



# WIC Flash

News from the Arkansas WIC Program  
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## WIC REMINDERS and UPDATES

### Maximums for Civil Monetary Penalty – New WIC – Related Final Rule

This WIC Flash is an update on the Departmental Final Rule, Civil Monetary Penalty Inflation Adjustment for 2021, effective June 17, 2021. The Federal Register published an announcement of the new Final Rule for Maximum Civil Money Penalty (CMP) Amounts. This supersedes the June 2020 final rule. [https://ecfr.federalregister.gov/current/title-7/subtitle-A/part-3/subpart-I/section-3.91#p-3.91\(b\)\(3\)\(v\)](https://ecfr.federalregister.gov/current/title-7/subtitle-A/part-3/subpart-I/section-3.91#p-3.91(b)(3)(v))

Regulatory Citation	Violation	Maximum Civil Money Penalty 2021
USDA Departmental Regulation 7 CFR 3.91(b)(3)(iv)	Civil penalty for any entity that submits a bid to supply infant formula to carry out the Special Supplemental Nutrition Program for Women, Infants and Children and discloses the amount of the bid, rebate, or discount practices in advance of the bid opening or for any entity that makes a statement prior to the opening of bids for the purpose of influencing a bid, codified at <a href="#">42 U.S.C. 1786(h)(8)(H)(i)</a>	\$183,629,453
USDA Departmental Regulation 7 CFR 3.91(b)(3)(v)	Civil penalty for a vendor convicted of trafficking in food instruments, codified at <a href="#">42 U.S.C. 1786(o)(1)(A)</a> and <a href="#">42 U.S.C. 1786(o)(4)(B)</a>	A maximum of \$15,877 for each violation, except that the maximum penalty for violations occurring during a single investigation is \$63,509.

<p>USDA Departmental Regulation</p> <p>7 CFR 3.91(b)(3)(vi)</p>	<p>Civil penalty for a vendor convicted of selling firearms, ammunition, explosive, or controlled substances in exchange for food instruments, codified at <a href="#">42 U.S.C. 1786(o)(1)(B)</a> and <a href="#">42 U.S.C. 1786(o)(4)(B)</a></p>	<p>A maximum of \$15,487 for each violation, except that the maximum penalty for violations occurring during a single investigation is \$63,509.</p>
<p>USDA FNS WIC Program Regulations</p> <p>7 CFR 246.12(l)(1)(x)(C)</p> <p>Civil Money Penalty Calculation Methodology</p>	<p><a href="https://ecfr.federalregister.gov/current/title-7/subtitle-B/chapter-II/subchapter-A/part-246/subpart-E/section-246.12#p-246.12(l)(1)(x)(C)">https://ecfr.federalregister.gov/current/title-7/subtitle-B/chapter-II/subchapter-A/part-246/subpart-E/section-246.12#p-246.12(l)(1)(x)(C)</a></p> <p>7 CFR 246.12(l)(1)(x)(C) states, in part:</p>	<p>This is the amount of the civil money penalty, provided that the civil money penalty shall not exceed the maximum amount specified in § 3.91(b)(3)(v) of this title for each violation. For a violation that warrants permanent disqualification, the amount of the civil money penalty shall be the maximum amount specified in § 3.91(b)(3)(v) of this title for each violation. When during the course of a single investigation the State agency determines a vendor has committed multiple violations, the State agency must impose a CMP for each violation. The total amount of civil money penalties imposed for violations investigated as part of a single investigation may not exceed the amount specified in § 3.91(b)(3)(v) of this title as the maximum penalty for violations occurring during a single investigation.</p>

**Background/History**

In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, this final rule adjusts civil monetary penalties imposed by agencies within USDA to incorporate an inflation adjustment. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 amended the Federal Civil Penalties Inflation Adjustment Act of 1990, to improve the effectiveness of CMPs and to maintain their deterrent effect. The 2015 Act requires agencies to adjust for inflation annually. Previously, the 1990 Inflation Adjustment Act required agencies to adjust CMP levels every 4 years.

The new Vendor Agreement for July 2021 will reflect the new Civil Money Penalty Adjustment as listed above.

If you have questions or concerns, please contact Gayla Lanum at 501-280-4675 or email [gayla.lanum@arkansas.gov](mailto:gayla.lanum@arkansas.gov). You may also contact De'Shunda Davis at 501-661-2689 or email [deshunda.davis@arkansas.gov](mailto:deshunda.davis@arkansas.gov).

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