

GUIDELINES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THE BOSTON PUBLIC HEALTH COMMISSION'S ARTIFICIAL TRANS FAT REGULATION

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Section 1- Purpose of the Regulation and Guidelines

The Boston Public Health Commission has determined that the consumption of artificial trans fat is a clear risk to the health and well-being of Boston residents, students and visitors. 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, which is the leading cause of death in the United States. These guidelines are issued to support the intent of the Board of the Boston Public Health Commission to protect the health and well-being of individuals by restricting food and beverage served by food service establishments in the City of Boston that contain artificial trans fat.

Section 2- Authority

These guidelines are issued by the Executive Director of the Boston Public Health Commission pursuant to Section 4.00 of the Boston Public Health Commission's Regulation to Restrict Foods Containing Artificial Trans Fat in the City of Boston ("Regulation").

Section 3- Definition of Terms Used in the Regulation and Guidelines

"Artificial trans fat": trans fatty acids created in an industrial process that adds hydrogen to liquid vegetable oils to make them more solid. For the purpose of the Regulation, a food or beverage contains artificial trans fat if it is labeled as, lists as an ingredient, contains or is prepared with partially hydrogenated vegetable oil, shortening or margarine.* *The Regulation only affects margarine that is made from artificial trans fat.

"Beverage": a drink as featured on the menu of a food service establishment. Examples of beverage include coffee, milkshake, frappe, fruit smoothie, etc.

"Food": an entrée or meal featured on the menu of a food service establishment and not the individual ingredients which comprise that entrée or meal. Examples of food would be a sandwich, burger, French fries, pizza, pasta, etc.

“Food products”: individual components or ingredients that go into making a food or beverage that appears on a menu. Examples of food products include oils, margarine, shortening, yeast, milk, cheese, eggs, flour, packaged mixes, etc.

“Food service establishment”: any entity that stores, prepares, packages, serves or otherwise provides food or beverage for consumption in the City of Boston and is required to hold a permit from the City of Boston Inspectional Services Department (ISD). These include but are not limited to:

- a) restaurants
- b) supermarkets
- c) grocery stores
- d) delis
- e) cafes
- f) cafeterias and eateries
- g) caterers
- h) public and non public school cafeterias
- i) senior center meal programs and other meal programs
- j) mobile food vendors
- k) retail bakeries
- l) street fair food booths
- m) convenience stores
- n) institutional feeding establishments such as hospitals, childcare centers, nursing homes, soup kitchens
- o) food banks and food pantries

Food service establishment shall not include any entity that is permitted or licensed exclusively by the State of Massachusetts. Food service establishment also does not include a fraternal, charitable, social, service club or similar organization that prepares, displays and sells home-made baked goods for a neighborhood bake sale.

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

“Ingredients list”: that part of a label that lists the individual ingredients or components of the packaged food in descending order of prominence and weight. Examples of ingredients include flour, sugar, oil, corn, eggs, etc.

“Naturally occurring trans fat”: trans fat which is contained in dairy products and ruminant animals such as cows, goats and sheep. Examples include milk, cheese, cream, butter, beef, etc.

“Nutrition Facts label”: The nutrition facts label (also known as the **nutrition information panel**, and various other slight variations) is a label required on most pre-packaged foods in North America under the 1990 Nutrition Labeling and Education Act (NLEA). The label begins with a standard serving measurement, calories are listed second, and then following is a break down of other elements such as total fat, sodium, carbohydrates and protein. Usually the following 15 nutrients are shown: calories, calories from fat, fat, saturated fat, *trans fat*, cholesterol, sodium, carbohydrates, dietary fiber, sugars, protein, vitamin A, vitamin C, calcium, and iron.

Section 4- Scope of the Regulation

A. Prohibition:

No food or beverage containing artificial trans fat shall be stored, distributed, prepared, held for service or served by a food service establishment in the City of Boston.

B. Exceptions:

1. The Regulation does not apply to food served in a manufacturer’s original, sealed package, such as crackers or a bag of potato chips, so long as it is kept in the manufacturer’s original, sealed package.
2. The Regulation does not apply to food or beverage whose nutrition facts label or other suitable documentation lists the trans fat content of the item as less than 0.5 grams per serving.
3. The Regulation does not apply to food or beverage which contains only naturally occurring trans fat such as meat and dairy products. However, if artificial trans fat is added to food that has naturally occurring trans fat, then the total amount of the added artificial trans fat must be less than 0.5 grams per serving.

Section 5- Implementation Timeline for the Regulation

- A. Beginning September 13, 2008, food service establishments shall not:
Use or store partially hydrogenated vegetable oils, shortening or margarine for frying, pan-frying, sautéing, grilling or as a spread unless they have product labels or other acceptable documentation from the manufacturer that show that these ingredients contain less than 0.5 grams of artificial trans fat per serving.
- B. Beginning March 12, 2009, food service establishments shall not:
Use, store or serve any food product in the preparation of a menu item, if it contains partially hydrogenated vegetable oil, shortening or margarine and has 0.5 grams or

more of trans fat per serving. This applies to all products covered as of September 13, 2008 and additionally all baked goods, mixes and pre-prepared or partially prepared items that are removed from their packaging for further preparation and/or individual portion service, and any additional products.

Section 6- How to Comply with the Regulation

A. In order to determine whether a particular food product is allowed under the Regulation, the following three-step process, which will be used by inspectors, is recommended:

Step 1: Look at the package label or ingredients list to see if “partially hydrogenated,” “shortening,” or “margarine” are listed.

If none of these terms appear, you may use the product.

If any of these terms are listed, go to Step 2 to see if the product contains too much trans fat.



For example, this product contains “partially hydrogenated soybean oil,” so you would go to Step 2.

Step 2: Check the Nutrition Facts panel for trans fat content.

If the panel says the product has 0 grams of trans fat per serving or less than 0.5 grams of trans fat per serving, you may use the product.

Nutrition Facts	
Serving Size 1 Tbsp (14g)	
Servings Per Container 1134	
Amount Per Serving	
Calories 130	Calories from Fat 130
% Daily Value*	
Total Fat 14g	22%
Saturated Fat 1g	5%
Trans Fat 0g	
Polyunsaturated Fat 2.5g	
Monounsaturated Fat 9.5g	
Cholesterol 0mg	0%
Sodium 0mg	0%
Total Carbohydrate 0g	0%
Protein 0g	
<small>Not a diet</small>	

For example, this product has 0 grams trans fat per serving, you may use it.

If there is no Nutrition Facts panel on the product, go to Step 3.

Step 3: If there is no Nutrition Facts panel, ask your supplier to provide a letter from the manufacturer listing the product’s ingredients. If the ingredients list contains the terms “partially-hydrogenated,” “shortening,” or “margarine,” the letter must also include information on the amount of artificial trans fat in each serving. The letter from the manufacturer must include the information required under Section 7C. If the product does not contain any of these terms, then the trans fat content does not need to be obtained.

As in Step 2, if the product has 0 grams of trans fat, or less than 0.5 grams of trans fat per serving, you may use it.

Section 7 –Labels or Documentation of Food Products

A. Original Labels

Food service establishments must keep on site the original nutrition label for all food products:

- (1) that are or contain fats, oils, margarine or shortening; and
- (2) that are, when purchased by the food service establishment, required by applicable federal and stated law to have nutrition labels, and

(3) that are currently being stored, distributed, held for service, used in the preparation of any food or beverage, or served by the food service establishment.

B. Documentation Required When Food Products Are Not Labeled

If food products covered by this Regulation are or contain fats, oils margarine or shortening and are not required to have nutrition labeling when purchased, food service establishments must obtain and keep documentation from the manufacturers of the food products indicating whether and in what amount the food product contains trans fat, or any kind of partially hydrogenated vegetable oil, shortening or margarine. If the food product's ingredients do not list the word "trans fat" or "partially hydrogenated vegetable oil," "shortening" or "margarine," then the trans fat content of the food product does not need to be obtained.

C. Information Required on the Documentation of Food Products

If documentation is provided instead of labels, it must contain the following information on the manufacturer's letterhead:

- (1) The name and address of the manufacturer;
- (2) The product name, serving size and ingredients;
- (3) A declaration indicating the trans fat content of that product, if any, in grams, if the product contains artificial trans fat. A product contains artificial trans fat if the ingredients list includes one or more of the following terms: "partially hydrogenated vegetable oil," "shortening" or "margarine." If the product does not contain any of these terms, then the trans fat content does not need to be obtained. Documentation need only be obtained one time per food product unless the food product is replaced with another food product or is purchased from a different manufacturer, in which case, new documentation must be obtained and kept on file.

D. Independent Nutrition Testing Acceptable

Food service establishments may also obtain the required nutrient analysis of food products required by the Regulation from an independent nutrition testing laboratory, however, they must use analytic methods and express nutrient content in a manner consistent with the Federal Uniform Food, Drug and Cosmetic Act together with its implementing regulations.

E. Timeline for Obtaining and Keeping Labels or Documentation

Beginning September 13, 2008, in accordance with the implementation timeline of the first phase of the Regulation, food service establishments will need to save the

label or have other suitable documentation for any oils, shortenings, or margarines used for frying, pan-frying sautéing, or grilling, or as a spread, until the product is completely used. Labels or other suitable documentation may be kept on the product container, photocopied, or kept separately.

Beginning March 12, 2009, in accordance with the implementation timeline of the last phase of the Regulation, food service establishments will need to save the label or have other suitable documentation for all food products containing fats, oils margarine or shortening regardless of how the product is used. For instance, if you are frying frozen French fries, you should save the label for both the frying oil and the French fries until both have been completely used. Again, labels or other suitable documentation may be kept on the product container, photocopied, or kept separately.

Section 8- Enforcement of the Regulation

Authority to enforce the Regulation shall be held by the Boston Public Health Commission, the City of Boston Inspectional Services Department (“ISD”) and other related agencies.

Enforcement of the Regulation will initially begin with ISD conducting routine inspections of food service establishments.

1. The inspection will include a review of the menu of the food service establishment as with all sanitary inspections.
2. After reviewing the menu, ISD inspectors will identify and note menu items that may contain artificial trans fat.
3. ISD inspectors will proceed to the pantry area and/or kitchen to look for oils, shortening or margarine and other food products and ingredients suspected of containing trans fat.
4. As of September 13, 2008, the first phase of the Regulation, ISD inspectors will look for all supplies of oils, shortenings and margarines that are being used for frying, grilling or as a spread.
5. As of March 12, 2009, the last phase of the Regulation, ISD inspectors will look for all food items that may contain trans fat including oils, shortening and margarine and also baked goods, pre-prepared goods, mixes, and partially fried items.
6. At all times, food service establishments must maintain on site the required labeling and documentation of their food products in accordance with the Regulation and these guidelines.

Section 9- Violations of the Regulation

- A. Once an ISD inspector identifies that an establishment is using restricted artificial trans fat or does not have required labels or other suitable documentation for its food products, it will note such potential violations on its inspection form and provide a copy of the inspection form to the food service establishment.
- B. ISD will not issue a citation or fine as a result of its inspection but will notify the Boston Public Health Commission that potential violations of the Regulation were found. Upon notification of potential violations by ISD, an unscheduled inspection of the establishment will be conducted by an inspector of the Boston Public Health Commission. If the Boston Public Health Commission finds violations of the Regulation, it may issue a citation and fine in accordance with the following:
1. In the case of a first violation of the Regulation, a food service establishment may receive a fine of one hundred dollars (\$100.00).
 2. In the case of a second violation of the Regulation within 24 months of the first violation, a food service establishment may receive a fine of five hundred dollars (\$500.00).
 3. In the case of three or more violation within 24 months of the second or current violation, a food service establishment may receive a fine of one thousand dollars (\$1000.00).
 4. Notice of a citation may be provided in the following manner:
 - a. In hand service to the owner, employer business agent, manager or other person having control of the food service establishment;
 - b. First class mail to the owner, business agent, manager or other person having control of the workplace; or,
 - c. In hand service or service by first class mail to any other person violating the provision of the Regulation.
 5. Fines may be paid by mail or in person at the Boston Public Health Commission, Chronic Disease Prevention and Control Division, 1010 Massachusetts Avenue, 6th floor, Boston, MA 02118.
 - a. Checks or money orders should be made payable to the “Boston Public Health Commission.” Please do not send cash.
 - b. If a check is returned for insufficient funds, there will be an additional \$25.00 fee associated with the fine. All subsequent fines levied against the food service establishment will need to be paid by money order.

- c. Failure to pay a fine within 21 days will result in an additional \$50.00 late payment penalty. This penalty should be added to the all fines paid after 21 days.
- d. All citations and fines issued under the Regulation may be appealed in accordance with the Boston Public Health Commission's Administrative Appeal Procedure. A copy of these procedures is available on the Commission's website at www.bphc.org or at the Boston Public Health Commission's Chronic Disease Prevention and Control Division, 1010 Massachusetts Avenue, 6th floor, Boston, MA 02118 or contact them my phone at (617) 534-5557.
- e. The Boston Public Health Commission or ISD may suspend or revoke any permit or license issued by and within its jurisdiction for repeated violations of the Regulation.

Section 10- Help and Technical Assistance

For more information and materials about the Regulation and artificial trans fat or technical assistance with products and recipes that do not contain trans fat, please contact the Boston Public Health Commission's Chronic Disease Prevention and Control Division at (617) 534-5557 or by email at bostonsteps@bphc.org. You may also visit the Commission's website page dedicated to trans fat at www.bphc.org/transfat.