

Regulation Regarding Mercury in Fish Advisory Town of Swampscott May 24, 2004

Section 1: Statement of Intent

The Town of Swampscott Board of Health ("The Board of Health") agrees with the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and the Massachusetts Department of Public Health that the consumption of fish which is high in the concentration of methylmercury is harmful to the developing nervous system in the unborn fetus and in small children. The Board of Health, however, believes that the recent FDA/EPA advisory released in March, 2004, does not go far enough to protect this at-risk population, and that it is our responsibility, based on our research, expert testimony taken at two previous public hearings, and our understanding of the data, to better inform the residents of our town of the dangers of mercury in tuna steaks and canned white albacore tuna.

The Board of Health recognizes that there is a general lack of knowledge and understanding in the community regarding the potential harm that mercury consumption can cause in susceptible individuals, due to the lack of legislation on a state or national level which would require the posting of such information where high mercury-containing fish is sold.

Furthermore, the Board of Health believes that it is our citizens' right to be able to make an informed decision regarding the purchase and consumption of high mercury-containing fish.

Section 2: Philosophy/Principles

The Board of Health agrees to have this regulation, which will assist in educating women of child-bearing age, pregnant women, nursing mothers, parents of young children, and school officials regarding the harmful effects of mercury on their children and their future children, so that an informed decision can be made when purchasing high mercury-containing fish for consumption.

The Board of Health will require advisories to be posted in all food establishments in Swampscott which sell any of the high mercury-containing fish. Detailed consumer information, provided by the Board of Health, will be required to be available upon request in all establishments that sell any fish.

The commercially-sold fish identified as containing high levels of mercury which based on consumption data, could result in a blood level of mercury toxic to the nervous system of a fetus or a young child are swordfish, shark, king mackerel, tilefish, tuna steaks and canned white-albacore tuna.

Section 3: Statement of Action

1. An advisory must be posted in all food establishments in Swampscott which sell high mercury-containing fish, which states:

Consumer advisory regarding mercury in fish*

Pregnant and nursing women, women who may become pregnant, and children under the age of 12 SHOULD NOT EAT the following fish: swordfish, shark, king mackerel, tilefish, tuna steaks, and canned white albacore tuna. Canned light tuna consumption should be limited*. These fish contain levels of mercury which can be toxic to a developing nervous system.

***More detailed information can be obtained from this establishment upon request.**

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In supermarkets and convenient stores, this advisory must be in plain view wherever the high-mercury containing fish is displayed. For fish in a display case or freezer, the advisory must be on top of the case, or attached to the glass.

In sandwich shops, this advisory must be in plain view at the counter where patrons order their sandwiches, either on top of the counter, attached to the front of the counter, or as part of the menu on the wall.

The size of the posted advisory must be a minimum of 8 _ by 11 inches, and must have a font size no less than 20. An example of such a notice is included as Appendix A. Any advisory smaller than 8 _ by 11 inches in these locations, or any change in the wording, must have the written permission of the Board of Health.

In restaurants, the fish advisory must be clearly printed on the menu, or be placed as a placard on the individual tables. The printed side of the placard must be at least 3 x 8 inches in size, with font size no smaller than 12 (as written in the example above). Font size on a printed menu may be no smaller than 9.2. In addition, all establishments that sell any fish must make available to patrons upon request, a more detailed consumer advisory on the health risks of mercury in fish, which will be provided by the Board of Health. See Appendix B.

This regulation will go into effect on September 1, 2004.

Failure to comply with any part of this regulation will result in a warning for the first offense, a \$50 fine for the second offense, and \$100 fine and the

risk of loss of the establishment's operating permit for the third offense.

Signed, on the 24th day of May, 2004

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