



October 15, 2026

VIA ELECTRONIC FILING

Shiela Corley
Acting FNA Administrator
Food and Nutrition Administration
George Washington Carver Center
5601 Sunnyside Avenue
Beltsville, MD 20740

Re: State of _____ SNAP Demonstration Project

Dear Acting FNA Administrator Corley:

The National Association of Convenience Stores (“NACS”), NATSO: Representing America’s Travel Centers and Truckstops (“NATSO”), and SIGMA: America’s Leading Fuel Marketers (“SIGMA”) respectfully submit this comment in response to the United States Department of Agriculture (“USDA”) Food and Nutrition Administration’s (“FNA”) request for public comment on [STATE]’s demonstration project within the Supplemental Nutrition Assistance Program (“SNAP” or the “Program”) currently authorized under section 17(b) of the Food and Nutrition Act of 2008, 7 U.S.C. 2026(b).

Piecemeal efforts to restrict SNAP choice on a state-by-state basis impose substantial operational and compliance burdens that small format SNAP retailers, such as convenience stores, face in tracking which products are SNAP-eligible and which are not. These burdens will prompt existing SNAP retailers to exit the Program. When they do, food insecure Americans will have even more difficulty feeding their families. And, USDA clearly does not have the legal authority to approve state demonstration projects under 7 U.S.C. 2026(b).¹

NACS, NATSO and SIGMA represent over 150,000 convenience stores across the United States, more than 117,000 of which participate in SNAP. This is the largest share of SNAP retailers of any store format, accounting for nearly half (44%) of all SNAP-authorized stores.² These stores serve millions of SNAP families every year, providing essential access to nutrition for low-income Americans particularly in rural and urban America. Convenience stores are often the only

¹ Memorandum Opinion, *Aragon v. Rollins*, No. 1-26-CV-861 (D.D.C. June 22, 2026).

² *SNAP Retailer Management Year End Summary FY 2025*, U.S. Dep’t of Agric., Food & Nutrition Serv., <https://www.fna.usda.gov/data-research/data-visualization/snap-retailer-management-dashboard-fy25> (last visited Oct. 1, 2026).

establishments easily accessible by walking or public transportation, or the only food retail establishments open for business after a late work shift ends or before an early one begins.

Because of this critical role, any state-specific SNAP restriction waiver should be evaluated carefully if there is a desire to avoid disrupting food access for vulnerable households.

I. Legal Challenges: USDA Lacks Authority to Approve State SNAP Food Restriction Waivers Under Section 17(b).

A federal court recently ruled that demonstration projects presenting the same legal questions as this one are not within the scope of the USDA's authority under section 17(b) of the Food and Nutrition Act of 2008, 7 U.S.C. 2026(b).³ As the United States District Court for the District of Columbia has found: "Congress defined what 'food' is supposed to be, and it did not authorize the agency to amend or waive the definition it enacted. It did not authorize the agency to cut types of food out of SNAP entirely."⁴ This state demonstration project cannot be meaningfully differentiated from the five state demonstration projects invalidated in *Aragon v. Rollins* and therefore suffers the same fatal flaws.

Before 2025, USDA – under both Democratic and Republican administrations, including the first Trump administration – denied all state waiver requests seeking to restrict SNAP purchases.⁵ These denial letters consistently cited concerns related to program and participant stigma, operational feasibility, current state agency administrative challenges, interstate interoperability, retailer burden, and — critically — the absence of rigorous evaluation designs capable of generating credible evidence. The current approval of waivers in such a fast-paced manner, therefore, represents a sharp departure from prior federal standards and raises important questions about the rigor of the waiver review process, the evidentiary basis for these policy changes, and the adequacy of federal oversight. The demonstration project should be abandoned due to its lack of legal foundation.

II. Compliance Challenges: SNAP Food Restrictions Create Unclear Compliance Obligations That Are Difficult to Satisfy.

A fundamental challenge with product restriction waivers is the lack of clear and consistent standards for determining which items are eligible for purchase. Each state implementing a waiver has defined restricted products differently, and the vast majority have not provided retailers with a practical, comprehensive list of covered items. With more than 650,000 food and beverage products currently on the market, plus thousands of new products introduced each year, retailers have been left to make difficult product-by-product determinations with little certainty that those

³ 7 U.S.C. § 2011.

⁴ Memorandum Opinion, *Aragon v. Rollins*, No. 1-26-CV-861 at 42 (D.D.C. June 22, 2026).

⁵ Complaint, *Aragon v. Rollins*, No. 1-26-CV-861 at 3, 12 (D.D.C. June 22, 2026).

decisions will align with state expectations.⁶ The proposed demonstration project effectively asks retailers to interpret statutes, often during real-time customer transactions, with the risk that inaccurate interpretations could lead to involuntary removal from the Program.

It is not feasible for retailers to achieve perfect compliance with the restriction definitions. Some food items typically categorized as protein bars, snack bars, or granola bars appear to be barred from purchase with SNAP funds because they may be considered “candy” under some state definitions; meanwhile, many other products that are categorized as candy may still be eligible for purchase with SNAP. In Idaho, for example, foods such as KitKat bars will not meet the definition of candy because they contain flour, and therefore are still eligible for SNAP purchase, while flourless granola bars or protein bars with natural sweeteners will be defined as candy.⁷ This is illustrative of the complex, difficult to follow definitions and ingredient lists SNAP retailers have to parse to determine whether they can continue redeeming SNAP benefits.⁸ Similar complexities exist in defining soft drinks and sodas.⁹ This is not a coherent approach to implementing any government program, let alone one that millions of Americans have come to rely upon to survive.

A practical solution to the confusion for some retailers is to use the broadest possible interpretation of restricted products. One major convenience store retailer in Nebraska noticed that a specific Monster energy drink was not on the list of prohibited products provided by the state, but “removed the product from the stores’ payment system fearing it would be flagged as a failure in an inspection.”¹⁰ The intimidating challenge of remaining in compliance is likely to compel retailers who want to continue to provide SNAP products for their community to choose to exclude items when product eligibility is not clear. For others, it may mean opting to remove themselves from the Program altogether. While some within USDA may view this as a positive outcome, it will make life demonstrably worse for SNAP recipients and Congress has not given the Agency the authority to pursue that outcome via state demonstration projects.

⁶ Alliance to End Hunger, *Protect Food Choice Options for SNAP Recipients* (Oct. 15, 2024), <https://alliancetoendhunger.org/wp-content/uploads/2025/02/Alliance-SNAP-Food-Choice-One-Pager-10-15-2024.pdf>.

⁷ Idaho Dep’t of Health & Welfare, *Candy Matrix*, <https://publicdocuments.dhw.idaho.gov/WebLink/DocView.aspx?id=35522&dbid=0&repo=PUBLIC-DOCUMENTS&cr=1> (last modified Dec. 30, 2025).

⁸ Megan Reckelhoff, CEO of a northeast Indiana chain of JJ’s Convenience Stores, for example, stated to the Indiana Capital Chronical, “[i]t’s literally me and my brother and my price book manager reading labels, . . . trying to decide.” See Leslie Bonilla Muniz, ‘A Pain’: SNAP Retailers, Shoppers Pan Indiana Surgery Drinks, Candy Ban, IND. CAP. CHRON. (Mar. 16, 2026), <https://indianacapitalchronicle.com/2026/03/16/a-pain-snap-retailers-shoppers-pan-indiana-sugary-drinks-candy-ban>.

⁹ Virginia’s retailer guidance admits that “[b]ecause beverage products change constantly, no [Universal Product Code] list can include every item.” Va. Dep’t of Soc. Servs., *SNAP Healthy Frequently Asked Questions*, <https://www.dss.virginia.gov/relief/food-assistance/snap/snap-healthy/frequently-asked-questions/> (last visited Oct. 1, 2026).

¹⁰ Julie Creswell & Linda Qui, *Twix is OK but Granola Isn’t as States Deploy New Food Stamp Rules*, N.Y. TIMES (Jan. 29, 2026), <https://www.nytimes.com/2026/01/29/business/snap-benefits-food-stamps-rules-health.html>.

III. USDA Has Coupled Confusing State-By-State Restrictions with an Unreasonable Enforcement Policy.

Despite the heavy compliance burden these unlawful demonstration projects place on retailers, USDA intends to enforce a strict two-strike policy. On December 30, 2025, USDA published a memorandum (the “Memorandum”) impacting SNAP retailers implementing the food restriction waivers that stated “[i]f evidence of non-compliance is found a second time, the retailer will be subject to an Involuntary Withdrawal for failure to effectuate the purpose of SNAP, consistent with 7 CFR 278.1(l)(1)(i).”¹¹

While the USDA’s Memorandum does expressly recognize “the significant technical challenges associated with these bold, innovative waivers,” the USDA’s enforcement policy does not adequately account for good faith mistakes resulting from those significant technical challenges.¹² The Memorandum’s stated 90-day grace period fails to provide retailers sufficient time to update all point-of-sale (“POS”) systems, much less account for the inevitable changes that will arise after 90 days of implementation. This holds true for both large multi-state operators, which must navigate inconsistent state-by-state restrictions, and smaller format retailers, which often must manually review and classify products individually throughout their stores.

The Memorandum’s “First Offense – Warning Letter” and “Second Offense – Involuntary Withdrawal” policy does not differentiate between intentional violations and inadvertent errors. The first documented violation results in a warning and the second offense results in involuntary withdrawal regardless of intent.¹³ This is in spite of federal regulations (7 C.F.R. § 278.6(d)(3)) requiring the FNS to consider “any other evidence that shows the firm’s intent to violate the regulations” when making a disqualification or penalty determination.¹⁴

The penalty scheme here is dramatically out of balance with other such regulatory schemes. Retailers deal with a host of compliance issues regarding what products they sell and how they sell them. We are not aware of other programs that completely eject retailers from the sale of a product or participation in a program on a second violation – particularly one that is inadvertent and when the retailer may have made demonstrable good faith efforts to comply.

IV. Implementation and Operational Challenges: SNAP Food Restrictions Require Retailers to Implement Costly and Burdensome Changes

Even if the demonstration projects were legal, and even if retailers could accurately determine which products fall within each State’s SNAP restrictions, translating those balkanized standards and determinations into day-to-day compliance presents a substantial burden for food

¹¹ U.S. Dep’t of Agric., Food & Nutrition Serv., SNAP Food Restriction Waivers – Retailer Compliance (Dec. 30, 2025), <https://www.fna.usda.gov/snap/admin/foodrestriction-waivers-retailer-compliance>.

¹² Id.

¹³ Id.

¹⁴ 7 C.F.R. § 278.6(d)(3).

retailers,¹⁵ with convenience stores bearing a disproportionate share of those expenses. In 2025, SNAP retailer associations released findings from a study on the costs retailers will face implementing SNAP restrictions.¹⁶ The analysis found that up-front compliance costs would reach approximately \$1.6 billion across all retail channels, including \$1.0 billion for convenience stores alone.¹⁷ Ongoing annual costs are estimated at nearly \$759.1 million per year, with convenience stores bearing the largest share at \$378.6 million per year.¹⁸ The report highlights that impacts are particularly pronounced for smaller stores, which must undertake labor-intensive activities to meet state-level item qualification rules.

A retailer's first line of defense is its POS system, which must be programmed to identify restricted products as product classifications and ingredients often change. Even a carefully programmed system may fail to identify a restricted item.

Retail employees must serve as a second line of defense, policing transactions at the register and catching restricted products the POS system fails to flag. Retailers are thus required not only to undertake the time-consuming process of identifying restricted products, coding individual items, and deploying POS updates across their stores, but also to train frontline employees to recognize and correct inevitable gaps in those systems.

Employees policing food choices inevitably leads to negative customer interactions as food insecure Americans confront the indignity of being informed that they are not permitted to buy certain types of food. Frontline employees are being placed in the untenable position of informing their customers that the items already in their shopping carts—including products that individuals similarly situated to the plaintiffs in *Aragon v. Rollins* rely upon for medical reasons—are no longer eligible for purchase with SNAP benefits. Those customers will be forced to either pay out of pocket or go without. No amount of employee training can completely eliminate the tension and confusion that these interactions create. This comes at a time when our industry's employees, like other retail employees, already face heightened safety risks due to the rise in retail crime, and NACS survey data shows that concern for employee safety is at an all-time high.¹⁹ Requiring frontline employees to police customers' purchases only adds to these challenges.

The implementation difficulties are magnified for retailers operating in multiple states. A product deemed ineligible in one state may remain eligible in another, forcing regional and national operators to run multiple compliance systems that will disrupt their operations. For example, Kansas has defined “soft drinks” broadly as “nonalcoholic beverages that contain natural or

¹⁵ Kansas, for example, instructs that “[r]estricted items will be implemented at the retailer level, and each retailer will be responsible for updating their systems to reflect the newly restricted items.” Kan. Dep’t for Child. & Fams., *SNAP Food Restriction Waiver*, <https://www.dcf.ks.gov/services/ees/Pages/Food/SNAP-Food-Restriction-Waiver.aspx> (last visited Oct. 1, 2026).

¹⁶ Timothy J. Richards, *SNAP Restrictions Impact: Report 1* (September 1, 2025).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See National Association of Convenience Stores, *2023 NACS Crime & Loss Prevention Survey* (2023); see also: National Retail Federation & Loss Prevention Research Council, *The Impact of Retail Theft & Violence* (2024)

artificial sweeteners.”²⁰ Nebraska, on the other hand, has defined “soda or soft drinks” as “any carbonated or non-carbonated beverage that contains water, a sweetening agent flavoring . . . , and carbon dioxide gas to create carbonation and is intended for human consumption.”²¹ Meanwhile, Missouri has defined “carbonated and noncarbonated soft drinks” as “any nonalcoholic beverage that is made with or without carbonated water and is sweetened with more than 10 grams of sugar per serving.”²² Retailers operating across these state lines must navigate Kansas’s broad sweetener test, Nebraska’s carbonation requirement, and Missouri’s 10-gram sugar threshold to determine the eligibility of each non-alcoholic beverage in their stores.

Retailers, however, typically do not configure POS systems differently by state. For many of them, it is not clear how they can make those state-specific changes. The more complicated and nuanced the rules, the more likely retailers are to make inadvertent errors. These mistakes could expose them to penalties or even disqualifications from SNAP, despite their best efforts to comply.

The practical consequences of these requirements become apparent in day-to-day store operations. Most convenience stores have fountain drinks that are eligible for SNAP purchase. These self-serve drink stations dispense a variety of beverages, including water, lemonade, iced tea, various juice drinks, and sodas. POS systems traditionally recognize only the difference in cup size at check-out. Stores implementing restrictions have had to develop a protocol to specifically check which beverages a customer dispenses into their cup in order to determine SNAP eligibility. In other cases, stores have decided their only option is to prevent all SNAP purchases of fountain drinks – even if the drink in the cup may be allowed depending on a particular state’s definition.

Retailers will also want to make significant modifications throughout their stores to communicate these restrictions to consumers before they reach the customer check-out counter with products that have suddenly become ineligible. Retailers will want clear signage in stores that accept SNAP, along with new labels on products and shelves denoting whether each product is no longer eligible for SNAP purchase. These labels and signage need to be continuously updated and changed as states modify their lists and as products enter or exit the market. For a multi-state operator, this means having to modify these labels and signage for every state in which they operate.

²⁰ Kan. Dep’t for Child. & Fams., *SNAP Food Restriction Waiver*, <https://www.dcf.ks.gov/services/ees/Pages/Food/SNAP-Food-Restriction-Waiver.aspx> (last visited Oct. 13, 2026) (defining “soft drinks” under “Which food items will no longer be eligible to purchase with SNAP benefits in Kansas?”).

²¹ Neb. Dep’t of Health & Hum. Servs., *SNAP Healthy Choice Waiver*, <https://dhhs.ne.gov/Pages/Healthy-Choices-Waiver.aspx> (last visited Oct. 13, 2026).

²² Mo. Dep’t of Soc. Servs., *Healthy SNAP FAQs*, <https://dss.mo.gov/healthy-snap-faqs> (last visited Oct. 13, 2026) (defining “carbonated and noncarbonated soft drinks” under “What items would be excluded under the Healthy SNAP initiative?”).

V. USDA Should Set Minimum Requirements for State Evaluations Beyond Purchase Data.

As these demonstration projects continue to be implemented and enforced, we strongly encourage FNA to work with state administrators on a robust evaluation plan. Given the public's interest in this topic, all evaluation data should be made publicly available while protecting individual health information and proprietary business information. Robust evaluation plans should be required before any waiver is granted.

USDA stated that it approved waivers to reduce chronic disease rates and improve diet quality among SNAP participants. Therefore, USDA should establish minimum standards for evaluations that require states to assess whether their SNAP food restriction programs actually improve diet quality and reduce chronic disease rates among SNAP participants, rather than merely measuring changes in purchases of restricted products. Purchase data is not an adequate proxy for public health outcomes.

At a minimum, USDA should require that state evaluations have the following standardized components using SNAP eligible non-participants as a control, statistically significant samples and adjusting for confounding factors:

- Participant health outcome data (including indicators related to diabetes, hypertension, and obesity such as glycated hemoglobin, body weight, fasting blood insulin, fasting blood glucose and body composition scans (DXA));
- Consideration of Program participants' use of GLP-1 medication;
- Measures of physical activity and biochemical markers;
- Quantitative data on meals eaten outside of the home with foods not purchased at SNAP-authorized retailers;
- Purchase and consumption of food items not restricted by the Project with SNAP dollars;
- Non-SNAP dollars spent to purchase the food items that were restricted;
- Cost data on SNAP participants who are also enrolled in Medicaid or Medicare and whether these restrictions affected health expenditures; and
- Changes in SNAP beneficiaries' diet patterns, sustainability of these diet pattern changes, and noticeable impacts of these projects.

In addition to public health data, USDA should require that states evaluate whether there is an impact on programmatic efficiency and SNAP participant experience. Those evaluations should include:

- Any impacts the restrictions had on participants' shopping routines, both positive and negative;
- Changes to participation in SNAP;

- State costs for data infrastructure, program administration, education and outreach to households and retailers;
- Private sector costs and impacts for upgrades to point-of-sale systems, training staff and managing customer interactions, and managing inventory, as well as store closures or withdrawal from participation as an eligible SNAP retailer.

VI. The USDA’s General Notice and Request for Public Comment Does Not Comply with the Regulatory Flexibility Act.

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act (“SBREFA”), requires agencies like the USDA to determine, to the extent feasible, a rule’s economic impact on small business entities, explore regulatory options for reducing any significant economic impacts on a substantial number of such entities, and explain its ultimate choice of regulatory approach. SBREFA defines a “rule” as “any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title or any other law.”²³ The United States District Court for the District of Columbia treated the waiver approvals akin to a rulemaking before concluding that failure to publish waiver approvals in the Federal Register for notice and comment was not harmless error.²⁴ The court concluded that “it does not matter whether a statute or a regulation requires this notice – they are both sources of law that the agency must follow, whether it wants to or not.”²⁵

For the same reasons, the publication in the Federal Register must comply with the Regulatory Flexibility Act, as amended by the SBREFA. The general notice and comment request published here fails to meet these requirements. The publication did not analyze the economic impact on small businesses even though the potential economic harm to those businesses is substantial given the one billion dollars in compliance costs and the fact that the waiver impacts 100% of SNAP participants within the state. There is no formal or informal analysis of the adverse economic impacts to small businesses, no SBREFA screening analysis, and no recommendation from a Small Business Advocacy Review Panel. The impacts to businesses in our industry, the vast majority of which are small businesses, are far from inconsequential. Prior to implementing any state restriction on this subject, the USDA must legally engage a thorough review of adverse effects to small businesses like the NACS’ members consistent with its charge under the SBREFA.

VII. Conclusion

The Demonstration Projects are plainly operating outside the bounds of USDA’s authority to implement the SNAP Program, and they contravene the underlying mission of SNAP to increase

²³ 5 U.S.C. § 601(2).

²⁴ Memorandum Opinion, *Aragon v. Rollins*, No. 1-26-CV-861 at 63–65 (D.D.C. June 22, 2026).

²⁵ *Id.* at 64.

food purchasing power for all eligible households. We urge USDA to stop implementing SNAP food restriction waivers until Congress gives the Agency the authority that it desires.

Respectfully submitted,

National Association of Convenience Stores

NATSO: Representing America's Travel Centers and
Truck Stops

SIGMA: America's Leading Fuel Marketers