

**REQUEST FOR THE SECRETARY OF THE U.S. DEPARTMENT OF AGRICULTURE TO PILOT
PROJECTS MEANT TO IMPROVE APPROACHES TO NUTRITION UNDER THE
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**

DATE: April 14, 2025

1. **Type of Request:** To operate a project modifying eligible foods under the Supplemental Nutrition Assistance Program (SNAP).
2. **Statutory Citation:** 7 U.S. Code § 2026(b)
3. **Primary Regulation Citation:** 7 CFR § 282.1
4. **State:** Nebraska
5. **Statutory and Regulatory Requirements to be Waived:** 7 U.S. Code § 2012(k) and 7 CFR § 271.2
6. **Proposed Alternative Procedure:** The State of Nebraska Department of Health and Human Services (DHHS), Office of Economic Assistance, is requesting to implement a demonstration project authorized by Section 17 of the Food and Nutrition Act of 2008 to modify the definition of eligible foods under the Supplemental Nutrition Assistance Program (SNAP). The State of Nebraska will exclude from the definition of eligible foods the following beverages:
 - a. Soda or "Soft Drinks." Soda or "Soft Drinks" are any carbonated non-alcoholic beverage that contains water, a sweetening agent (including but not limited to sugar, high-fructose corn syrup, or artificial sweeteners), flavoring, and carbon dioxide gas to create carbonation.
 - b. "Energy drink." Energy drinks are carbonated or non-carbonated beverages containing a stimulant such as fortified caffeine, guarana, glucuronolactone, or taurine. They may also include herbal extracts such as ginseng, mineral salts and vitamins, or high doses of organic acids, amino acids, inositol, sugars, or other similar compounds in addition to sweeteners. Juices or natural fruit pulp or concentrates may also be added. Energy drinks are specifically formulated to enhance energy, alertness, or physical performance.
 - c. For the purposes of this definition, both soft drinks and energy drinks are intended for human consumption and are available in various flavors, formulations, and packaging. However, beverages marketed primarily as sports drinks to increase hydration, like Gatorade or medically necessary nutritional products, are not included.
 - d. "Soft drinks" and "energy drinks" do not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; mineral water sold in containers; specialty foods that are liquids or that are to be added to a liquid and that are intended to be a substitute in the diet for more commonly used

food items are not included as soft drinks or energy drinks. This can include, but is not limited to, infant formula or meal replacement shakes.

This request is permitted by Section 17 of the Food and Nutrition Act of 2008, 7 U.S. Code § 2026, allowing States to conduct projects on a trial basis to better align the goals of Nebraska to the goal of SNAP—providing food assistance to raise nutrition levels among low-income individuals.

7. **Justification for Request:** The Declaration of Policy, which prefaces the Food and Nutrition Act of 2008 (P.L. 88-525, as amended through P.L. 118-5), emphasizes the health and well-being of the nation, as well as a nutritious diet. However, data shows Nebraska, like many others, is experiencing a health epidemic further induced by diet-related chronic disease. Numerous studies equate consumption of unhealthy food and drink, including soft drinks, sweetened beverages, candy, and other junk food, to instances of disease, including obesity, diabetes, high blood pressure, heart disease, and even some cancers.¹ Notably, the diet quality of SNAP families has worsened over the past decade regardless of incentive programs and nutrition education. In Nebraska, obesity rates have been rising since 1990. Multiple studies have shown that SNAP participation is associated with increased obesity risk.² In 2023, 36.6% of Nebraska adults were medically obese, which is defined as a body mass index (BMI) of 30 or higher. Between 2020 and 2021, 28.7% of Nebraska children ages 10-17 were overweight or medically obese.³ Multiple studies have shown that SNAP participation is associated with increased obesity risk.⁴ While SNAP was initially aimed at alleviating food shortfalls, many low-income individuals today are overeating the wrong foods. Studies have shown that low-income adults and children have higher obesity rates than other Americans.⁵ A recent review by Jerold Mande and Grace Flaherty found that children participating in SNAP were more likely to have elevated disease risk and consume more sugar-sweetened beverages, more high-fat dairy, and more processed meats than nonparticipants.⁶ According to the American Diabetes Association, obesity is linked to up to 53% of new cases of type 2 diabetes each year.⁷ Individuals with diabetes have medical expenses approximately 2.6 times higher than those who do not.⁸ Implementing this waiver may assist Nebraskans in consuming healthier options and reduce chronic

¹ <https://www.cdc.gov/nutrition/data-statistics/sugar-sweetened-beverages-intake.html#:~:text= Frequently%20drinking%20sugar%2Dsweetened%20beverages,gout%2C%20a%20type%20of%20arthritis.>

² <https://pmc.ncbi.nlm.nih.gov/articles/PMC4580337/#:~:text=Obesity%20prevalence%20among%20SNAP%20participants,when%20compared%20to%20eligible%20nonparticipants>

³ <https://dhhs.ne.gov/CDPCP%20Fact%20Sheets/FINAL%20Obesity%20Facts.pdf>

⁴ <https://pmc.ncbi.nlm.nih.gov/articles/PMC4580337/#:~:text=Obesity%20prevalence%20among%20SNAP%20participants,when%20compared%20to%20eligible%20nonparticipants>

⁵ <https://www.cdc.gov/obesity/childhood-obesity-facts/childhood-obesity-facts.html>

⁶ <https://www.downsizinggovernment.org/food-stamps-and-obesity>

⁷ <https://diabetes.org/advocacy/federal-connected-congress#:~:text=Addressing%20the%20Obesity%20Epidemic,type%20%20diabetes%20every%20year.&text=There%20is%20strong%20and%20consistent,be%20reduced%20and%20even%20avoided.>

⁸ <https://diabetesjournals.org/care/article/47/1/26/153797/Economic-Costs-of-Diabetes-in-the-U-S-in-2022>

disease and the costs surrounding their medical care, which is a necessary component in the move to make Nebraska healthy again. Nebraska DHHS requests this waiver so Nebraska can work to improve the health of low-income SNAP recipients and increase responsible spending of federal SNAP dollars.

8. **Implementation of Request:** The statistics discussed previously reiterate the growing crisis surrounding chronic disease in Nebraska. Nebraska DHHS' mission is to ensure that the health and wellness of Nebraska children and families is at the forefront of the work done by DHHS. The Nebraska Healthy SNAP waiver to omit soda and energy drinks from the SNAP-eligible purchase list is just one more step in the right direction toward making Nebraska healthy again. Through this restriction households are expected to use SNAP benefits to purchase healthier beverages to improve their overall health. Thereby helping people live better lives and aligning to the mission of Nebraska DHHS.

Nebraska DHHS will be responsible for overseeing the waiver and ensuring that the implementation plan is created in conjunction with all the stakeholders and participants impacted by the waiver. Efforts will be necessary to inform retailers of the new restrictions included within the waiver and ensure they know the definitions that will now be in effect. This will allow time for the grocers to update their systems prior to the implementation date. In addition, information and education will be necessary for SNAP participants to inform them of the new restrictions on spending on SNAP. Nebraska DHHS would ensure that all participants are informed of the changes and the impacts they may have when making purchases with their SNAP cards. In addition, Nebraska will ensure that this waiver is implemented "The Nebraska Way" with additional touchpoints with SNAP recipients to ensure they have the tools and knowledge to eat healthy, nutritious foods that will support brain development, healthy growth, and reduce or prevent chronic diseases. These outreach efforts will be completed through multiple avenues including text messages, collaboration with community partners, current nutrition education efforts, and mailings, recipes and nutrition information made available on websites and in-person classes and programs focused on healthy nutritious food choices.

SNAP interoperability will continue, knowing that participants coming to Nebraska will have their purchases restricted, while participants traveling to other states may be allowed to purchase the restricted items outside of Nebraska. In addition, working with grocers to ensure that information is available in the stores so out-of-state travelers are aware of Nebraska's restrictions and what other healthy and nutritious options are available for purchase. Nebraska DHHS will work with FNS to ensure retailer compliance is maintained. Additionally, efforts have been made to ensure that proposed definitions in other states align with Nebraska's definitions. Nebraska will continue conversations to ensure that interoperability continues as implementation planning is finalized.

The state will work to maintain cost neutrality. The project will not affect household eligibility for SNAP or the overall benefit allotments. Any increased costs associated with the waiver would be due to information being shared with the retailers or the SNAP participants about the waiver which can be absorbed within the current costs of the program administration.

9. **Anticipated Impact on Households:** The benefit allotment and eligibility parameters for individuals and households will not change and no additional costs are anticipated. SNAP-authorized retailers currently restrict households from purchasing many items not included as SNAP "eligible food" in code or regulation. This waiver will only expand the list to exclude soft drinks and energy drinks as eligible foods. There is no federal mandate for retailers to participate in the program and accept SNAP benefits. It is a voluntary program for retailers.
10. **Proposed Implementation Date:** Upon technical assistance review and approval, within 90 days, DHHS will begin working with SNAP retailers to provide additional information about the definitions of soda and energy drinks that will need to be excluded, system updates that will be made, and communication to ensure consistent information is shared across the state. DHHS anticipates full implementation by January 2026.
11. **Time Period of Request:** Nebraska requests this waiver remain in place indefinitely.
12. **Proposed Evaluation of Request:** Nebraska DHHS will work with FNS to determine the appropriate evaluation measures. Preliminary plans for evaluation include a pulse study for all SNAP participants on a quarterly basis to evaluate their spending habits prior to the waiver implementation and in each quarter following implementation. In addition, Nebraska will work with the retailers and FNS to review SNAP purchases and determine the reduction in purchases of soda and energy drinks. Additionally, outreach efforts will be increased through SNAP Education (SNAP-Ed) to share information about the changes and additional educational opportunities to ensure participants know healthy options and recipes. This information will be shared broadly to increase participation. The increased participation should result in increased survey responses, demonstrating that clients purchase and consume soda and energy drinks less than before the waiver implementation. Nebraska DHHS will also continue to review reports and data regarding obesity rates for both adults and children in Nebraska.