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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**PH 15-2023**

CHAPTER 333

OREGON HEALTH AUTHORITY

PUBLIC HEALTH DIVISION

**FILED**

03/31/2023 11:35 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Updating Farm Direct language to reflect new voucher and payment system in time for season

EFFECTIVE DATE: 04/01/2023 THROUGH 09/27/2023

AGENCY APPROVED DATE: 03/29/2023

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NEED FOR THE RULE(S):

The Oregon Health Authority (OHA), Public Health Division is temporarily amending administrative rules in chapter 333, division 52 as they pertain to farmers that are authorized by the Farm Direct Nutrition Program. This program, also known simply as "Farm Direct," provides WIC families and limited-income seniors a benefit to purchase locally grown fresh fruit and vegetables directly from authorized farmers. OHA is implementing a new voucher instrument and payment processing system for the 2023 Farm Direct season which runs June 1 through November 30, and the amendments comprise updated wording to reflect these changes. OHA needs to revise this rule wherever the old check transaction and payment processes are mentioned so that the rules align with our updated Farmer Agreement effective April 1.

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and Oregon Farm Direct Nutrition Program participants. These rules need to be adopted promptly so that they align with OHA's new voucher and payment processing system. Updating the rules terminology will avoid confusion for farmers entering into agreements with the Oregon Health Authority to participate in Farm Direct and avoid enforcement issues should a dispute arise between OHA and a farmer.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

7 CFR 248, available at <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-A/part-248>

7 CFR 249, available at <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-A/part-249>

RULES:

333-052-0040, 333-052-0044, 333-052-0050, 333-052-0060, 333-052-0080, 333-052-0090, 333-052-0100, 333-052-0130

AMEND: 333-052-0040

RULE SUMMARY: 333-052-0040: Change wording to reflect new payment instrument; remove references to old

system.

CHANGES TO RULE:

333-052-0040

Definitions ¶¶

- (1) "Adequate Participant Access" means there are authorized farmers sufficient for participant need.¶¶
- (2) "Agreement" means a written legal document binding the market or farmer and the Authority to designated terms and conditions.¶¶
- (3) "AAA" means Area Agency on Aging.¶¶
- (4) "ADRC" means Aging and Disability Resource Connection.¶¶
- (5) "APD" means Department of Human Services, Aging and People with Disabilities.¶¶
- (6) "Authority" means the Oregon Health Authority.¶¶
- (7) "Authorized" or "authorization" means an eligible farmer or farmers' market has met the selection criteria and signed an agreement with the Authority allowing participation in FDNP and is not currently disqualified.¶¶
- (8) "~~Check~~" means a negotiable financial instrument by which FDNP benefits are provided to participants.¶¶
- ~~(9) "CMP" means a civil money penalty, which is a monetary penalty imposed against the farmer for noncompliance of FDNP rules.¶¶~~
- ~~(10) "Disqualification" means the act of terminating the agreement of an authorized farmers' market, or farmer from the FDNP for noncompliance with program requirements.¶¶~~
- (140) "Eligible foods" means fresh, nutritious, unprepared, locally grown fruits and vegetables and cut culinary herbs for human consumption.¶¶
- (121) "Farm Direct Nutrition Program" or "FDNP" means the Oregon Farm Direct Nutrition Program (Oregon FDNP), which is composed of the collective Senior Farm Direct Nutrition Program and WIC Farm Direct Nutrition Program, regulated by the United States Department of Agriculture, Food and Nutrition Services and administered by the State of Oregon.¶¶
- ~~(132) "Farmer" means an individual who owns, leases, rents or sharecrops land to grow, cultivate or harvest crops on that land.¶¶~~
- (143) "Farmers' Market" for the purposes of the Oregon FDNP, means a group of producers, including farmers, who grow fruits, vegetables, and/or culinary herbs and who assemble over the course of a year at a defined location for the purpose of selling their produce directly to consumers.¶¶
- (154) "Farm Stand" means a location at which a farmer sells produce directly to consumers.¶¶
- (165) "FDNP Participant" or "participant" means a senior participant or a WIC participant receiving FDNP benefits.¶¶
- (176) "Locally grown" means grown in the state of Oregon or in the following counties of a contiguous state: California - Del Norte, Modoc, Siskiyou; Idaho - Adams, Canyon, Idaho, Owyhee, Payette, Washington; Nevada - Humboldt, Washoe; Washington state - Asotin, Benton, Clark, Columbia, Cowlitz, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, Walla Walla.¶¶
- ~~(187) "Local WIC agency" means the agency or clinic where a WIC participant receives WIC services and benefits.¶¶~~
- (198) "Local WIC agency staff" means any local WIC agency staff authorized to issue FDNP benefits.¶¶
- ~~(2019) "Market" means a farmers' market that has a signed agreement with the Authority to participate in the FDNP.¶¶~~
- (210) "Market Coordinator" means an individual designated by the farmers' market manager (or market board members) responsible for overseeing the market's participation in the FDNP.¶¶
- (221) "Market season" means the time period in which FDNP voucheekrs may be transacted as determined by the Authority.¶¶
- ~~(232) "Senior Farm Direct Nutrition Program (SFDNP)" means the Senior Farmers' Market Nutrition Program funded by USDA that provides senior participants with voucheekrs that can be used to buy eligible foods from an authorized farmer.¶¶~~
- (243) "Senior Participant" means an individual who meets all the eligibility components of the program and who receives FDNP voucheekrs.¶¶
- (254) "SNAP" means the Supplemental Nutrition Assistance Program of the Food and Nutrition Services of the United States Department of Agriculture.¶¶
- (265) "Trafficking" means the buying or exchanging of FDNP voucheekrs for cash, drugs, firearms, alcohol, or any other ineligible item.¶¶
- (276) "USDA" means the United States Department of Agriculture.¶¶
- ~~(28) "Validating" means stamping the FDNP check in the designated box with the farmer identification number~~

~~using the stamp provided by the Authority or a replacement stamp purchased by the farmer.~~¶

~~(297)~~ "Violation" means an activity that is prohibited by OAR 333-052-0030 through 333-052-0090 and classified in OAR 333-052-0080 through 333-052-0130.¶

~~(3028)~~ "Voucher" means a negotiable financial instrument by which FDNP benefits are provided to participants.¶

~~(29)~~ "WIC" or "WIC program" means the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized by Section 17 of the Federal Child Nutrition Act of 1966, as amended, 42 U.S.C. § 1786.¶

~~(310)~~ "WIC Farm Direct Nutrition Program (WIC FDNP)" means the Farmers' Market Nutrition Program funded by USDA that provides WIC participants with vouchers that can be used to buy eligible foods from an authorized farmer.¶

~~(321)~~ "WIC participant" means any pregnant, breastfeeding, or postpartum woman, infant, or child who meets all the eligibility components of the WIC FDNP and receives WIC FDNP vouchers.

Statutory/Other Authority: ORS 413.500

Statutes/Other Implemented: ORS 413.500

AMEND: 333-052-0044

RULE SUMMARY: 333-052-0044: Change wording to reflect new payment instrument.

CHANGES TO RULE:

333-052-0044

WIC Participant Eligibility and Benefits ¶

(1) A WIC participant is eligible to receive WIC Farm Direct Nutrition Program (WIC FDNP) benefits if the participant meets all the following eligibility criteria on the date of FDNP benefit issuance:¶

(a) Is currently receiving benefits under the WIC Program; and¶

(b) Belongs to any of the following WIC categories:¶

(A) A pregnant woman;¶

(B) A breastfeeding woman less than one year after delivery;¶

(C) A non-lactating post-partum woman less than six months after delivery;¶

(D) A child through the end of the month he or she turns five years of age; or¶

(E) An infant four months of age or older.¶

(2) WIC FDNP benefits are limited and benefits will be distributed in an equitable manner within participating local agencies but may not be distributed to all individuals who are eligible.¶

(3) The Authority will determine a standard benefit package per eligible individual and per family each year.¶

(4) WIC FDNP benefits will only be issued to the participant/caretaker in a face-to-face contact by local WIC agency staff, and the participant/caretaker must receive a FDNP orientation when receiving voucheekrs for the first time in the current year.¶

(5) WIC FDNP benefits are valid from June 1 through November 30 of the year in which benefits were issued.¶

(6) Lost or stolen WIC FDNP benefits will not be replaced.¶

(7) Individuals who are denied WIC FDNP benefits may appeal the denial, but shall not receive WIC FDNP benefits while awaiting the decision.¶

(8) WIC participants whose WIC FDNP benefits are terminated may appeal the termination of benefits and shall continue to receive WIC FDNP benefits until the hearing official reaches a decision or the expiration of the current FDNP season, whichever occurs first.

Statutory/Other Authority: ORS 413.500

Statutes/Other Implemented: ORS 413.500

AMEND: 333-052-0050

RULE SUMMARY: 333-052-0050: Change wording to reflect new payment instrument.

CHANGES TO RULE:

333-052-0050

Eligible Foods ¶¶

(1) FDNP voucheekrs may be used to purchase only eligible foods.¶¶

(2) Ineligible items include, but are not limited to:¶¶

(a) Baked goods, cheeses, cider, crafts, dairy products, dried fruits, dried herbs, dried vegetables, eggs, non-edible flowers, fruit juices, honey, jams, jellies, meats, nuts, potted plants of any kind, potted herbs, seafood, seeds, and syrups.¶¶

(b) Fresh fruits, vegetables, and cut culinary herbs that are not locally grown.¶¶

(c) Processed or frozen fruits, vegetables, or cut culinary herbs.

Statutory/Other Authority: ORS 413.500

Statutes/Other Implemented: ORS 413.500

AMEND: 333-052-0060

RULE SUMMARY: 333-052-0060: Change wording to reflect new payment instrument.

CHANGES TO RULE:

333-052-0060

Farmer Participation ¶¶

(1) Only authorized farmers may accept FDNP voucheekrs from participants in exchange for eligible foods.

Authorized farmers may not accept voucheekrs from unauthorized farmers.¶¶

(2) In order to be eligible for participation in the FDNP, a farmer applicant must:¶¶

(a) Own, lease, rent or sharecrop land to grow, cultivate, or harvest fruits, vegetables and cut herbs in Oregon or a bordering county in a contiguous state to sell fresh at a farmers' market or farm stand;¶¶

(b) Complete the farmer application and return it to the Oregon FDNP to verify eligibility;¶¶

(c) Complete the Oregon FDNP orientation; and¶¶

(d) Agree to follow the terms and conditions of the farmer agreement.¶¶

(3) Applications will be used to determine authorization for FDNP.¶¶

(4) The Authority and the FDNP are not required to authorize all applicants.¶¶

(5) Any individual who purchases all the produce they plan to sell is considered a distributor and is not allowed to participate in the FDNP.

Statutory/Other Authority: ORS 413.500

Statutes/Other Implemented: ORS 413.500

AMEND: 333-052-0080

RULE SUMMARY: 333-052-0080: Change wording to reflect new payment instrument and system; remove references to old system.

CHANGES TO RULE:

333-052-0080

Farmer Participation Requirements, Violations and Sanctions ¶¶

(1) An authorized farmer must:¶¶

(a) Comply with FDNP requirements contained in 7 CFR 248 and 7 CFR 249 and the terms and conditions of the farmer agreement;¶¶

(b) Accept training on FDNP requirements and ensure that all individuals working in the farmer's stall(s) at the farmers' market(s) or farm stand(s) are trained;¶¶

(c) Accept FDNP voucheers;¶¶

(A) For eligible foods only; and¶¶

(B) Within the valid dates of the program.¶¶

(d) Prominently display the official FDNP sign provided by the Authority on each day of operation when at authorized farmers' markets or authorized farm stands;¶¶

(e) Provide FDNP clients with the full amount of product for the value of each FDNP voucher;¶¶

(f) Cooperate with staff from the Authority or their designees in monitoring for compliance with program requirements and provide information that the Authority or their designees may require;¶¶

(g) Comply with all state or federal laws regarding non-discrimination, and applicable USDA instructions to ensure that no individual will, on the grounds of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA, be excluded from participation, be denied benefits, or be otherwise subjected to discrimination, under the FDNP;¶¶

(h) Ensure that FDNP shoppers receive equitable treatment, including the availability of produce that is of the same quality and no greater price than sold to other shoppers;¶¶

~~(i) Assure that all FDNP checks are stamped Register with the farmer's Authority-assigned identification number and properly endorsed before cashing or depositing at the farmer's financial institution;¶¶~~

~~(j) Deposit or cash FDNP checks at the authorized farmer's financial institution by the date determined by Authority's payment processor using the farm identifier provided by the Authority, prior to scanning vouchers for payment. ¶¶~~

~~(j) Process Farm Direct vouchers for payment by the date agreed to in the agreement entered into between the Farmer and the Authority; ¶¶~~

(k) Reimburse the Authority for FDNP voucheers that are improperly transacted;¶¶

(l) Respond to requests, implement corrective action, and comply with the terms in final orders as directed by the Authority;¶¶

(m) Not provide credit in exchange for FDNP voucheers;¶¶

(n) Not charge sales tax on FDNP ~~check~~ purchases;¶¶

(o) Not seek restitution from FDNP participants for a voucher not paid by the Authority;¶¶

(p) Not give cash back for purchases that amount to less than the value of a voucher (providing change);¶¶

(q) Not use FDNP voucheers for any purpose other than ~~deposit or cash at their financial institution to process for payment~~; and¶¶

(r) Not accept FDNP voucheers from unauthorized farmers.¶¶

(2) A farmer is in violation of the FDNP if the farmer:¶¶

(a) Fails to:¶¶

(A) Comply with FDNP rules and the terms and conditions of the farmer application and the farmer agreement;¶¶

(B) Accept training on FDNP requirements and ensure that all individuals working in the farmer's stall(s) at the farmers' market(s) or farm stand(s) are trained;¶¶

(C) Prominently display the official FDNP sign provided by the Authority on each day of operation when at authorized farmers' markets or authorized farm stands;¶¶

(D) Provide FDNP clients with the full amount of product for the value of each FDNP voucher;¶¶

(E) Comply with all state or federal laws regarding non-discrimination, and applicable USDA instructions to ensure that no individual will, on the grounds of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA, be excluded from participation, be denied benefits, or be otherwise subjected to discrimination, under the FDNP;¶¶

(F) Ensure that FDNP shoppers receive equitable treatment, including the availability of produce that is of the same quality and no greater price than sold to other shoppers;¶¶

- (G) ~~Assure that all FDNP checks are stamped Register with the farmer's Authority-assigned identification number and properly endorsed before cashing or depositing at the farmer's financial institution;~~
- (H) ~~Deposit or cash FDNP checks at the authorized farmer's financial institution by the date determined by Authority's payment processor using the farm identifier provided by the Authority, prior to scanning vouchers for payment.~~
- (H) Process Farm Direct vouchers for payment by the date agreed to in the agreement entered into between the Farmer and the Authority;
- (I) Reimburse the Authority for FDNP voucheekrs that are improperly transacted;
- (J) Cooperate with staff from the Authority or their designees in monitoring for compliance with program requirements and provide information that the Authority or their designees may require;
- (K) Respond to requests, implement corrective action, or comply with the terms in final orders as directed by the Authority.
- (b) Accepts FDNP voucheekrs:
- (A) For ineligible foods;
- (B) For invalid dates; or
- (C) From an unauthorized farmer.
- (c) Provides credit in exchange for FDNP voucheekrs;
- (d) Charges sales tax on FDNP cheek-purchases;
- (e) Seeks restitution from FDNP participants for a voucheekr not paid by the Authority;
- (f) Gives cash back for purchases that amount to less than the value of a voucheekr (providing change);
- (g) Uses FDNP voucheekrs for any purpose other than ~~deposit or cash at their financial institution~~ to process for payment.
- (3) Farmer sanctions:
- (a) The Authority may issue a notification of non-compliance to an authorized farmer for an initial incident of:
- (A) Accepting FDNP voucheekrs for ineligible foods;
- (B) Failing to prominently display the official sign provided by the Authority, each market day when at authorized farmers' markets or authorized farm stands;
- (C) Failing to provide FDNP clients with the full amount of product for the value of each FDNP voucheekr;
- (D) Failing to ensure that FDNP shoppers receive equitable treatment, including the availability of produce that is of the same quality and no greater price than sold to other shoppers;
- (E) Failing to reimburse the Authority for FDNP voucheekrs that are improperly transacted;
- (F) Charging sales tax on FDNP cheek-purchases;
- (G) Seeking restitution from FDNP participants for voucheekrs not paid by the Authority;
- (H) Giving cash back for purchases less than the value of the voucheekrs (providing change);
- (I) Accepting FDNP voucheekrs from an unauthorized farmer;
- (J) Failing to respond to requests, implement corrective action, or comply with the terms in final orders as directed by the Authority;
- (K) Using FDNP voucheekrs for any purpose other than ~~deposit or cash at the authorized farmer's financial institution~~ to process for payment; and
- (L) Failing to cooperate with staff from the Authority or their designees in monitoring for compliance with program requirements and failing to provide information that the Authority or their designees may require.
- (b) The Authority may disqualify a farmer for four season months, which may cross from the year during which the violation occurred into the following year for an initial incident of providing credit in exchange for FDNP voucheekrs.
- (c) The Authority may disqualify a farmer for four season months, which may cross from the year during which the violation occurred into the following year, for second or subsequent incidents of:
- (A) Accepting FDNP voucheekrs for ineligible foods;
- (B) Failing to prominently display the official sign provided by the Authority, each market day when at authorized farmers' markets or authorized farm stands;
- (C) Failing to provide FDNP clients with the full amount of product for the value of each FDNP voucheekr;
- (D) Failing to ensure that FDNP shoppers receive equitable treatment, including the availability of produce that is of the same quality and no greater price than sold to other shoppers;
- (E) Charging sales tax on FDNP cheek-purchases;
- (F) Seeking restitution from FDNP participants for voucheekrs not paid by the Authority;
- (G) Using FDNP voucheekrs for any purpose other than ~~deposit or cash at the authorized farmer's financial institution~~ to process for payment; and
- (H) Charging FDNP participants higher prices than other customers;
- (I) Giving cash back for purchases less than the value of the voucheekrs (providing change);
- (J) Accepting FDNP voucheekrs from an unauthorized farmer; and



- (K) Failing to respond to requests, implement corrective action, or comply with the terms in final orders as directed by the Authority.¶
- (d) The Authority may not authorize farmers to accept FDNP voucheekrs the season following second or subsequent incidents of:¶
- (A) Failing to reimburse the Authority for FDNP voucheekrs that are improperly transacted; or¶
- (B) Failing to cooperate with staff from the Authority or their designees in monitoring for compliance with program requirements and failing to provide information required to be submitted by the Authority or their designees.¶
- (e) The Authority may immediately disqualify a farmer from the FDNP program for the remainder of the current season and the entire following season for an initial incident of:¶
- (A) Trafficking in FDNP voucheekrs (exchanging voucheekrs for cash, controlled substances, tobacco products, firearms or alcohol) in any amount; or¶
- (B) A USDA substantiated violation of laws regarding non-discrimination, and applicable USDA instructions.¶
- (f) FDNP checks that are not stamped with the farmer's name will not receive an Authority-assigned identification number and will be returned to the farmer without not be paid for FDNP vouchers they attempt to process for payment;¶
- (g) FDNP voucheekrs redeemed outside the dates determined by the Authority will not be reimbursed; and¶
- (h) FDNP voucheekrs redeemed by a farmer who has not been authorized will not be reimbursed.¶
- (4) Farmers who do not comply with FDNP requirements are subject to sanctions, including civil money penalties, in addition to, or in lieu of, disqualification.¶
- (a) Prior to disqualifying a farmer, the Authority may determine if disqualification of the farmer would result in inadequate participant access. If the Authority determines that disqualification of the farmer would result in inadequate participant access, the Authority may impose a CMP in lieu of disqualification in the amount of 5 percent of the farmer's previous season FDNP sales or \$250, whichever is greater.¶
- (b) The Authority must give written notice to a farmer of an action proposed to be taken against a farmer, not less than 30 days before the effective date of the action. The notice must state what action is being taken, the effective date of the action, and the procedure for requesting a hearing.¶
- (c) A farmer that has been disqualified from the FDNP may reapply at the end of the disqualification period.¶
- (d) The Authority may accept a farmer's voluntary withdrawal from the program as an alternative to disqualification. If a farmer chooses to withdraw in lieu of disqualification, the farmer may not apply for participation until the following year.¶
- (e) The Authority will not reimburse farmers who have been disqualified or have withdrawn in lieu of disqualification.¶
- (f) Civil money penalties must be paid to the Authority within the time period specified in the Notice.¶
- (5) A farmer who commits fraud or abuse of the FDNP is subject to prosecution under applicable federal, state or local laws.

Statutory/Other Authority: ORS 413.500

Statutes/Other Implemented: ORS 413.500

AMEND: 333-052-0090

RULE SUMMARY: 333-052-0090: Change wording to reflect new payment instrument.

CHANGES TO RULE:

333-052-0090

Market Participation Requirements, Violations and Sanctions ¶¶

(1) An authorized market must:¶¶

- (a) Comply with FDNP requirements contained in 7 CFR 248 and 7 CFR 249, FDNP rules, and the terms and conditions of the market application and the market agreement;¶¶
- (b) Ensure that an authorized FDNP farmer is present at the market during all market hours of operation;¶¶
- (c) Accept training on FDNP procedures and provide such training to market staff including volunteers on behalf of the Authority;¶¶
- (d) Cooperate in the Authority investigations of authorized farmers who:¶¶
  - (A) Redeem youcheekrs for ineligible foods;¶¶
  - (B) Charge FDNP customers higher prices than other customers;¶¶
  - (C) Accept youcheekrs outside the Authority determined market season;¶¶
  - (D) Give change for food purchased with FDNP youcheekrs (providing change);¶¶
  - (E) May not meet the definitions of "eligible farmer;" and¶¶
  - (F) Abuse any other program procedures.¶¶
- (e) Comply with all state or federal laws regarding non-discrimination, and applicable USDA instructions to ensure that no individual will, on the grounds of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA, be excluded from participation, be denied benefits, or be otherwise subjected to discrimination, under the FDNP;¶¶
- (f) Cooperate with staff from the Authority or their designees in monitoring for compliance with program requirements and provide information required to be submitted by the Authority or their designees may require; and¶¶
- (g) Respond to requests, implement corrective action, and comply with the terms in final orders as directed by the Authority.¶¶

(2) A market is in violation of the FDNP rules if the market fails to:¶¶

- (a) Ensure that an authorized farmer is present at the market during all market hours of operation;¶¶
- (b) Accept training on FDNP procedures and provide such training to market staff including volunteers on behalf of the Authority;¶¶
- (c) Cooperate in the Authority investigations of authorized farmers;¶¶
- (d) Comply with all state or federal laws regarding non-discrimination, and applicable USDA instructions to ensure that no individual will, on the grounds of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA, be excluded from participation, be denied benefits, or be otherwise subjected to discrimination, under the FDNP;¶¶
- (e) Cooperate with staff from the Authority their designees in monitoring for compliance with program requirements and provide information that the Authority or their designees may require;¶¶
- (f) Notify the Authority when and if the market ceases operation prior to the end of the authorization period;¶¶
- (g) Be accountable for the actions of market staff, including volunteers, in the provision of foods and related activities; and¶¶
- (h) Respond to requests, implement corrective action, and comply with the terms in final orders as directed by the Authority.¶¶

(3) Market sanctions:¶¶

- (a) The Authority may issue a notice of non-compliance to an authorized market for an initial incident of failing to:¶¶
  - (A) Ensure that an authorized farmer is present at the market during all market hours of operations;¶¶
  - (B) Accept training on FDNP procedures (B) and provide such training to market staff including volunteers on behalf of the Authority;¶¶
  - (C) Cooperate in the Authority investigations of authorized farmers;¶¶
  - (D) Cooperate with staff from the Authority or their designees in monitoring for compliance with program requirements and provide information that the Authority or their designees may require; and¶¶
  - (E) Respond to requests, implement corrective action, and comply with the terms in final orders as directed by the Authority.¶¶
- (b) A market may not be authorized the following year if, within the current season, there is a second or subsequent occurrence of failing to:¶¶

- (A) Ensure that an authorized farmer is present at the market during all market hours of operations;¶
- (B) Accept training on FDNP procedures and provide such training to market staff including volunteers on behalf of the Authority;¶
- (C) Cooperate in the Authority investigations of authorized farmers;¶
- (D) Cooperate with staff from the Authority or their designees in monitoring for compliance with program requirements and failing to provide information required to be submitted by the Authority or their designees; and¶
- (E) Respond to requests, implement corrective action, and comply with the terms in final orders as directed by the Authority.¶
- (c) The Authority may immediately disqualify a market from the FDNP program for the remainder of the current season and the entire following season for an initial incident of a USDA substantiated violation of laws regarding non-discrimination, and applicable USDA instructions.¶
- (4) Markets who do not comply with FDNP requirements are subject to sanctions.¶
- (a) The Authority must give written notice to a market of an action proposed to be taken against a market, not less than 30 days before the effective date of the action. The notice must state what action is being taken, the effective date of the action, and the procedure for requesting a hearing;¶
- (b) A market that has been disqualified from the FDNP may reapply at the end of the disqualification period; and¶
- (c) The Authority may accept a market's voluntary withdrawal from the program as an alternative to disqualification. If a market chooses to withdraw in lieu of disqualification, the market may not apply for participation until the following year.¶
- (5) A market that commits fraud or abuse of the FDNP is subject to prosecution under applicable federal, state or local laws.

Statutory/Other Authority: ORS 413.500

Statutes/Other Implemented: ORS 413.500

AMEND: 333-052-0100

RULE SUMMARY: 333-052-0100: Change wording to reflect new payment instrument; remove references to old system.

CHANGES TO RULE:

333-052-0100

Oregon Health Authority Responsibilities ¶¶

The Authority must:¶¶

- (1) Administer the Oregon Farm Direct Nutrition Program in accordance with 7 CFR 248 (Farmers' Market Nutrition Program) and 7 CFR 249 (Senior Farmers' Market Nutrition Program);¶¶
- (2) Distribute or facilitate distribution of FDNP youchecks to participants;¶¶
- (3) Assure payment to farmers for properly redeemed FDNP youchecks;¶¶
- (4) Assure that training is provided to new market managers and farmers who are new to the FDNP;¶¶
- (5) Assure that "~~Oregon Farm Direct Nutrition Checks Welcome Here~~"program signs are provided to all authorized farmers; and¶¶
- (6) Monitor authorized farmers and markets for compliance with FDNP rules and agreements, and if necessary, impose sanctions.

Statutory/Other Authority: ORS 413.500

Statutes/Other Implemented: ORS 413.500

AMEND: 333-052-0130

RULE SUMMARY: 333-052-0130: Change wording to reflect new payment instrument.

CHANGES TO RULE:

333-052-0130

Appeals ¶

- (1) Markets and farmers are entitled to a hearing as provided by the Administrative Procedures Act (-ORS Chapter 183) for a denial of participation, imposition of a sanction, or disqualification.¶
- (2) Markets and farmers may not be entitled to a hearing under the Administrative Procedures Act to challenge:¶
- (a) The validity or appropriateness of the Authority's selection criteria for farmer or market participation;¶
  - (b) The validity or appropriateness of the Authority's participant access determinations;¶
  - (c) The duration or expiration of a farmer or market agreement; or¶
  - (d) An Authority decision regarding a voucheekr payment or claims.¶
- (3) The Authority may, at its discretion, permit the market or farmer to continue participating in the program pending the outcome of an administrative hearing. The farmer may be required to repay funds for FDNP voucheekrs redeemed during the pendency of the hearing, depending on the hearing outcome.¶
- (4) A request for a hearing must be in writing and must be received within 30 days from the date of the notice describing the proposed action.¶
- (5) The request for hearing must include:¶
- (a) The name and address of the farmer or market requesting the hearing;¶
  - (b) The name and address of the attorney representing the farmer or market, if any;¶
  - (c) The decision made or action taken by the Authority against the farmer or market;¶
  - (d) The reason the farmer or market disagrees with the decision or action;¶
  - (e) Any special needs or requirements, such as, an interpreter or other special accommodations; and¶
  - (f) An attached copy of the notice from the Authority.¶
- (6) If a hearing is requested under subsection (1) of this rule, a final written decision must be made within 60 days from the date the request for a hearing was received by the WIC Operations Manager. The time for issuing a decision may be extended upon agreement by the parties.

Statutory/Other Authority: ORS 413.500

Statutes/Other Implemented: ORS 413.500