

WSR 26-06-076

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed March 2, 2026, 7:17 a.m., effective April 2, 2026]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-780 WAC, Farmers market nutrition program (FMNP), implementation of authorized mobile markets. The department of health (department) is amending chapter 246-780 WAC to implement ESSB [SSB] 5214. The rules allow mobile markets to participate in FMNP. Authorized mobile farmers markets are allowed to participate in FMNP by selling eligible foods, from local farmers who grow at least a portion of what they sell, to women infant and children (WIC) FMNP, WIC cash value benefit and FMNP participants. The changes to existing rule are:

- Establishment of an application process for potential mobile markets.
- Establishment of minimum requirements of authorized mobile markets.
- Requirements that authorized mobile markets be a nonprofit organization, have at least five growers contracted during the FMNP season, operate at least one route stop within 30 miles of a WIC office, be at least 0.25 miles away from the nearest FMNP authorized farmers market when it is open, and have an established route submitted to the department.
- Including authorized mobile markets in the noncompliance activities requirements.
- Allowing authorizing mobile markets to appeal a department decision.

Citation of Rules Affected by this Order: New WAC 246-780-023 and 246-780-024; and amending WAC 246-780-001, 246-780-010, 246-780-040, and 246-780-060.

Statutory Authority for Adoption: RCW 43.70.700, 43.70.120, and 43.70.703.

Adopted under notice filed as WSR 26-01-109 on December 16, 2025.

Changes Other than Editing from Proposed to Adopted Version: The adopted rule includes several nonsubstantive, technical edits. These changes are limited to correcting internal references and clarifying wording for consistency across sections. No substantive changes were made to the proposed rule.

Specifically:

- WAC 246-780-010(22), 246-780-010(31), and 246-780-024(20) are amended to consistently distinguish between "farmers markets" and "mobile markets" rather than using the term "markets," which could be ambiguous.
- WAC 246-780-023 is amended to clarify that at least one authorized mobile market route stop must be located within 30 miles of a local WIC clinic.
- WAC 246-780-023 is also amended to clarify that authorized mobile markets may operate at the same location as authorized farmers markets on days and during hours when the authorized farmers market is not open.

A final cost-benefit analysis is available by contacting Karen Mullen, P.O. Box 47380, Olympia, WA 98504-7380, phone 360-515-8279, fax 360-236-2601, TTY 711, email karen.mullen@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 4, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 4, Repealed 0.

Date Adopted: March 2, 2026.

Kristin Peterson, JD
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RDS-6875.2

AMENDATORY SECTION (Amending WSR 25-09-026, filed 4/7/25, effective 5/8/25)

WAC 246-780-001 Purpose of the farmers market nutrition program.

- (1) The purpose of the farmers 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);
 - (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 markets where consumers can buy directly from the grower.
 - (c) Provide access to fresh, healthy foods regardless of a household's proximity to a farmers market through nonprofit mobile markets for participants of WIC FMNP, WIC CVB, and SFMNP.
- (2) The FMNP is administered by the Washington state department of health.

AMENDATORY SECTION (Amending WSR 25-09-026, filed 4/7/25, effective 5/8/25)

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 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 directly to consumers.

(3) "Authorized farmers market" means a farmers 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 market, authorized roadside stand, or authorized farm store.

(5) "Authorized mobile market" means a traveling nonprofit retail operation that has been approved by the department to accept WIC FMNP, WIC CVB, and SFMNP benefits, and sells fresh, unprocessed, locally grown fruits, vegetables, cut herbs, and honey directly to participants. Authorized mobile markets must not compete with authorized farmers markets.

(6) "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))~~ (7) "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 nonprofit organization to sell produce on behalf of authorized growers.

~~((7))~~ (8) "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))~~ (9) "Civil monetary penalty" means a sum of money imposed by the FMNP program for noncompliance with program requirements for WIC FMNP and SFMNP.

~~((9))~~ (10) "Contract" or "agreement" means a written legal document binding the contractor and the department to designated terms and conditions.

~~((10))~~ (11) "Cut herbs" means fresh herbs with no medicinal value that are not potted.

~~((11))~~ (12) "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))~~ (13) "Department" means the Washington state department of health.

~~((13))~~ (14) "Disqualification" means terminating the contract or agreement of an authorized farmers market, authorized mobile market, authorized grower ~~((or))~~, authorized farm store, or authorized roadside stand for noncompliance with WIC CVB, WIC FMNP, or SFMNP requirements.

~~((14))~~ (15) "Eligible foods" means locally grown, unprocessed (except for washing), fresh, nutritious fruits, vegetables, and cut herbs.

~~((15))~~ (16) "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))~~ (17) "FMNP" means the farmers market nutrition program.
- ~~((17))~~ (18) "Food instrument" means an e-WIC card or QR code used to obtain eligible foods.
- ~~((18))~~ (19) "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))~~ (20) "Local WIC agency" means the contracted agency or clinic where a participant receives WIC services and farmers market benefits.
- ~~((20))~~ (21) "Locally grown" means Washington grown or grown in an adjacent county of Idaho or Oregon.
- ~~((21))~~ (22) "Market manager" means an individual designated by the farmers market management or board, or the mobile market management or board, who is responsible for overseeing the farmers market's or mobile market's participation in the FMNP.
- ~~((22))~~ (23) "Nonprofit" means a private agency which is exempt from income tax under the Internal Revenue Code of 1986 as amended, (26 U.S.C. 1 et. seq.).
- (24) "Notice of violation" means a written document given to an authorized grower, authorized farm store, authorized roadside stand, authorized mobile market, or authorized farmers market when the department determines the vendor has not complied with program requirements, federal WIC regulations, this chapter, or a contract or agreement.
- ~~((23))~~ (25) "Participant" means a senior, woman, infant, or child receiving WIC CVB, WIC FMNP, or SFMNP.
- ~~((24))~~ (26) "Point of sale" means the location the transaction occurred between the participant and the ~~(grower)~~ the WIC CVB, WIC FMNP, or SFMNP vendor.
- ~~((25))~~ (27) "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))~~ (28) "Roadside stand" means a location at which an individual farmer sells their produce directly to participants.
- (29) "Selection criteria" means the approved standards the department uses to select growers, farmers markets, mobile markets, roadside stands, and farm stores for WIC FMNP, CVB, and SFMNP authorization.
- ~~((27))~~ (30) "SFMNP" means the senior farmers market nutrition program administered by the department of social and health services.
- ~~((28))~~ (31) "Suspension" means the immediate stoppage of WIC FMNP, CVB, and SFMNP payments to a WIC CVB, WIC FMNP, or SMNP grower, or authorized farmers market or authorized mobile market as a result of ongoing compliance activities or lack of federal funding.
- ~~((29))~~ (32) "Trafficking" means the buying or exchanging of farmers market benefits for cash, drugs, or alcohol.
- ~~((30))~~ (33) "WIC" means the federally funded special supplemental nutrition program for women, infants, and children.
- ~~((31))~~ (34) "WIC FMNP" means the WIC farmers market nutrition program administered by the department.
- ~~((32))~~ (35) "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."

NEW SECTION

WAC 246-780-023 Mobile market application requirements. (1) The department shall consider a mobile market for FMNP authorization, when the applicant meets all of the following:

(a) Submits a completed application to the department on a form provided by the department;

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

(c) Completes training on FMNP requirements; and

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

(2) Mobile market selection criteria. At the time of application, applicants shall meet the following criteria and shall continue to meet the following criteria throughout the period of authorization:

(a) Be a nonprofit organization, and have a mobile market manager or designated representative;

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

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

(d) Have at least one route stop within 30 miles of a local WIC agency;

(e) Have at least five local growers, which grow at least a portion of what they sell in Washington, participating in the mobile market each season under contract period;

(f) Must maintain a current list of growers participating in the mobile market;

(g) Have an established route with a unique address for each stop provided to the department before the start of the season. The stops must be at least 0.25 miles away from authorized farmers markets during the hours and days that the farmers market is open for business;

(h) Comply with training sessions and monitor visits;

(i) Submit to the department, upon request, sales information including gross sales and tax-exempt food sales;

(j) Be current with state, federal, and local taxes;

(k) Comply with all terms and conditions specified in the contract.

(3) The department is not required to authorize all applications. If the applicant meets the qualifications or the department has determined that including the applicant in the program is necessary to assure participant access, the department may offer a contract agreement to the applicant. An applicant that has an application declined may appeal the department's decision as provided in WAC 246-780-060.

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

(5) If authorized, the applicant will become an authorized mobile market for the term of the contract/agreement, provided the authorized mobile market continues to comply with requirements in chapter 246-780 WAC.

(6) Mobile markets can request an administrative appeal for certain adverse actions by the department in connection with the contract agreement as specified in the contract agreement and WAC 246-780-040.

(7) The department may temporarily suspend acceptance of applications when in the best interest of program administration.

NEW SECTION**WAC 246-780-024 Authorized mobile market minimum requirements.**

The authorized mobile market must:

- (1) Comply with the FMNP requirements and the terms and conditions of their contract or agreement;
 - (2) Accept training and technical assistance on FMNP requirements from department staff;
 - (3) Provide in-person training to mobile market employees and volunteers on FMNP requirements. Training may be provided by either a mobile market manager or the department and includes, but is not limited to: Eligible foods, benefit processing and 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 growers, including the growers' names and business addresses;
 - (6) Use a mobile market identifier assigned by the department for each WIC CVB, WIC FMNP, and SFMNP transaction.
 - (7) Ensure that WIC FMNP, SFMNP benefits, and WIC CVBs are accepted only for locally grown eligible foods;
 - (a) Display prices clearly for all WIC FMNP, SFMNP, and WIC CVB eligible foods during mobile market business hours;
 - (b) Charge WIC CVB, WIC FMNP, and SFMNP customers the current price or less than the current price charged to other customers;
 - (8) Display the "WIC and Senior Farmers Market Benefits Welcome Here" sign each day;
 - (9) Comply with federal and state nondiscrimination laws;
 - (10) Ensure that participants receive the same courtesies as other customers;
 - (11) Provide the department, upon request, with any information it has available regarding its participation in the WIC FMNP, WIC CVB, and SFMNP;
 - (12) Keep participant information confidential;
 - (13) Cooperate with the department in monitoring the authorized mobile market for compliance with FMNP requirements and provide information on request;
 - (14) Notify the department immediately if authorized mobile market operations cease;
 - (15) Notify the department immediately of any authorized farmers market, authorized mobile market, authorized grower, or authorized farm store suspected of noncompliance with WIC FMNP, WIC CVB, and SFMNP requirements;
 - (16) Notify the department of changes to the established mobile market route within at least five business days of the new route taking effect;
 - (17) Reimburse the department for mishandled WIC FMNP, WIC CVB, and SFMNP benefits;
 - (18) Not collect sales tax on WIC FMNP, WIC CVB, and SFMNP benefit purchases;
 - (19) Not give cash back for purchases with WIC FMNP, WIC CVB, and SFMNP benefits;
 - (20) Not trade, barter, or otherwise use WIC FMNP, WIC CVB, and SFMNP benefits to purchase foods from other growers or pay for mobile market fees or other business costs; and
 - (21) Maintain a business model that promotes business integrity.
- The department may investigate the business integrity of an FMNP vendor or applicant at any time. In its determination of business integ-

rity, 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 25-09-026, filed 4/7/25, effective 5/8/25)

WAC 246-780-040 Noncompliance with FMNP requirements by an authorized farmers market, authorized mobile market, authorized grower, or authorized farm store. (1) Authorized farmers markets, authorized mobile markets, authorized growers or authorized farm stores who do

not comply with 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 participants.

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

- (a) Failing to display the "WIC and Senior Farmers Market Benefits Welcome Here" sign each day when selling at authorized farmers markets, authorized mobile markets, or authorized farm stores;
- (b) Providing unauthorized food or nonfood items to participants in exchange for the WIC FMNP, WIC CVB, and SFMNP benefits;
- (c) Charging the department for foods not received by the participant;
- (d) Providing rain checks or credit to participants in a WIC FMNP, WIC CVB, and SFMNP transaction;
- (e) Giving change to participants for purchases made with WIC FMNP, WIC CVB, and SFMNP benefits;
- (f) Accepting WIC FMNP, WIC CVB, and SFMNP benefits at unauthorized farmers markets, unauthorized mobile markets, or unauthorized farm stores;
- (g) Collecting sales tax on WIC FMNP, WIC CVB, and SFMNP purchases;
- (h) Seeking reimbursement after the transaction from participants for benefits not paid by the department; and
- (i) Violating the rules of this chapter or the provisions of the contract.

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

(4) If an authorized farmers market, authorized mobile market, authorized grower, or authorized farm store is subsequently found in noncompliance for the same or a similar reason, the department may im-

pose 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 market, authorized mobile market, authorized grower, or authorized farm store of any other pending adverse action that affects their authorization status in the WIC FMNP, WIC CVB, and SFMNP, the department must mail written notice of violation at least 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, authorized mobile market, or an authorized farm store for mishandling WIC FMNP, WIC CVB, and SFMNP benefits.

(7) The department may seek reimbursement from an authorized grower, authorized mobile market, or authorized farm store for payments made on 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, authorized mobile market, or authorized farm store who fails to pay within the specified time period to a commercial collection agency.

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

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

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

(12) The department may sanction growers and authorized mobile markets 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 25-09-026, filed 4/7/25, effective 5/8/25)

WAC 246-780-060 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 market, authorized mobile 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 program.

(3) If the action being appealed is a disqualification of an authorized farmers market or authorized mobile market, the authorized farmers market or authorized mobile market must cease processing farm-

ers market benefits for all authorized growers effective the date specified in the notice of violation.

(4) The department may, at its discretion, permit the authorized farmers market, authorized mobile market, authorized grower, or authorized farm store to continue participating in the program pending the appeal hearing outcome. The authorized grower, authorized mobile market, or authorized farm store may be required to repay funds for 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 market's, authorized mobile market's, authorized grower's, authorized farm store's, or applicant's position on the issue, and indicate whether each charge is admitted, denied, or not contested;

(c) State the name and address of the authorized farmers 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 market, authorized mobile 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 28 days of the date the authorized farmers 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 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.