December 10, 2025

Secretary Brooke L. Rollins

The Honorable Kelly Armstrong
Governor of North Dakota
Office of Governor
600 East Boulevard Avenue
Bismarck, ND 58505

J. Patrick Traynor, Interim Commissioner
North Dakota Department of Health and
Human Services
State Capitol, Judicial Wing
600 East Boulevard, Department 325
Bismarck, ND 58505

Dear Governor Armstrong:

The Food and Nutrition Service (FNS) is pleased to approve the North Dakota Department of Human Services' request to operate a novel demonstration project to amend the statutory definition of food for purchase by Supplemental Nutrition Assistance Program (SNAP) recipients. The North Dakota State agency has requested to amend the SNAP definition of food for purchase to exclude soft drinks, energy drinks, and candy. The State agency requested this waiver on October 24, 2025, then provided a revised request on November 3, 2025. This approval, subject to the enclosed terms and conditions, is for 2 years, effective September 1, 2026.

Due to the novel design of the Project, FNS is committed to carefully and comprehensively evaluating how waiving the State's definition of food in this way impacts SNAP participants and retailers. FNS will carefully review the results of the Project, based on the evaluation data provided by the State and other available information.

FNS will continue to collaborate with the State, and any potential evaluation contractor to finalize data collection points, define key metrics, and outline any necessary data analysis for the quarterly evaluation reports, as well as finalize key implementation parameters such as a threshold standard for participating retailers.

Please submit written acceptance of this approval and the terms and conditions signed by the appropriate State official. Attach this acceptance letter to a chatter post in WIMS case # 00013455. Please tag the relevant Regional and National staff listed in the WIMS case team using the @ sign when uploading this document.

FNS appreciates the State's willingness to test innovative approaches to support healthy choices, and healthy outcomes to best serve SNAP participants. FNS is committed to working with the State to obtain robust data to inform ways to improve nutrition assistance programs.

Sincerely,

Brooke L. Rollins
Secretary
U.S. Department of Agriculture

Enclosures

WAIVER SUMMARY
NORTH DAKOTA SNAP FOOD RESTRICTION WAIVER DEMONSTRATION PROJECT

The North Dakota SNAP Food Restriction Waiver Demonstration Project (the Project) is approved in accordance with the requirements to operate demonstration projects under Section 17 [7 U.S.C. 2026] (b)(1)(B)(i), and Section 17 [7 U.S.C. 2026] (b)(1)(B)(ii) of the Food and Nutrition Act of 2008, as amended (the Act).

WAIVERS OF THE ACT: Section 3(k)(1) of the Act defines "Food" for SNAP as "any food or food product for home consumption…" The definition goes on to define items excepted from this definition. These "except[ed]" items cannot be purchased with SNAP benefits.

FNS is waiving this section to allow the State to modify the list food items that can be excepted from the definition of "food" items. Items that are not defined as "food" cannot be purchased with SNAP benefits at SNAP-authorized retailers in North Dakota. Specifically, the State amends the definition's language of "any food or food product for home consumption except…" to include as an exception, and therefore be ineligible for purchase with SNAP, soft drinks, energy drinks, and candy.

WAIVERS OF SNAP REGULATIONS: 7 CFR 271.2 defines "Eligible foods" for SNAP as "any food or food product intended for human consumption…" The definition goes on to define items excepted from this definition. These "except[ed]" items cannot be purchased with SNAP benefits.

FNS is waiving this provision of the regulations to allow the State to modify the list of items that can be excepted from the definition of "Eligible foods". Items that are not defined as "Eligible foods" cannot be purchased with SNAP benefits at SNAP-authorized retailers in North Dakota. Specifically, the State amends the definition's language of "any food or food product intended for human consumption except…" to include as an exception, and therefore be ineligible for purchase with SNAP, soft drinks, energy drinks, and candy. The State will communicate this change to all existing and newly authorized SNAP households and retailers during the Project.

IMPLEMENTATION

Eligibility: This Project will apply to the entire North Dakota SNAP population (100 percent of the SNAP caseload).

Opt-Out: No SNAP household in North Dakota may opt out of the SNAP eligible food restrictions project. The purpose of the Project is to evaluate the impact of excluding select food items including soft drinks, energy drinks, and candy from eligible purchases under SNAP on participant's consumption of these products. As part of the evaluation of the Project the State is developing key metrics and data collection methods including, but not limited to, surveys, interviews, and dietary recalls. SNAP households' participation in these evaluation and data

collection methods is voluntary, and any household may opt into or out of the corresponding evaluation tools.

Alternative Procedures: North Dakota's proposed alternative procedure is to modify the list of items that can be excepted from the definition of "Eligible foods". Items that are not defined as "Eligible foods" cannot be purchased with SNAP benefits at SNAP-authorized retailers in North Dakota. North Dakota specifically will include as an exception, and ineligible for purchase with SNAP, soft drinks, energy drinks, and candy.

NORTH DAKOTA'S SPECIFIC INFORMATION ON RESTRICTED ITEMS/CATEGORIES

Excluded Foods:

- "Candy" defined by the North Dakota sales tax definition as a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. It does not include any preparation containing flour or requiring refrigeration.
    - Honey, sugar, molasses, maple syrup and corn syrup are excluded from the definition of "candy" and remain allowable SNAP purchases.

Excluded Beverages:

- "Soft drinks", defined as "any carbonated, nonalcoholic beverages that contain 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."
    - Powdered flavorings and carbonated (flavored) water are excluded from the definition of "soft drinks" and remain allowable SNAP purchases.

- "Energy drinks" defined as "any carbonated or non-carbonated beverage 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." Two categories include read-to-drink energy beverages and energy shots.
    - Sports drinks for hydration, such as Powerade or Gatorade, are excluded from the definition of "energy drinks" and remain allowable SNAP purchases.

North Dakota provided FNS with the following table to demonstrate all forms of restricted foods and beverages under their pilot:

Restricted Foods	Restricted Beverages
Candy & confections, including cake decorations (edible), chewing gum, breath mints & licorice	Soft drinks
Baking ingredients, including almond bark, marshmallows, baking chocolate (as bars, drops or pieces); chocolate or butterscotch chips	Energy drinks

Chocolate covered nuts, candy coated nuts, honey roasted nuts, caramel apples, trail mix with candy pieces	
Cereal bars (sweetened & without flour) & energy bars containing a "supplemental facts" box	

North Dakota's proposed alternative procedures make no changes to the provisions that allow certain populations of SNAP recipients to purchase prepared meals from appropriate facilities like senior centers, domestic violence centers, substance misuse centers, and homeless shelters or to universally banned products. The State is not seeking to propose alternative procedures for items already banned from SNAP purchase such as alcoholic beverages, tobacco, or hot foods, or hot food products ready for immediate consumption.

TERMS AND CONDITIONS

Prior to the Project's implementation date, September 1, 2026, the State must meet all terms and conditions listed below. If the State cannot meet these terms and conditions in full, the Project's implementation date must be delayed. After Project implementation, the State may request at any time to revise the Project's scope by submitting revisions for FNS consideration and approval. Any changes must be agreed upon by the State and FNS prior to implementation.

- FNS authorizes North Dakota to operate the Demonstration Project to waive the definition of "food and food products" (the Project) for a period of 2 years from the Project's start date. The Project will begin on September 1, 2026, and end after August 31, 2028, with the option to request three annual extensions thereafter for a total Project period not to exceed 5 years. The State will operate this Project statewide.

- If the State is unable to implement on September 1, 2026, the State will communicate a new implementation date, and FNS will update the terms and conditions and evaluation schedule accordingly. Moreover, any changes the State wishes to make to their Project (including, but not limited to, Project design, target populations, evaluation procedures, compliance plans, and communication plans) following implementation should be shared with FNS for review and sign-off prior to implementing them.

- The Project may not in any way impede inter-operability of SNAP program benefits, as detailed in 7 CFR 274.8(b)(10).

- Clients' out of State transactions will not be used as a primary indicator of fraud or negatively impact SNAP eligibility for the household.

- The State will provide a finalized communications plan detailing tasks and timelines for engaging with and notifying SNAP-authorized retailers of the Project.

  - The State will update their SNAP webpage to provide information about the Project for SNAP-authorized retailers.

  - The State must provide a designated centralized communication resource, to serve as a point of contact for retailers and to route inquiries FNS receives from the Retailer Service Center. For example, this resource could be a public email inbox or dedicated call center line.

- The State will provide a finalized communications plan detailing tasks and timelines for notifying and educating SNAP households of the Project.

  - The State will update their SNAP webpage to provide information about the Project for SNAP households.

- The State will provide a finalized evaluation plan defining Project health outcomes and behaviors tracked throughout the Project.

  - The evaluation plan must detail how the State will mitigate SNAP client reporting bias for any Project data collection methods.

  - The evaluation plan will define Project success (i.e., reduction of diseases/illnesses, changes in behaviors, increase nutrition knowledge).

  - The evaluation plan must describe in detail all data points and metrics that the State will be collecting, aside from those listed in these terms and conditions, and how they will be analyzed.

- If the evaluation plan requires creating, updating or amending existing contracts between the State and another entity, the State will provide FNS copies of the completed contracts.

- The State will provide a finalized proposed budget for the Project.

  - Subsequent to the finalized budget the State will submit quarterly costs to FNS throughout the duration of the Project.

- The State will provide a finalized compliance and monitoring plan for SNAP-authorized retailers.

  - As part of the compliance plan prior to Project implementation, the State will have SNAP-authorized retailers confirm Project compliance. For example, retailers may complete and return a self-attestation compliance form for the Project.

  - SNAP-authorized retailers are solely responsible for managing Project compliance with third party e-commerce platforms. Third party e-commerce providers will not be held liable or responsible for managing project compliance.

- FNS reserves the right to withdraw its waiver approval and terminate the Project at any time if FNS determines that the Project is inconsistent with SNAP goals to increase the efficiency of the Program and to improve the delivery of SNAP benefits to raise levels of nutrition among low-income individuals.

- Continued approval of the Project is contingent upon the results of the ongoing Project evaluation. This Project may be extended in yearly increments for an additional 3 years, for a total of 5 years, provided that the State and FNS agree upon additional evaluative measures prior to renewal so that FNS can continue to assess this demonstration Project's impact. Any request for extension must be submitted by February 29, 2028, at least 6 months prior to the end of the initial 2-year Project period.

- If any Federal laws regarding this Project change during the approved period, the State will submit a modification request to FNS to ensure the Project's terms and conditions reflect current Federal law. FNS will review and approve the modification in accordance with section 17(b)(1)(D) of the Food and Nutrition Act of 2008, as amended.

- SNAP participants' surveys, at a minimum, will collect the following information:
    - Meals and foods eaten outside the home or with foods not purchased at SNAP-authorized retailers.
    - Purchase and/or consumption of less healthy or "unhealthy" food items not restricted by the Project.
    - Non-SNAP dollars spent to purchase food items restricted by the Project.
    - SNAP client's ability and confidence in correctly identifying food items that can or cannot be purchased with SNAP benefits during the Project.
    - The point in time in which the SNAP client became aware of the Project and how (State SNAP webpage, retail store signage, State press release, etc.).
    - Any impacts the Project potentially had on participants shopping routines (such as distance traveled to store, increase spending of non-SNAP dollars, more frequent shopping trips, etc.).

- The State will provide FNS with quarterly reports using the evaluation reporting template FNS will provide to the State in WIMS based upon finalized data collection points, defined key metrics, and data analysis. The quarterly evaluation report template at a minimum will include:
    - Baseline and monthly data collection for out of State transactions for all States that border North Dakota.
    - Baseline and total monthly amount of SNAP dollars spent out of State.
    - Total monthly amount of SNAP client hearings filed related to the Project.
    - Monthly total number of SNAP-authorized retailer Project compliments and complaints received and a qualitative summary.
    - Monthly total number of SNAP households Project compliments and complaints received and a qualitative summary.
    - Monthly total number of Project compliments and complaints from

advocacy, community, or retailer association groups and a qualitative summary.
  - Whenever possible, partner with retailers to collect baseline and monthly retailer data on SNAP shopping cart transaction data.

- The State will participate in routine calls with FNS ahead of the Project implementation.
  - Frequency and scheduling of the calls will be set following consultation between the State and FNS.
  - FNS will provide the State with a proposed agenda for each call.

FNS is available and willing to provide technical assistance on all components of the Project, including but not limited to communication plans, evaluation strategies, budgets, and a compliance framework. However, all final decisions regarding the development and implementation of the Project materials and plans reside solely with the State. FNS will serve in an advisory capacity and will not provide final approval on Project materials.

REQUEST FOR AN EXTENSION

If the State would like to continue the Project beyond September 1, 2028, the State should send a request to FNS by February 29, 2028, six months before the Project's two-year period expiration. The extension request letter must include a summary of progress to date, including data from the time between the last quarterly report and the extension request.

EVALUATION

The State must provide FNS with a report for each quarter of the Project during the first year of implementation. The quarterly report will be segmented into monthly sections. Reports are due 45 days after the end of each reporting period. Thereafter, based on the results of the first year quarterly reports the State and FNS will discuss the potential to shift to an annual reporting schedule.

North Dakota Project Reporting Schedule

REPORT	DATA RANGE COVERED	DUE DATE
Year 1, Quarter 1	September 1, 2026 — November 30, 2026	January 14, 2027
Year 1, Quarter 2	December 1, 2026 — March 1, 2027	April 15, 2027
Year 1, Quarter 3	March 2, 2027 — May 31, 2027	July 15, 2027
Year 1, Quarter 4	June 1, 2027 — August 30, 2027	October 14, 2027
Year 2, Quarter 1	August 31, 2027 — November 29, 2027	January 13, 2028
Year 2, Quarter 2	November 30, 2027 — February 28, 2028	April 13, 2028
Year 2, Quarter 3	February 29, 2028 — May 29, 2028	July 13, 2028
Year 2, Quarter 4	May 30, 2028 — August 31, 2028	October 12, 2028

Extension Request	Submitted by March 1, 2028

To evaluate the Project the State will undertake a mixed-methods approach, and activities will include tracking and analyzing SNAP households and their purchasing habits. If possible, the State will use retailer transaction data, loyalty card purchase records, and macro spending EBT utilization data to track longitudinal shifts in purchasing patterns for specific food and beverage categories over time. The State plans to establish a baseline using calendar year 2025 transaction data and provide quarterly trends for the first year of the Project and annual trends for subsequent years. Outcome indicators for the Project will be an increase in nutrient dense purchases (fresh fruits, vegetables, etc.), increase in non-SNAP spending on restricted items, and increase in out of state and online transactions.

The State also plans to evaluate the impact and readiness for SNAP participants' and SNAP-authorized retailers' awareness, understanding, and adaptation to policy changes through measuring the effectiveness of communication and implementation efforts. SNAP participants' assessment will be conducted using customer call center logs, internal ticketing and tracking systems, social media monitoring, additional questions added to the customer portal and targeted surveys. SNAP-authorized retailers' assessment will be conducted using webinars, surveys, self-evaluation tools, and transaction-level data.

Based on previous and ongoing technical assistance calls with FNS, the State may revise its evaluation plan subsequent to this approval. Any updates or revisions to the State's evaluation plan needs to be communicated to FNS.

Evaluation Components

The State's quarterly and annual reports must include the following:

1. Executive Summary/Methodology: Summary describing methods of data collection and analysis and the quarter and month(s) covered by the report.
2. Any administrative costs associated with the Project.
3. Various qualitative and quantitative data points, defined metrics, and analytical approaches aligned with the Project's objectives related to health and health behavior change outcomes.

Please note: When submitting reports to FNS, do not include any SNAP clients' Personally Identifiable Information (PII). FNS reserves the right to add additional data fields in consultation with the State for reporting purposes.