

**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: May 13, 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:** Colorado
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 Colorado Department of Human Services is requesting to exercise Section 17 of the Food and Nutrition Act of 2008 to modify the definition of eligible foods under the Supplemental Nutrition Assistance Program (SNAP). Colorado will exclude from the definition of eligible foods the non-staple foods as outlined in the following definitions:

"Sweetened beverage" means any non-alcoholic beverage which contains at least five grams of sweetener per twelve fluid ounces.

(1) "Sweetened beverage" includes all drinks and beverages commonly referred to as "soda," "pop," "cola," "soft drinks," "sports drinks," "energy drinks," "sweetened ice teas," "sweetened coffees," or any other common names that are derivations thereof. It includes both beverages sweetened with caloric and artificial sweeteners.

(2) "Sugar-sweetened beverage" does not include any of the following:

- A. Any beverage in which milk is the primary ingredient, i.e., the ingredient constituting a greater volume of the product than any other;
- B. Any beverage for medical use;
- C. Any liquid sold for use for weight reduction as a meal replacement;

D. Any product commonly referred to as "infant formula" or "baby formula";

E. Any beverage consisting of 100 percent natural fruit or vegetable juice with no added caloric sweetener. Natural fruit juice and natural vegetable juice is the original liquid with or without water added resulting from the pressing of fruits or vegetables.

These additional definitions provide context and background for the above exclusions:

"Beverage for medical use" means a beverage suitable for human consumption and manufactured for use as a:

1. Source of necessary nutrition due to a medical condition, or
2. For use as an oral rehydration electrolyte solution for infants and children formulated to prevent or treat dehydration due to illness.

It shall not include drinks commonly referred to as "Sports Drinks" or any other common names that are derivations thereof.

"Bottled sweetened beverage" means any sweetened beverage in a container that is ready for consumption without further processing, such as, and without limitation, dilution or carbonation.

"Caloric sweetener" means a substance or combination of substances suitable for human consumption that adds calories to and is perceived as sweet to humans when consumed, including, but not limited to sucrose, dextrose, fructose, glucose, other mono and disaccharides; corn syrup or high-fructose corn syrup.

"Artificial sweetener" means any form of sugar substitute or non-nutritive sweetener, including but not limited to stevia, aspartame, sucralose, neotame, acesulfame potassium, saccharin, and advantame. A sugar substitute is any ingredient that causes humans to perceive sweetness in the absence of sugar. The following is a non-exclusive list of sugar substitutes: acesulfame potassium; advantame; aspartame; neotame (nutrasweet); non-caloric sugar alcohols; saccharin (sweet'n low); stevia (purevia, truvia); and sucralose (splenda).

"Energy drink" means any non-alcoholic beverage which contains any one of the following ingredients as a source of an instant or immediate 40 energy boost: caffeine, taurine, ginseng, maltodextrin, carnitine, creatinine, ginkgo biloba, guarana, or such other new or exotic ingredients; and which is marketed as or labeled as an energy drink, such as but not limited to Red Bull, Hero, Bacchus, Boost, X Fuel Lemon Energy Drink, Lipovitan, I-on, and Extra Xxxx

"Milk products" means natural fluid milk, regardless of animal source or butterfat content, natural milk concentrate, whether or not reconstituted, regardless of animal source or butterfat content, or dehydrated natural milk, whether or not reconstituted and regardless of animal source or butterfat content, and plant-based milk substitutes, that are marketed as milk, such as soy milk, coconut milk, rice milk and almond milk.

"Powder" means any solid mixture, containing one or more caloric or artificial sweeteners as an ingredient, intended to be used in making, mixing, or compounding a sugar-sweetened beverage by combining the powder with one or more ingredients.

"Simple syrup" means a mixture of water and one or more natural or common sweeteners without any additional ingredients.

"Sweetened beverage product" means a bottled sweetened beverage or a sweetened beverage made from the dilution of syrup or powder.

"Syrup" means any liquid mixture, containing one or more caloric or artificial sweeteners as an ingredient, intended to be used in making, mixing, or compounding a sugar-sweetened beverage by combining the syrup with one or more other ingredients.

In addition to that exclusion, the State of Colorado is requesting to remove from the definition of eligible foods in Section 3(K) the exclusion of "hot foods or hot foods products" and allow purchase of those products with SNAP benefits.

In addition to those changes, the State of Colorado is requesting to streamline eligibility as SNAP retailers for vendors at SNAP-certified farmer's markets so they could accept SNAP benefits in exchange for SNAP-eligible products. This would apply only to registered vendors at farmer's markets that had completed the application and approval process for SNAP certification and would apply only at those markets. This would waive provisions of Section 9 and 7 C.F.R 278.1(b)(i), which outlines the criteria for a retail food store.

This request abides by the provisions outlined in Section 17, 7 U.S. Code § 2026, permitting States to conduct projects on a trial basis to align the goals of Colorado to the goal of SNAP—providing food assistance to raise levels of nutrition 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 via P.L. 118-5) emphasizes the health and well-being of the Nation, as well as a nutritious diet. Supporting the health of Coloradans is of paramount importance. The proposed package of changes in this waiver request ensure that SNAP dollars are not being spent on sweetened beverages with no or negative nutritional value and that SNAP participants can instead spend those SNAP dollars on foods that provide meaningful nutritional support. This expands not only the positive nutritional and health impact of SNAP benefit spending but also enhances the impact of the purchasing power of a household's SNAP

benefits. Exchanging spending on sweetened beverages for products from farmer's market vendors and rotisserie chickens will enhance the health of Colorado's SNAP recipients overall.

8. Implementation of Request: Other than the requested modifications in this waiver document, these requests align with existing federal statute and regulation. Implementation of the sweetened beverages exclusion or the hot food waiver will require amendment of Colorado regulation 10 CCR 2506-1-4.130.2, which defines eligible foods. That regulatory modification process will begin on implementation of the waiver. No state regulatory change is needed to implement the shift in farmer's market vendor certification.

The State expects to work closely with the federal Food and Nutrition Service (FNS) in implementing the sweetened beverages and hot foods shifts in the federal point of sale software used by SNAP retailers and to navigate any issues with or impacts on interoperability. As is true for existing monitoring and enforcement of retailer compliance, the State will continue to collaborate with FNS. The State will also collaborate with FNS to obtain data on participant purchasing to inform the evaluations detailed below.

The proposed shifts in the SNAP program will equally impact all program participants statewide, which will minimize stigma and any impact on outreach.

9. Anticipated Impact on Households: The benefit allotment will not change, nor will the eligibility parameters for individuals and households. No additional costs anticipated. SNAP authorized retailers currently restrict from purchase with SNAP benefits many items that are not included as an "eligible food" in code or regulation. 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 60 days.

11. Time Period of Request: Five (5) years.

12. Proposed Evaluation of Request: The State will engage in evaluation activities for the three requested modifications in this waiver request.

Evaluation of soda exclusion:

- To evaluate the impact of the soda inclusion, the State will evaluate data on sweetened beverages purchased in the state through any purchase method;
- After a year of implementation, the State will begin to evaluate the positive health impacts of the sweetened beverages exclusion using state Medicaid data
 - The State will evaluate data on shifts in the use of Medicaid benefits for dental visits and the frequency and seriousness of dental procedures such as cavity fillings, especially for Medicaid recipients under the age of 18; and
 - The State will evaluate shifts in diabetes rates and implications for state Medicaid participants.

Evaluation of hot foods waiver:

- To evaluate the impact of the hot foods waiver on the availability of healthy food, the State will evaluate purchase data on what hot foods SNAP participants are purchasing with SNAP benefits; and
- The State will work with local advocacy groups to obtain feedback from SNAP participant communities, particularly those in rural areas, about the availability and impact of hot foods for purchase with SNAP benefits.

Evaluation of the farmer's market waiver:

- The State will track the number of farmer's market vendors accepting SNAP benefits for purchase; and
- The State will track the amount of SNAP benefits spent at farmer's market vendors.