

**Supplemental Nutrition Assistance Program (SNAP)  
Proposed Retailer Sanctions  
Summary  
August 9, 2012**

USDA proposes to implement greater flexibility to assess sanctions and fiscal penalties against SNAP retailers who violate program rules. The proposal allows USDA to use its full authority to deter fraudulent SNAP activity and to ensure that those who violate program rules face stiff penalties.

The proposal will:

- Assess a fiscal penalty in addition to permanently removing any retailer found guilty of trafficking, the most serious of SNAP violations. The penalty amount would be based on the amount of SNAP business the retailer conducts so that the penalty is reflective of a store's size and sales volume. This change would allow the Department to financially impact trafficking retailers in a way currently not possible.
- Remove SNAP retailers from the program who fail to pay the new civil penalties included in the rule; fail to comply with the EBT regulations; were previously disqualified as a SNAP recipient; or who violate the equal treatment provision, such as instituting a minimum purchase requirement for SNAP customers, but not for cash, credit, or debit card customers.
- Assess a \$1,000 fine for selling common ineligible items, such as paper products, to first-time offenders. Currently, a fine is not an option. Instead, first-time violators of selling common, ineligible items are disqualified for 6 months. Repeat violators would continue to be subject to disqualification.
- Assess a fine on retailers who conduct SNAP transactions without the card present.
- Increase all monetary damages by standardizing the methodology used to calculate the damages and by replacing the current caps with the new higher statutory limit of \$100,000 per violation, with no limit on damages for each investigation. Currently hardship and transfer of ownership civil money penalties are capped at \$11,000 per violation, and trafficking civil money penalties are currently capped at \$32,000 per violation and \$59,000 per investigation.
- Make retailers found guilty of trafficking a second time no longer eligible to pay a fine instead of being disqualified. This provision is available to a narrow group of retailers—where a rogue employee was responsible for the offense. The new fiscal penalty allows an innocent store owner to pay a fine for a first offense and remain in the program instead of being permanently disqualified due to the actions of a rogue employee. However, after the second offense, the store would be permanently disqualified.

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**Exhibit 1: Comparison of Current and Proposed Sanctions**

	Today	Proposed
<b>Trafficking</b>	Permanent Disqualification	Permanent Disqualification and Civil Penalty defined as follows: <ul style="list-style-type: none"> <li>• Firm’s Average Monthly SNAP redemptions (AMR) for previous 12 months</li> <li>• Multiply AMR by 10%</li> <li>• Multiply the end product by 120 Months.</li> </ul>
<b>Trafficking Civil Money Penalty*** in Lieu of Permanent Disqualification</b>	Civil Money Penalty is determined as follows: <ul style="list-style-type: none"> <li>• Firm’s Average Monthly SNAP redemptions (AMR) for previous 12 months</li> <li>• Multiply AMR by 10%</li> <li>• Multiply the end product by 60 if 1<sup>st</sup> offense or by 120 if 2<sup>nd</sup> offense</li> <li>• If 3<sup>rd</sup> offense, store is ineligible.</li> <li>• Fine is capped at \$32,000 per violation or \$59,000 per investigation.</li> </ul>	Civil Money Penalty is determined as follows: <ul style="list-style-type: none"> <li>• Firm’s Average Monthly SNAP redemptions (AMR) for previous 12 months</li> <li>• Multiply AMR by 10%</li> <li>• Multiply the end product by 120 Months</li> <li>• If 2<sup>nd</sup> offense, store is ineligible.</li> <li>• Fine is capped at \$100,000 per violation. No investigation cap.</li> <li>• CMP is in addition to the civil penalty described above.</li> </ul>
<b>Transfer of Ownership Civil Money Penalty* or Hardship Civil Money Penalty**</b>	CMP is determined as follows: <ul style="list-style-type: none"> <li>• Firm’s Average Monthly SNAP redemptions (AMR) for previous 12 months</li> <li>• Multiply AMR by 10%</li> <li>• Multiply the end product by the number of months for which the firm would have been disqualified. In the case of trafficking, use 240.</li> <li>• Fine is capped at \$11,000 per violation</li> </ul>	CMP is determined as follows: <ul style="list-style-type: none"> <li>• Firm’s Average Monthly SNAP redemptions (AMR) for previous 12 months</li> <li>• Multiply AMR by 10%</li> <li>• Multiply the end product by the number of months for which the firm would have been disqualified. In the case of trafficking, use 240.</li> <li>• Fine is capped at \$100,000 per violation</li> </ul>

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**Exhibit 2: Example of Changes in the Penalty for Trafficking**

**Store #1:**

- Permanently disqualified on July 8, 2011.
- Identified by FNS through our fraud detection system.
- Charged with one trafficking violation on the basis of an electronic transaction data pattern.
- Averaged \$5,467 a month in SNAP redemptions resulting in an annual total of \$65,604.

**Penalty:**

	Today	Proposed
<b>Trafficking</b>	Permanent Disqualification	Permanent Disqualification and \$65,604 Civil Penalty
<b>Transfer of Ownership CMP*</b>	And \$11,000 if store is sold	And \$131,208 - capped at \$100,000 for the single violation - if store is sold

**OR**

<b>Trafficking CMP (for those owners who are eligible)</b>	<b>\$32,802</b>	<b>\$65,604, plus the \$65,604 civil penalty (i.e. \$ 131,208)</b>
<b>Transfer of Ownership CMP*</b>	And \$11,000 if store is sold	And \$131,208 - capped at \$100,000 for the single violation - if store is sold

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**Exhibit 3: Estimated Annual Impact of this Proposal (Based on FNS Actions in FY2011)**

	Today	Proposed
<b>Trafficking</b>	<ul style="list-style-type: none"> <li>• 1,215 stores permanently disqualified</li> </ul>	<ul style="list-style-type: none"> <li>• 1,215 stores permanently disqualified and</li> <li>• \$174,099,565 civil penalties would be assessed               <ul style="list-style-type: none"> <li>○ Average penalty would be \$143,765</li> </ul> </li> </ul>
<b>Trafficking CMP in Lieu of Permanent Disqualification</b>	<ul style="list-style-type: none"> <li>• 4 Trafficking CMP's assessed at \$111,440</li> </ul>	<ul style="list-style-type: none"> <li>• 4 Trafficking CMP's would be assessed at \$367,674</li> </ul>
<b>Transfer of Ownership Civil Money Penalty*</b>	<ul style="list-style-type: none"> <li>• 157 Transfer of Ownership CMP's assessed at \$5,614,795               <ul style="list-style-type: none"> <li>○ Average fine is \$35,763</li> <li>○ 15% were capped at \$11,000 per violation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• 157 Transfer of Ownership CMP's would be assessed at \$41,387,398               <ul style="list-style-type: none"> <li>○ Average fine would be \$263,614</li> <li>○ 55% would be capped at \$100,000 per violation</li> </ul> </li> </ul>

**\*Reason for Transfer of Ownership Civil Money Penalty-** If the disqualified retailer has transferred ownership or sold their retail food store/wholesale food concern they will be subjected to and liable for this civil money penalty.

**\*\*Reason for Hardship Civil Money Penalty-** If the retailers' disqualification is for a violation other than trafficking and would cause hardship to SNAP beneficiaries because there is no other authorized retailer in the area selling as large a variety of items at comparable prices to the one being disqualified, FNS may impose a civil money penalty as a sanction in lieu of disqualification.

**\*\*\*Reason for Trafficking Civil Money Penalty –** In some limited circumstances as defined by regulation, retailers are eligible for a monetary penalty in lieu of a permanent disqualification.