

American food service establishments widely use products containing artificial trans fat. These products include cooking oils and spreads, shortenings, pre-fried foods (e.g., French fries, fried chicken, taco shells, donuts), baked goods (e.g., buns, pizza dough, crackers, cakes, pastries), and mixes (e.g., pancake, hot chocolate, salad dressing).⁶ In Cambridge, about 29% of food service establishments currently use products containing artificial trans fat, while another 23% are unsure of their status, according to a 2007 survey conducted by the Cambridge Public Health Department.⁷

Since 2006, the Food and Drug Administration has mandated that food manufacturers disclose artificial trans fat content on product labels.⁸ No such law governs meals served at food service establishments. Consumers who dine out do not have access to information about the artificial trans fat content of the foods served, unless the information is included on menus or the establishment doesn't serve foods containing artificial trans fat.

¹ Ascherio A. et al. Trans fatty acids and coronary heart disease. *New England Journal of Medicine*. 1999; 340: 1994-1998.

² Registry of Vital Records and Statistics, Bureau of Health Statistics, Research, and Evaluation, MDPH, 2001-2005.

³ Massachusetts Hospital Discharge Database, MDPH, 2001-2005.

⁴ Panel on Macronutrients, Institute of Medicine. Letter report on dietary reference intakes for energy, carbohydrate, fiber, fat, fatty acids, cholesterol, protein and amino acids. 2002. Washington, DC, Institute of Medicine.

⁵ Backgrounder 2005 Dietary Guidelines Advisory Committee Report. Updated June 29, 2007.

<http://www.health.gov/dietaryguidelines/dga2005/backgrounder.htm>

⁶ “Does Your Kitchen Need an Oil Change? What Every Restaurant and Food Service Establishment Needs to Know About Trans Fat.” The New York City Department of Health and Mental Hygiene.

⁷ Cambridge Public Health Department. Unpublished data. 2007.

⁸ “HHS To Require Food Labels To Include Trans Fat Contents: Improved Labels Will Help Consumers Choose Heart-Healthy Foods.” U.S. Health and Human Services. Press release dated: July 9, 2003. Available at: www.hhs.gov/news/press/2003pres/20030709.html.

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It is important to emphasize that food service establishments themselves may not be aware of the artificial trans fat content of their cooking ingredients or prepared foods. While oils tend to be clearly labeled, other products may not be. For instance, many flours, baking mixes, and solid shortenings used in Cambridge restaurants do not have nutrition labels. In addition, outside vendors who sell “ready to serve” items such as baked goods and desserts to Cambridge food service establishments are not currently required to provide information on artificial trans fat content.⁹

A ban on artificial trans fat in the city’s food service establishments would be an important and achievable step in improving the health of Cambridge residents. The presence of artificial trans fat in foods served in restaurants and other venues poses an unnecessary, unsafe, and preventable health risk to customers. Ensuring safe and healthy dining in public establishments is a crucial part of public health and a way for Cambridge to protect the health of its citizens.

Elimination of artificial trans fat from food service establishments through a ban is a measure that should not be undertaken lightly or in haste. The Cambridge Public Health Department decided in favor of a ban on the strength of the scientific evidence linking artificial trans fat to coronary heart disease, the inability of consumers to know the artificial trans fat content of meals prepared away from home, and the desire to protect patrons of all Cambridge food service establishments.

⁹ “Analysis of Trans Fat Usage in Central Square: A Survey of Central Square Restaurant Association Members.” Central Square Business Association. 2007.

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WHEREAS, heart disease is a leading cause of death in the United States;

WHEREAS, research concludes that there is no safe level of artificial trans fat consumption and there is a clear association between an increase in the intake of trans fat and the risk of heart disease;

WHEREAS, the major source of artificial trans fat is found in partially hydrogenated vegetable oil, which is used for frying and baking and is present in many processed foods;

WHEREAS, there are food service establishments in the City of Cambridge that serve foods containing artificial trans fat for consumption by Cambridge residents, workers, students, and visitors;

WHEREAS, the presence of artificial trans fat served in Cambridge food service establishments poses an unnecessary, unsafe, and preventable health risk to customers;

NOW THEREFORE, the Commissioner of Public Health for the City of Cambridge (“Commissioner”) enacts the following regulation to protect the health of Cambridge residents, workers, students, and visitors.

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Section 1.00 Purpose

The purpose of this regulation is to protect the health of residents, workers, students, and visitors by eliminating the use of artificial trans fat in Cambridge food service establishments.

Section 2.00 Authority

This regulation is adopted under authority of M.G.L. c. 111, §31, Chapter 147 of the Acts of 1996 (also codified as M.G.L. c. 111 App. §3-8), Chapter 201 of the Acts of 1976 and pursuant to any other authority conferred by state or local laws on the Commissioner.

Section 3.00 Definitions

Artificial trans fat is a specific type of fat formed when liquid vegetable oils are hydrogenated, resulting in a partially hydrogenated fat.

Foods or beverages containing artificial trans fat means any food or beverage that is labeled as, lists as an ingredient, or has any kind of partially hydrogenated vegetable oil. However, a food or beverage whose nutrition facts label or other suitable documentation lists the total trans fat content of the food or beverage as less than 0.5 grams per serving shall not be deemed to contain artificial trans fat.

Food service establishment means any entity required to be licensed and subject to inspection by City of Cambridge sanitary inspectors that is open to the public and that stores, prepares,

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packages, serves, sells or otherwise provides food or beverage for consumption in the City of Cambridge. Food service establishment includes, but shall not be limited to, restaurants; delis; ice cream shops; coffee shops; bakeries; mobile food vendors; permanent or temporary concession stands; hotels; supermarkets, grocery stores, convenience stores, and other retail stores; cafeterias in schools, universities, and businesses; catering operations; senior center meal programs; nursing homes; daycare centers; soup kitchens; public or private schools (K-12) in the City of Cambridge, and hospitals.

Entity means any single individual, group of individuals, corporations, partnership, hospital, academic institution, society, association, firm, sole proprietorship or any other legal entity whether public or private.

Mobile Food Vendor means any person or operation that sells food or beverage from a mobile food unit. A mobile food vendor shall include, but is not limited to, sidewalk vendors, canteen trucks, and food trailers.

Vending machine means any machine or device designated for or used for the vending of food products or beverages upon the insertion of coins, currency, swipe cards, or any other form of payment.

Section 4.00 Restriction on Foods Containing Artificial Trans Fat

- (A) No food service establishment required to be licensed or subject to inspection by City of Cambridge sanitary inspectors shall store, prepare (including foods prepared off premises or outside the City of Cambridge), sell, distribute, hold for service, or serve any food or beverage containing artificial trans fat.
- (B) No food or beverage served by public or private schools (K-12) in the City of Cambridge, including foods or beverages sold in vending machines, shall contain artificial trans fat.
- (C) This regulation shall not apply to:
The sale or service of any food or beverage containing artificial trans fat that is in a manufacturer's original sealed package and that is required by federal and/or state law to have nutrition labeling. This exception does not apply to foods or beverages served by public or private schools (K-12) in the City of Cambridge.

Section 5.00 Labels Required

All Cambridge food service establishments, as well as operators of vending machines in public or private schools (K-12) in the City of Cambridge, shall maintain on-site original labels or other suitable documentation listing the ingredient and nutrient content of all food products such that the Commissioner, or his or her designees, can determine whether the food service establishment is in compliance with this regulation.

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Section 6.00 Guidelines

The Commissioner, or his or her designees, shall issue guidelines for the implementation of this regulation, including but not limited to definitions of terms as used in this regulation and in the guidelines. In the event of a conflict between this regulation and the guidelines, as either may be amended, this regulation shall control.

Section 7.00 Violations

1. Criminal Penalty.

A violator of this regulation may be subject to the following criminal penalties:

- a. In the case of a first violation, a fine of up to \$100.00;
- b. In the case of a second violation within 24 months of the first violation, a fine of up to \$500.00; and
- c. In the case of three or more violations within a 24 month period, a fine of up to \$1,000.00.

Each day's violation shall constitute a separate offense.

2. Civil Penalty.

A violator of this regulation may also be subject to a civil fine of up to \$300.00 pursuant to the City of Cambridge's Noncriminal Disposition of Violations Ordinance found at Section 1.24.030 of the Cambridge City Code. Each day's violation shall constitute a separate offense.

3. No provision, clause, or sentence of this section of this regulation shall be interpreted as prohibiting the Commissioner, or his or her designees, or other City of Cambridge departments or agencies from suspending or revoking any license or permit issued by and within the jurisdiction of such departments or agencies for repeated violations of this regulation.

Section 8.00 Enforcement

1. Authority to enforce this regulation shall be held by the Commissioner, or his or her designees, and the Commissioner of Inspectional Services for the City of Cambridge.
2. Any violation of this regulation may be enforced by the Commissioner, or his or her designees, in the manner provided in M.G.L. c.111 §187.

Section 9.00 Severability

If any provision, clause, sentence, paragraph or word of this regulation or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provisions or application and to this end the provisions of this regulation are declared severable.

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Section 10.00 Effective Date

This regulation shall take effect on July 1, 2009 with respect to cooking oils, shortenings, and margarines containing artificial trans fat that are used for frying or in spreads and on October 1, 2009 with respect to oils or shortenings used for deep-frying of yeast dough or cake batter, and all other foods containing trans fat.

This regulation was promulgated by the Commissioner of Public Health for the City of Cambridge on July 24, 2008.