



RULE-MAKING ORDER

PERMANENT RULE ONLY

CR-103P (December 2017)
(Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 07, 2025

TIME: 2:51 PM

WSR 25-09-026

Agency: Department of Health

Effective date of rule:

Permanent Rules

☒ 31 days after filing.

☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: Farmers Market Nutrition Program – Electronic Benefits Payments in chapter 246-780- WAC.

The Department of Health (department) administers the Farmers' Market Nutrition Program (FMNP). It allows participants of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and the Senior Farmers Market Nutrition Program to purchase unprocessed fresh fruits, vegetables, and cut herbs directly from growers in farmers' markets using their benefits. The FMNP is transitioning to the use of electronic benefit payments (e-FMNP). As part of this change, WIC participants can also use their Cash Value Benefits (CVB) for fresh fruits and vegetables at authorized farmers markets and farm stores, in addition to the seasonal FMNP benefits. The department has updated vendor contracts to reflect the use of e-FMNP. The department is amending chapter 246-780 WAC to align the rules with the contract language and reflect the practice of using e-FMNP.

Citation of rules affected by this order:

New: None

Repealed: None

Amended: WAC 246-780-001, WAC 246-780-010, WAC 246-780-020, WAC 246-780-022, WAC 246-780-025, WAC 246-780-026, WAC 246-780-028, WAC 246-780-030, WAC 246-780-040, and WAC 246-780-060

Suspended: None

Statutory authority for adoption: RCW 43.70.120 and RCW 43.70.700

Other authority: None

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 24-22-091 on October 31, 2024 (date).

Describe any changes other than editing from proposed to adopted version:

The proposed rule included an updated definition of "authorized farmers market" in WAC 246-780-010(3), which was intended to remove redundant and potentially confusing language. However, the proposed changes were interpreted to change the effect of the definition, so the adopted rule retains the original definition of "authorized farmers market" in WAC 246-780-010(3).

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Dax Tate

Address: PO Box 47830 Olympia, WA 98504-7830

Phone: 564-999-1579

Fax: N/A

TTY: 711

Email: dax.tate@doh.wa.gov

Web site: N/A

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

The number of sections adopted on the agency's own initiative:

New	<u>0</u>	Amended:	<u>10</u>	Repealed	<u>0</u>
-----	----------	----------	-----------	----------	----------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	<u>Amended:</u>	<u>10</u>	Repealed	<u>0</u>
-----	----------	-----------------	-----------	----------	----------

The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>10</u>	Repealed	<u>0</u>

Date Adopted: 04/07/2025

Name: Kristin Peterson, JD for Jessica Todorovich, MS

Title: Chief of Policy for Acting Secretary of Health

Signature:



Chapter 246-780 WAC
FARMERS((1)) MARKET NUTRITION PROGRAM

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-001 ~~((What is the purpose of the farmers' market nutrition program?))~~ **Purpose of the farmers market nutrition program.**

(1) The purpose of the farmers((1)) market nutrition program (FMNP) is to:

(a) Provide access to:

(i) Locally grown, fresh, nutritious, unprepared fruits and vegetables, and fresh cut herbs to women, infants over five months of age, and children, who participate in the special supplemental nutrition program for women, infants, and children (WIC); ~~((and))~~

(ii) The WIC fruit and vegetable cash value benefit (CVB); and

(iii) The senior farmers market nutrition program (SFMNP) which includes locally grown, fresh, nutritious, unprepared fruits, vegetables, and fresh cut herbs.

(b) Expand the awareness and use of farmers((1)) markets where consumers can buy directly from the grower.

(2) The FMNP is administered by the Washington state department of health.

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly implies otherwise.

(1) "Authorized" or "authorization" means an applicant has met the selection criteria and has been issued a signed contract with the department allowing participation in the FMNP.

(2) "Authorized farm store" means a ~~((store or stand authorized by the department which is located))~~ sale location at the site of agricultural production and is owned, leased, rented, or sharecropped and operated by an authorized grower where the grower sells produce ~~((is sold))~~ directly to consumers.

(3) "Authorized farmers((1)) market" means a farmers((1)) market authorized by the department that has a minimum of five or more authorized growers who assemble at a defined location for the purpose of selling their produce directly to consumers.

(4) "Authorized grower" means an individual authorized by the department who grows at least a portion of the produce that they sell at a Washington state authorized farmers((1)) market or authorized farm store.

(5) "Benefit" means a negotiable financial instrument issued by the WIC, WIC FMNP, or SFMNP to participants to purchase eligible foods in each of these programs at farmers markets.

(6) "Broker" or "wholesale distributor" means an individual or business who exclusively sells produce grown by others. There is an exception for an individual employed by an authorized grower or non-profit organization to sell produce on behalf of authorized growers.

~~((6)) "Check" means a negotiable financial instrument issued by the FMNP to clients to purchase eligible foods.))~~

(7) "Business and financial documentation" means all documents required to own and operate a business as a grower which may include, but is not limited to, banking and financial records; property sales; accounting; and product sales.

(8) "Civil monetary penalty" means a sum of money imposed by the FMNP program for noncompliance with program requirements for WIC FMNP and SFMNP.

(9) "Contract" or "agreement" means a written legal document binding the contractor and the department to designated terms and conditions.

~~((8))~~ (10) "Cut herbs" means fresh herbs with no medicinal value that are not potted.

~~((9))~~ (11) "WIC CVB" means a monthly cash value benefit which is a WIC food instrument used by a participant to obtain fresh fruits and vegetables.

(12) "Department" means the Washington state department of health.

~~((10))~~ (13) "Disqualification" means terminating the contract or agreement of an authorized farmers((L)) market, authorized grower or authorized farm store for noncompliance with ((FMNP)) WIC CVB, WIC FMNP, or SFMNP requirements.

~~((11))~~ (14) "Eligible foods" means locally grown, unprocessed (except for washing), fresh, nutritious fruits, vegetables, and cut herbs.

~~((12))~~ (15) "Electronic farmers market nutrition program (e-FMNP)" means the electronic benefits providing access to fresh fruits, vegetables, and cut herbs for WIC and senior participants.

(16) "FMNP" means the farmers((L)) market nutrition program.

~~((13))~~ (17) "Food instrument" means an e-WIC card or QR code used to obtain eligible foods.

(18) "Grower" means an individual who grows at least a portion of the produce that they sell at a farmers market or farm store that entered into an agreement with the department.

(19) "Local WIC agency" means the contracted agency or clinic where a ((client)) participant receives WIC services and farmers((L)) market ((checks)) benefits.

~~((14))~~ (20) "Locally grown" means Washington grown or grown in an adjacent county of Idaho or Oregon.

~~((15))~~ (21) "Market manager" means an individual designated by the farmers((L)) market management or board ((member)) who is responsible for overseeing the market's participation in the FMNP.

~~((16))~~ (22) "Notice of violation" means a written document given to an authorized grower or market when the department determines the vendor has not complied with program requirements, federal WIC regulations, this chapter, or a contract or agreement.

(23) "Participant" means a senior, woman, infant, or child receiving WIC CVB, WIC FMNP, or SFMNP.

(24) "Point of sale" means the location the transaction occurred between the participant and the grower.

(25) "QR code" means a quick response code used to read a participant's benefits on the senior FMNP card or WIC card, or a sticker

added to the e-WIC card for WIC participants, or a quick response code available on a mobile device.

(26) "Selection criteria" means the approved standards the department uses to select growers, markets, and farm stores for WIC FMNP, CVB, and SFMNP authorization.

(27) "SFMNP" means the senior farmers market nutrition program administered by the department of social and health services.

(28) "Suspension" means the immediate stoppage of WIC FMNP, CVB, and SFMNP payments to a grower or market as a result of ongoing compliance activities or lack of federal funding.

(29) "Trafficking" means the buying or exchanging of farmers((1)) market ((cheeks)) benefits for cash, drugs, or alcohol.

((17)) (30) "WIC" ((or "WIC nutrition program")) means the federally funded special supplemental nutrition program for women, infants, and children ((administered in Washington state by the department of health)).

((18) "Client" means a woman, infant, or child receiving FMNP benefits.)) (31) "WIC FMNP" means the WIC farmers market nutrition program administered by the department.

(32) "WIC FMNP & SFMNP benefits" means a negotiable financial instrument issued by the FMNP to participants to purchase eligible foods. Also known as "WIC & SFMNP benefits."

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-020 ((How does an applicant farmers' market become authorized to participate in the farmer's market nutrition program?)) Farmers market application requirements. (1) To become authorized to participate in the FMNP, an applicant must:

(a) Apply as a farmers((1)) market on a form provided by the department;

(b) Meet the selection criteria in subsection (2) of this section;

(c) Complete training on FMNP requirements; and

(d) Receive a contract or agreement from the department signed by both the department and the applicant.

(2) Farmers((1)) market selection criteria. The applicant must:

(a) Have a designated market manager on-site during operating hours;

(b) Have been in operation at least one year. The one-year requirement may be waived by the department based on capacity and need;

(c) Be located within ((twenty)) 20 miles of the local WIC agency;

(d) Have at least five authorized growers participating in the farmers((1)) market each year;

(e) ((Agree to)) Comply with training sessions and monitor visits; and

(f) ((Agree to)) Comply with all terms and conditions specified in the contract.

(3) The department is not required to authorize all applications. Selection is also based on community need.

(4) An authorized farmers' market must reapply at the end of the current contract; however, neither the department nor the participant has an obligation to renew a contract.

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-022 ~~((What is expected of an authorized farmers' market?))~~ Authorized farmers market minimum requirements. The authorized farmers' market must:

(1) Comply with the FMNP requirements and the terms and conditions of their contract;

(2) Accept training and technical assistance on FMNP requirements from department staff;

(3) Provide in person training to authorized growers, market employees and volunteers on FMNP requirements including, but not limited to: Eligible foods, ~~((check))~~ electronic benefits redemption procedures, civil rights requirements, and the complaint process;

(4) Be accountable for the actions of employees and volunteers;

(5) Keep a current list of authorized growers, including the authorized grower's name ~~((,))~~ and business address ~~((, telephone number, and crops to be sold during the farmers' market season. The authorized farmers' market must provide this list to the department on request))~~;

(6) Ensure that WIC FMNP ~~((checks))~~, SFMNP benefits, and WIC CVBs are accepted only ~~((by authorized growers))~~ for locally grown eligible foods;

(7) ~~((Report to the department anyone that accepts FMNP checks without authorization from the department;~~

~~((8) Refuse to process any FMNP checks taken by unauthorized individuals;~~

~~((9) Ensure FMNP checks are stamped with the appropriate market and authorized grower identification numbers;~~

~~((10))~~ Ensure authorized growers have and display the "WIC Farmers' Market ~~((Checks))~~ Benefits Welcome Here" sign each day;

~~((11))~~ (8) Comply with federal and state nondiscrimination laws;

~~((12))~~ (9) Ensure that ~~((clients))~~ participants receive the same courtesies as other customers;

~~((13))~~ (10) Provide the department, upon request, with any information it has available regarding its participation in the WIC FMNP, WIC CVB, and SFMNP;

~~((14))~~ (11) Keep ~~((client))~~ participant information confidential;

~~((15))~~ (12) Allow the department to monitor the authorized farmers' market for compliance with FMNP requirements;

~~((16))~~ (13) Notify the department immediately if authorized farmers' market operations cease; and

~~((17))~~ (14) Notify the department immediately of any authorized farmers' market, authorized grower or authorized farm store suspected of noncompliance with WIC FMNP, WIC CVB, and SFMNP requirements.

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-025 ~~((How does an applicant grower become authorized to participate in the farmers' market nutrition program?))~~ **Grower application requirements.**

(1) To become authorized to participate in the WIC FMNP, WIC CVB, and WIC SFMNP an applicant ~~((must))~~ shall:

(a) Apply as a grower on a form provided by the department;
(b) Meet the grower selection criteria in subsection (2) of this section;

(c) Complete training on WIC FMNP, WIC CVB, and SFMNP requirements provided by either an authorized farmers~~((1))~~ market manager or the department; and

(d) Receive a contract from the department signed by both the department and the applicant.

(2) Grower selection criteria. The applicant ~~((must))~~ shall:

(a) Grow a portion of the produce they have for sale;

(b) Have the ability to accept e-FMNP transactions at the point of sale;

(c) Sell locally grown produce at either the authorized farmers~~((1))~~ market or the authorized farm store, or both as identified on the completed application; and

~~((e))~~ (d) Agree to follow the terms and conditions of the grower contract.

(3) The department is not required to authorize all applications. Selection ~~((is also))~~ may be based on community need as determined by the department.

(4) An authorized grower ~~((must))~~ shall reapply at the end of the current contract; however, neither the department nor the participant has an obligation to renew a contract.

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-026 ~~((How does an applicant farm store become authorized to participate in the farmers' market nutrition program?))~~ **Farm store application requirements.**

(1) To become authorized to participate in the WIC FMNP, WIC CVB, and SFMNP an applicant must:

(a) Apply as a farm store on a form provided by the department;

(b) Meet the farm store selection criteria in subsection (2) of this section;

(c) Complete training on WIC FMNP, WIC CVB, and SFMNP requirements provided by either an authorized farmers~~((1))~~ market manager or the FMNP; and

(d) Receive a contract from the department signed by both the department and the applicant.

(2) Farm store selection criteria. The applicant must:

(a) Be located at the site of agricultural production and grow, at that location, a portion of the produce they have for sale;

(b) Have the ability to accept WIC FMNP, WIC CVB, and SFMNP transactions at the point of sale;

(c) Sell locally grown produce; and

~~((e))~~ (d) Agree to follow the terms and conditions of the contract.

(3) An authorized farm store must reapply at the end of the current contract; however, neither the department nor the participant has an obligation to renew a contract.

(4) The department is not required to authorize all applicants. Priority for authorization will be given to applicants located in areas defined by the department without an authorized farmers~~((l))~~ market.

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-028 ~~((What is expected of an authorized grower or an authorized farm store?))~~ Authorized grower or authorized farm store—Minimum requirements. The authorized grower or authorized farm store must:

(1) Comply with the WIC FMNP, WIC CVB, and SFMNP requirements and the terms and conditions of the contract;

(2) Accept training and technical assistance on WIC FMNP, WIC CVB, and SFMNP requirements and ensure that all persons working or volunteering with the authorized grower or at the authorized farm store at the location(s) specified in the contract are trained as well. Training may be provided by either a farmers~~((l))~~ market manager or the department and includes, but is not limited to: Eligible foods, ~~((echeck))~~ benefit processing and redemption procedures, civil rights requirements, and the complaint process;

(3) Be held accountable regarding WIC FMNP, WIC CVB, and SFMNP purchases and requirements for the actions of all persons working or volunteering with the authorized grower or at the authorized farm store at the location(s) specified in the contract;

(4) Accept ~~((FMNP checks))~~ WIC FMNP, WIC CVB, and SFMNP benefits only for eligible foods;

(5) Accept ~~((FMNP checks))~~ WIC FMNP, WIC CVB, and SFMNP benefits only at authorized farmers~~((l))~~ markets or at authorized farm stores at the location(s) specified in the contract;

(6) ~~((Accept FMNP checks within the valid dates of the FMNP and redeem checks by the date imprinted on the check;~~

~~+7))~~ Display the "WIC Farmers~~((l))~~ Market ~~((Checks))~~ Benefits Welcome Here" sign when selling eligible foods at authorized farmers~~((l))~~ markets and authorized farm stores;

~~((+8))~~ (7) Provide ~~((clients))~~ participants with the full amount of product for the value of ~~((each FMNP check))~~ the program transaction;

~~((+9))~~ (8) Charge ~~((clients))~~ participants the same prices as other customers;

~~((+10))~~ (9) Make produce available to ~~((clients))~~ participants that is the same quality as that offered to other customers;

~~((+11))~~ (10) Comply with federal and state nondiscrimination laws;

~~((+12))~~ (11) Treat ~~((clients))~~ participants as courteously as other customers;

~~((13))~~ (12) Cooperate with department staff in monitoring for compliance with WIC FMNP, WIC CVB, and SFMNP requirements and provide information on request;

~~((14))~~ (13) Reimburse the department for mishandled ~~((FMNP checks))~~ WIC FMNP, WIC CVB, and SFMNP benefits;

~~((15))~~ (14) Not collect sales tax on ~~((FMNP check))~~ WIC FMNP, WIC CVB, and SFMNP benefit purchases;

~~((16) Not seek reimbursement from clients for checks not paid by the department;~~

~~((17))~~ (15) Not give cash back or tokens for purchases ~~((less than the value of the))~~ with WIC FMNP ~~((checks))~~, WIC CVB, and SFMNP benefits; and

~~((18))~~ (16) Not trade, barter, or otherwise use farmers~~((1))~~ market ~~((checks))~~ benefits to purchase foods from other growers or pay for market fees or other business costs.

(17) Maintain a business model that promotes business integrity. The department may investigate the business integrity of a WIC vendor or applicant at any time. In its determination of business integrity, the department's considerations will include, but are not limited to, the following:

(a) Providing complete and truthful information in the application, correspondence, and other documents requested by the department.

(b) Cooperating with department requests to complete WIC authorization or compliance activities.

(c) Providing business and financial documentation to the department upon request.

(d) Having no uncorrected violation(s) from a previous contracting period, current disqualification, or outstanding claims owed to the department.

(e) Disclosure of any third party, agent, or broker involved in any part of the application process.

(f) Disclosure of any broker of third parties.

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-030 ~~((What kind of foods can clients buy with farmers' market nutrition program checks?))~~ **Farmers market nutrition program eligible foods.** (1) ~~((Clients))~~ Participants can use WIC FMNP ~~((checks))~~, WIC CVB, and SFMNP benefits to buy locally grown, unprocessed (except for washing), fresh fruits, vegetables, and cut herbs. SFMNP participants may purchase honey.

(2) Federal regulations do not allow ~~((clients))~~ participants to buy the following items with WIC FMNP ~~((checks))~~, WIC CVB, and SFMNP benefits:

- (a) Baked goods;
- (b) Cheeses;
- (c) Cider;
- (d) Crafts;
- (e) Dairy products;
- (f) Dried fruits;
- (g) Dried herbs;
- (h) Dried vegetables;
- (i) Edible flowers;

(j) Eggs;
 ((j)) (k) Flowers((r));
 ((k)) (l) Fruit juices;
 ((l)) (m) Honey allowed for SFMNP;
 ((m)) (n) Jams;
 ((n)) (o) Jellies;
 ((o)) (p) Meats;
 ((p)) (q) Nuts;
 ((q)) (r) Potted herbs;
 ((r)) (s) Seafood;
 ((s)) (t) Seeds; and
 ((t)) (u) Syrups.

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-040 ((What happens if an authorized farmers' market, authorized grower or authorized farm store does not comply with FMNP requirements?)) Noncompliance with FMNP requirements by an authorized farmers market, authorized grower, or authorized farm store. (1) Authorized farmers((l)) markets, authorized growers or authorized farm stores who do not comply with ((FMNP requirements)) federal WIC regulations, including those at 7 C.F.R. 248.16, this chapter, or a contract or agreement with the department are subject to sanctions, such as suspensions, civil monetary penalties, or disqualification. Prior to disqualification, the department must consider whether the disqualification would create undue hardships for ((elients)) participants.

(2) Noncompliance includes, but is not limited to:

(a) Failing to display the "WIC Farmers((l)) Market ((Checks)) Benefits Welcome Here" sign each day when selling at authorized farmers((l)) markets or authorized farm stores;

(b) Providing unauthorized food or nonfood items to ((elients)) participants in exchange for the WIC FMNP ((checks)), WIC CVB, and SFMNP benefits;

(c) Charging the department for foods not received by the ((elient)) participant;

(d) Providing rain checks or credit to ((elients)) participants in ((an)) a WIC FMNP, WIC CVB, and SFMNP transaction;

(e) Giving change to ((elients if the purchase is less than the value of the FMNP check)) participants for purchases made with WIC FMNP, WIC CVB, and SFMNP benefits;

(f) Accepting WIC FMNP ((checks without having a signed contract with the department;

~~((g) Accepting FMNP checks))~~, WIC CVB, and SFMNP benefits at unauthorized farmers((l)) markets or unauthorized farm stores;

((h)) (g) Collecting sales tax on ((FMNP)) WIC FMNP, WIC CVB, and SFMNP purchases;

((i)) (h) Seeking reimbursement after the transaction from ((elients)) participants for ((checks)) benefits not paid by the department; and

((j)) (i) Violating the rules of this chapter or the provisions of the contract.

(3) Authorized farmers(~~(1)~~) markets, authorized growers, and authorized farm stores found in noncompliance will be notified by the department in writing.

(4) If an authorized farmers(~~(1)~~) market, authorized grower or authorized farm store is subsequently found in noncompliance for the same or a similar reason, the department may impose sanctions, such as civil monetary penalties or disqualification, without giving the opportunity to correct the problem.

(5) Denials of authorizations and disqualifications are effective upon receipt of the notice of violation. When the department notifies an authorized farmers(~~(1)~~) market, authorized grower or authorized farm store of (~~(a)~~) any other pending adverse action that affects their authorization status in the (~~(FMNP)~~) WIC FMNP, WIC CVB, and SFMNP, the department must mail written notice of violation at least (~~(fifteen)~~) 15 days before the effective date of the action. The notice of violation must state what action is being taken, the effective date of the action, and the procedure for requesting an appeal hearing.

(6) The department may deny payment to an authorized grower or an authorized farm store for mishandling (~~(FMNP checks)~~) WIC FMNP, WIC CVB, and SFMNP benefits.

(7) The department may seek reimbursement from an authorized grower or authorized farm store for payments made on (~~(mishandled FMNP checks)~~) ineligible transactions.

(8) Civil monetary penalties must be paid to the department within the time period specified in the notice of violation. The department may refer an authorized grower or authorized farm store who fails to pay within the specified time period to a commercial collection agency.

(9) An authorized farmers(~~(1)~~) market, authorized grower or authorized farm store that has been disqualified from the (~~(FMNP)~~) program may reapply at the end of the disqualification period.

(10) Any trafficking in (~~(FMNP checks)~~) WIC FMNP, WIC CVB, and SFMNP benefits in any amount must result in disqualification.

(11) An authorized farmers(~~(1)~~) market, authorized grower or authorized farm store who commits fraud or other unlawful activities (~~(are)~~) is liable for prosecution according to (~~(FMNP)~~) federal program regulations(~~(-f)~~) at 7 C.F.R. 248.10(k).(~~(+)~~)

(12) The department may sanction growers for violations of WIC CVB, FMNP, and SFMNP requirements in accordance with the sanction table in the grower agreement. A violation occurs when a grower does not comply with WIC CVB, FMNP, and SFMNP requirements during the course of a single transaction involving one or more WIC CVB, FMNP, and SFMNP transactions. Sanctions may include vendor disqualification, civil monetary penalties, or both.

AMENDATORY SECTION (Amending WSR 10-21-068, filed 10/15/10, effective 11/15/10)

WAC 246-780-060 (~~(How does an authorized farmers' market, authorized grower, an authorized farm store or an applicant appeal a department decision?)~~) **Appealing a department decision.** (1) Proceedings under this chapter shall be in accordance with chapter 246-10 WAC. If

a provision of chapter 246-10 WAC conflicts with a provision of 7 C.F.R. 246.18, the federal regulation shall prevail.

(2) An authorized farmers((L)) market, authorized grower, authorized farm store or an applicant has a right to appeal denial of payment, denial of an application, civil monetary penalty or disqualification from the ((FMNP. Expiration or nonrenewal of a contract is not subject to appeal)) program.

((2)) (3) If the action being appealed is a disqualification of an authorized farmers((L)) market, the authorized farmers((L)) market must cease processing farmers((L)) market ((checks)) benefits for all authorized growers effective the date specified in the ((sanction)) notice of violation.

((3) If the action being appealed is a disqualification of an authorized grower or authorized farm store, the authorized grower or authorized farm store must cease accepting FMNP checks effective the date specified in the sanction notice. In addition, the authorized farmers' market must cease processing checks for the affected authorized grower. Payments must not be made for any FMNP checks submitted for payment during a period of disqualification.))

(4) The department may, at its discretion, permit the authorized farmers((L)) market, authorized grower, or authorized farm store to continue participating in the ((FMNP)) program pending the appeal hearing outcome. The ((authorized farmers' market,)) authorized grower or authorized farm store may be required to repay funds for ((FMNP checks)) WIC FMNP, WIC CVB, and SFMNP benefits redeemed while waiting for the outcome of the hearing, depending on the hearing outcome.

(5) A request for an appeal hearing must be in writing and must:

(a) State the issue raised;

(b) Contain a summary of the authorized farmers((L)) market's, authorized grower's, authorized farm store's or applicant's position on the issue, ((indicating)) and indicate whether each charge is admitted, denied, or not contested;

(c) State the name and address of the authorized farmers((L)) market, authorized grower, authorized farm store or applicant requesting an appeal hearing;

(d) State the name and address of the attorney representing the authorized farmers((L)) market, authorized grower, authorized farm store or applicant if any;

(e) State the need for an interpreter or other special accommodations, if necessary; and

(f) Have a copy of the notice of violation from the department attached.

(6) A request for an appeal must be filed at the Department of Health, Adjudicative Clerk's Office, P.O. Box 47879, Olympia, WA 98504-7879. The request must be made within ((twenty-eight)) 28 days of the date the authorized farmers((L)) market, authorized grower, authorized farm store or applicant received the department's notice of violation.

(7) The decision concerning the appeal must be made within ((sixty)) 60 days from the date the request for an appeal hearing was received by the adjudicative clerk's office. The time may be extended if all parties agree.