

May 23, 2024

New York City Department of Health and Mental Hygiene  
Gotham Center, 42-09 28<sup>th</sup> Street, CN31  
Long Island City, New York 11101-4132

### **Comment on Proposed Amendments to Title 24 of the Rules of the City of New York**

We are academic researchers who study the effects of food labels on consumer knowledge and behavior. For more than two decades, we have led research examining how to design food labeling policies to best inform consumers about a food's nutritional content and health risks. We appreciate the City of New York's continued commitment to educating consumers about the health effects of restaurant food. In response to Local Law 150 of 2023, the Department is proposing a rule requiring food service establishments with 15 or more locations nationally to display added sugar warning labels informing consumers about food items high in added sugars. **We support the proposed rule and suggest amendments to increase visibility of the warning statement and improve consumer understanding of the warning icon.**

#### **1. The DOHMH should require that the warning statement be posted on the menu or menu board and at self-service dispensing points.**

Local Law 150 requires that the warning statement be posted in three locations:

- (1) "prominently and conspicuously at the point of purchase,"
- (2) "on the menu or menu board," and
- (3) "at any location where a food item requiring an icon pursuant to this subdivision is sold as a self-service item dispensed directly to the consumer."<sup>1</sup>

The proposed rule only covers location #1: the point of purchase.<sup>2</sup> DOHMH should amend the proposed rule to cover all three locations required by Local Law 150. For a message to inform consumers, consumers must see and attend to the message.<sup>3</sup> That is more likely when the message is displayed prominently.<sup>4</sup> Furthermore, the point of purchase is not always the point of decision-making. For example, in a quick-service restaurant, a customer may purchase a fountain drink at the register and later select from an array of drinks at the fountain beverage dispenser (a self-service dispensing point). Fountain beverages often exceed the Daily Value for added sugars,<sup>5</sup> making the fountain drink dispenser a particularly important location at which to educate consumers.

---

<sup>1</sup> N.Y.C. Local Law 150 (2023).

<sup>2</sup> New York City Department of Health and Mental Hygiene. Notice of Public Hearing and Opportunity to Comment on Proposed Amendments to Title 24 of the Rules of the City of New York.

<sup>3</sup> Roberto CA, Ng SW, Ganderats-Fuentes M, Hammond D, Barquera S, Jauregui A, Taillie LS. The influence of front-of-package nutrition labeling on consumer behavior and product reformulation. *Annual Reviews of Nutrition*. 2021 Oct 11;41:529-50.

<sup>4</sup> Hammond D, Fong GT, Borland R, Cummings KM, McNeill M, Driezen P. Communicating risk to smokers: the impact of health warnings on cigarette packages. *American Journal of Preventive Medicine*. 2007;32(3):202-209.

<sup>5</sup> Center for Science in the Public Interest. Sweet Excess: Largest Restaurant Chains Consistently Serve Up Drinks with More than a Day's Worth of Added Sugars. 2022. [https://www.cspinet.org/sites/default/files/2022-03/Soda\\_Sizes\\_Fact\\_Sheet\\_FINAL.pdf](https://www.cspinet.org/sites/default/files/2022-03/Soda_Sizes_Fact_Sheet_FINAL.pdf).

**2. The DOHMH should modify the warning icon to better help consumers identify items high in added sugars.**

The proposed icon should be modified in several ways to increase the likelihood that consumers see, understand, and use the added sugar warning message (**Figure 1**).

Specifically:

- (1) The warning icon should be accompanied by “SUGAR WARNING” text. Although icons can transcend language and communicate information efficiently, they can also be misinterpreted if they are unfamiliar or do not closely resemble the words they represent.<sup>6,7</sup> Research shows that text can enhance consumer understanding of unfamiliar or abstract icons. For example, an online randomized controlled trial found that sodium warning icons accompanied by text were more noticeable on restaurant menus than icons alone.<sup>8</sup> In that study, consumers viewing icons with text more accurately estimated sodium in their meals and selected items with less sodium from menus than consumers who saw only icons. The City of Philadelphia mandates sodium icons with “SODIUM WARNING” text.<sup>9,10</sup> The DOHMH could amend its sodium warning rule for consistency with this rule on added sugars and to increase effectiveness of the sodium warning label.
- (2) The warning icon should incorporate colors and symbols that consumers easily recognize as a warning. Product labels, and nutrition labels specifically, are likely to be more influential when they leverage automatic associations (e.g., red means stop, an exclamation point means caution).<sup>11</sup> That is why many countries have mandated octagonal, stop-sign-shaped warning labels on foods high in calories, sodium, added sugars, and saturated fat.
- (3) The warning icon and any accompanying text should be at least 1.5 times the height of the menu item text. Increasing the size of the warning label relative to other text on the menu makes the information easier to find and use. That is the reason why FDA requires Calories to be displayed in large and bold font on the Nutrition Facts label.<sup>11</sup> A large body of evidence from tobacco research shows that larger health warning labels are more noticeable and more effectively improve knowledge of health risks than smaller labels.<sup>12</sup>

---

<sup>6</sup> McDougall SJP, Curry B., de Bruijin O. Measuring symbol and icon characteristics: Norms for concreteness, complexity, meaningfulness, familiarity, and semantic distance for 239 symbols. *Behavior Research Methods Instruments & Computers*. 1999;31: 487–519.

<sup>7</sup> McDougall SJP, de Bruijin O, Curry MB. Exploring the effects of icon characteristics on user performance: the role of icon concreteness, complexity, and distinctiveness. *Journal of Experimental Psychology Applied*. 2000;6: 291–306.

<sup>8</sup> Musicus AA, Moran AJ, Lawman HG, Roberto CA. Online Randomized Controlled Trials of Restaurant Sodium Warning Labels. *American Journal of Preventive Medicine*. 2019;57(6),e181–e193.

<sup>9</sup> Food Fit Philly. Watch the Salt. Look for the Label. 2024. <https://foodfitphilly.org/sodiumwarning/>.

<sup>10</sup> Philadelphia Health Code § 6-310. Sodium Safety Warning Labeling for Chain Establishments.

<sup>11</sup> U.S. Food & Drug Administration. Calories on the Nutrition Facts Label. 2024.

<https://www.fda.gov/food/nutrition-facts-label/calories-nutrition-facts-label>.

<sup>12</sup> Campaign for Tobacco Free Kids. Health Warning Labels. 2017. [https://assets.tobaccofreekids.org/global/pdfs/en/GHW\\_larger\\_en.pdf](https://assets.tobaccofreekids.org/global/pdfs/en/GHW_larger_en.pdf).

We commend the City of New York and DOHMH for their effort to reduce diet-related chronic diseases by warning consumers about the health risks of restaurant food high in added sugars. We strongly support the proposed rule with amendments to increase visibility of the health warning statement and modify the warning icon to be larger, add warning text, and incorporate familiar symbols and colors that quickly communicate the health message.

Sincerely,



Christina A. Roberto, PhD  
Mitchell J. Blutt and Margo Krody Blutt Presidential Associate Professor of Health Policy  
Perelman School of Medicine at the University of Pennsylvania



Marlene Schwartz, PhD  
Director of the Rudd Center for Food Policy and Health  
Professor of Human Development and Family Sciences  
University of Connecticut

**Figure 1. Added sugar warning label incorporating optimal design elements**

