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RULES:

333-052-0030, 333-052-0040, 333-052-0043, 333-052-0044, 333-052-0050, 333-052-0060, 333-052-0065, 333-052-0070, 333-052-0075, 333-052-0080, 333-052-0090, 333-052-0100, 333-052-0110, 333-052-0120, 333-052-0130

AMEND: 333-052-0030

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0030: Replace gendered language with gender-neutral language; remove acronyms when referring to Farm Direct; remove apostrophe from "farmers' market".

CHANGES TO RULE:

333-052-0030

Program Overview ¶¶

(1) The purpose of the Oregon Farm Direct Nutrition Program (~~Oregon FDNP or FDNP~~) is to:¶¶

(a) Provide locally grown, fresh, nutritious, unprepared fruits, vegetables, and cut culinary herbs to ~~women, infants, and children, who participate~~ in the ~~s~~Special ~~s~~Supplemental ~~n~~Nutrition ~~p~~Program for ~~w~~Women, ~~i~~Infants and ~~e~~Children (WIC) and to low income seniors; and¶¶

(b) Expand the awareness and use of farmers' markets and farm stands where consumers can buy directly from the farmer.¶¶

(2) The Oregon ~~FDNP~~ Farm Direct Nutrition Program is administered by the Oregon Health Authority (Authority) in partnership with the Oregon Department of Agriculture and Oregon Department of Human Services.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0040

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0040: Change wording to reflect new payment instrument; remove references to old system; replace gendered language with gender-neutral language; remove acronyms when referring to Farm Direct; remove apostrophe from "farmers' market"; remove definitions for acronyms for infrequently used terms; clarify definition of "eligible foods"; clarify that farm stands are for single farmers; clarify definition of "farmers market"; add definitions for "Improperly transacted" and "Program rules"; clarify that "Authority" refers to "Oregon Health Authority".

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~~ Oregon Health Authority (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. ¶¶
- (74) "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 ~~FDNPFarm Direct~~ and is not currently disqualified. ¶¶
- (8) ~~"Check" means a negotiable financial instrument by which FDNP benefits are provided to participants.~~ ¶¶
- (9) ~~"CMP" means a~~ (5) "Civil money penalty, which" means a monetary penalty imposed against the farmer or farmers market for noncompliance of ~~FDNPPProgram~~ rules. ¶¶
- (106) "Disqualification" means the act of terminating the agreement of an authorized farmers' market, or farmer from the ~~FDNPPProgram~~ for noncompliance with ~~p~~Program requirements. ¶¶
- (117) "Eligible foods" means fresh, nutritious, unprepared, locally grown fruits and vegetables and cut culinary herbs for human consumption. ¶¶
- (12) Eligible foods does not include foods processed or prepared beyond their natural state except for usual harvesting and cleaning processes. ¶¶
- (8) "Farm Direct Nutrition Program" or "~~FDNPFarm Direct~~" or "Program" 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 (USDA), Food and Nutrition Services and administered by the State of Oregon. ¶¶
- (139) "Farmer" means an individual who owns, leases, rents or sharecrops land to grow, cultivate or harvest crops on that land. ¶¶
- (140) "Farmers' Market" for the purposes of ~~the Oregon FDNPFarm Direct~~, 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. ¶¶
- (151) "Farm Stand" means a location at which a single farmer sells produce directly to consumers. ¶¶
- (162) "~~FDNP Participant~~" or "~~participant~~" means a senior participant or a WIC participant receiving FDNP benefits. Improperly transacted" means any submission not in accordance with Program rules or the agreement. ¶¶
- (173) "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. ¶¶
- (184) "Local WIC agency" means the agency or clinic where a WIC participant receives WIC services and benefits. ¶¶
- (195) "Local WIC agency staff" means any local WIC agency staff authorized to issue ~~FDNPFarm Direct~~ benefits. ¶¶
- (2016) "Market" means a farmers' market that has a signed agreement with the Authority to participate in ~~the FDNPFarm Direct.~~ ¶¶
- (217) "Market Coordinator" means an individual designated by the farmers' market manager (or market board members) responsible for overseeing the market's participation in ~~the FDNPFarm Direct.~~ ¶¶
- (2218) "Market season" means the time period in which ~~FDNPFarm Direct~~ voucheekrs may be transacted as

determined by the Authority.¶

~~(2319)~~ "Participant" means a senior participant or a WIC participant receiving Program benefits.¶

~~(20)~~ "Program rules" means OAR 333-052-0030 through 333-052-0130.¶

~~(21)~~ "Senior Farm Direct Nutrition Program (~~S~~FDNP)" means the Senior Farmers' Market Nutrition Program funded by USDA that provides senior participants with youcheekrs that can be used to buy eligible foods from an authorized farmer.¶

~~(242)~~ "Senior Pparticipant" means an individual who meets all the eligibility components of the Farm Direct program and who receives ~~FDNP~~ arm Direct youcheekrs.¶

~~(253)~~ "SNAP" means the Supplemental Nutrition Assistance Program of the Food and Nutrition Services of the United States Department of Agriculture.¶

~~(264)~~ "Trafficking" means the buying or exchanging of ~~FDNP checks~~ a Farm Direct voucher for cash, drugs, firearms, alcohol, or any other ineligible item.¶

~~(275)~~ "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.¶

~~(296)~~ "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.¶

~~(3027)~~ "Voucher" means a negotiable financial instrument by which Farm Direct benefits are provided to participants.¶

~~(28)~~ "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.¶

~~(3129)~~ "WIC Farm Direct Nutrition Program (~~WIC~~ ~~FDNP~~)" means the Farmers' Market Nutrition Program funded by USDA that provides WIC participants with youcheekrs that can be used to buy eligible foods from an authorized farmer.¶

~~(320)~~ "WIC participant" means any ~~pregnant, breastfeeding, or postpartum woman, infant, or child~~ individual who meets all the eligibility components of the ~~WIC~~ ~~FDNP~~ arm Direct and receives ~~WIC~~ ~~FDNP~~ Farm Direct youcheekrs.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0043

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0043: Remove acronyms when referring to Farm Direct; clarify that "Authority" refers to "Oregon Health Authority"; re-word residential requirements for clarity; clarify OHA's benefit notification and distribution requirements.

CHANGES TO RULE:

333-052-0043

Senior Participant Eligibility and Benefits ¶¶

(1) An individual is eligible for the Senior Farm Direct Nutrition Program (~~SFDNP~~) if the individual meets all the following eligibility criteria on April 1 of the calendar year in which benefits are sought:¶¶

(a) Has income less than 138 percent of the Federal Poverty Level;¶¶

(b) Receives Medicaid or SNAP benefits;¶¶

(c) ~~Is homeless or r~~Resides in their own home or rental property or is experiencing houselessness; and¶¶

(d) Is age 62 years or older.¶¶

(2) ~~SFDNP~~Senior Farm Direct benefits are limited and benefits will be distributed in an equitable manner but ~~may not be~~ the Oregon Health Authority (Authority) is not required to distributed benefits to all individuals who are eligible.¶¶

(3) The Authority shall undertake best efforts to inform eligible seniors each year of the available benefits and how the benefits will be distributed.¶¶

(4) ~~SFDNP~~Program benefits are valid from June 1 through November 30 of the year in which benefits were issued.¶¶

(5) Lost or stolen ~~SFDNP~~Farm Direct benefits will not be replaced.¶¶

(6) An individual who does not receive a benefit in any given year ~~due to lack of sufficient funding to provide SFDNP benefits to all eligible seniors~~ based on a funding decision is not entitled to hearing rights.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0044

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0044: Change wording to reflect new payment instrument; add mailing as an allowable method of issuance; bring the minimum age of infant into line with federal regulations; remove acronyms when referring to Farm Direct; replace gendered language with gender-neutral language; clarify OHA's benefit distribution requirements; clarify that "Authority" refers to "Oregon Health Authority".

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 FDNPP~~) benefits if the participant meets all the following eligibility criteria on the date of ~~FDNPParm Direct~~ 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~~ person; ¶

(B) A person who is breastfeeding ~~woman~~ less than one year after delivery; ¶

(C) A non-lactating post-partum ~~woman~~ person 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 older than four months of age ~~or older~~. ¶

(2) WIC ~~FDNPParm Direct~~ benefits are limited and benefits will be distributed in an equitable manner within participating local agencies but ~~may not be~~ the Oregon Health Authority (Authority) is not required to distributed benefits 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 FDNPPProgram~~ benefits ~~will not~~ may be issued to the participant/caretaker in a face-to-face contact by local WIC agency staff or by U.S. mail, and the participant/caretaker must receive a ~~FDNPPProgram~~ orientation when receiving voucheers for the first time in the current year. ¶

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

(6) Lost or stolen ~~WIC FDNPPFarm Direct~~ benefits will not be replaced. ¶

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

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

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0050

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0050: Change wording to reflect new payment instrument; remove acronyms when referring to Farm Direct; add wild rice as an ineligible food; clarify that "processed or frozen" modifies "fruits, vegetables, or cut culinary herbs".

CHANGES TO RULE:

333-052-0050

Eligible Foods ¶

(1) ~~FDP~~ ~~arm Direct vouchers~~ 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 and wild rice.¶

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

(c) ~~Processed or frozen~~ Fruits, vegetables, or cut culinary herbs that are processed or frozen.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0060

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0060: Change wording to reflect new payment instrument; remove acronyms when referring to Farm Direct; remove apostrophe from "farmers' market"; clarify that produce be locally grown; clarify that "Authority" refers to "Oregon Health Authority"; clarify that distributors are not eligible to participate in Farm Direct as authorized farmers.

CHANGES TO RULE:

333-052-0060

Farmer Participation ¶

- (1) Only authorized farmers may accept ~~FDNP-arm Direct~~ voucheekrs from participants in exchange for eligible foods. Authorized farmers may not accept voucheekrs from unauthorized farmers.¶
- (2) ~~In order to~~ To be eligible for participation in the ~~FDNPProgram~~, a farmer applicant must:¶
  - (a) Own, lease, rent or sharecrop land to grow, cultivate, or harvest locally grown 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~~ Health Authority (Authority) to verify eligibility;¶
  - (c) Complete the ~~Oregon FDNPProgram~~ orientation; and¶
  - (d) Agree to follow the terms and conditions of the farmer agreement.¶
- (3) Applications will be used to determine authorization for ~~FDNParm Direct~~.¶
- (4) The Authority and the ~~FDNPProgram~~ 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~~ eligible to participate in the ~~FDNP~~ as an authorized farmer in Farm Direct.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0065

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0065: Clarify that farmers must agree in the farmer agreement to comply with Program rules.

CHANGES TO RULE:

333-052-0065

Farmer Agreements ¶¶

(1) A farmer application and a farmer agreement must both be signed by a representative who has legal authority to obligate the farmer.¶¶

(2) ~~The farmer agreement must include a requirement that the farmer comply with OAR 333-052-0030 to 333-052-0130~~ must agree in the farmer agreement to comply with Program rules, as applicable to farmers.¶¶

(3) The farmer agreement will be valid for no more than three years.¶¶

(4) Neither the Authority nor the farmer is obligated to renew the agreement.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813



AMEND: 333-052-0070

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0070: Remove acronyms when referring to Farm Direct; remove apostrophe from "farmers' market"; clarify that "Authority" refers to "Oregon Health Authority".

CHANGES TO RULE:

333-052-0070

Farmers Market Participation ¶

(1) ~~In order to~~To be eligible for participation in the ~~FDN~~Farm Direct Nutrition Program a farmers' market applicant must:¶

(a) Designate an individual to be the ~~FDN~~Farm Direct market coordinator who will be on-site during operating hours;¶

(b) Have a minimum of three farmers who sell locally grown fresh fruits, vegetables, and cut herbs;¶

(c) Operate on a consistent basis over the course of the season;¶

(d) Complete the ~~Oregon~~Farm Direct orientation;¶

(e) Ensure at least one ~~FDN~~Farm Direct-authorized farmer is on-site during operating hours; and¶

(f) Agree to comply with all terms and conditions specified in the ~~FDN~~Farm Direct agreement.¶

(2) The Oregon Health Authority is not required to authorize all applicants.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0075

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0075: Remove acronyms when referring to Farm Direct; remove apostrophe from "farmers' market"; clarify that "Authority" refers to "Oregon Health Authority"; replace specific administrative rules with "Program rules".

CHANGES TO RULE:

333-052-0075

Farmers Market Agreements ¶¶

- (1) A farmers' market application and a market agreement must be signed by a representative who has legal authority to obligate the market.¶¶
- (2) The market application and the market agreement both must include a requirement that the market:¶¶
  - (a) Comply with ~~OAR 333-052-0030 to 333-052-0130~~Program rules, as applicable to markets;¶¶
  - (b) Furnish the necessary personnel and services to conduct market activities; and¶¶
  - (c) Do all things necessary for or incidental to the performance of the work set forth in the market application and the market agreement.¶¶
- (3) The market application and the market agreement will be valid for one market season.¶¶
- (4) Neither the ~~Authority~~Oregon Health Authority (Authority) nor the market has an obligation to enter into an agreement.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0080: Change wording to reflect new payment instrument and system; remove references to old system; remove acronyms when referring to Farm Direct; remove apostrophe from "farmers' market"; clarify that "Authority" refers to "Oregon Health Authority"; clarify that farmers must comply with Program requirements and standards in Program rules and federal statutes; clarify that farmers must complete training and ensure that all individuals working their stalls or stands are trained on Program requirements; clarify that farmers must provide documentation when required by the Authority; clarify that USDA non-discrimination instructions are described in 7 CFR 248.10; clarify that "sex" includes gender identity and sexual orientation; clarify that payment is for eligible items; change "and" to "or" to clarify that only one condition needs to be met; replace acronym with full term; spell out numbers less than ten; clarify that the time period for paying a civil money penalty is specified in the Order.

CHANGES TO RULE:

333-052-0080

Farmer Participation Requirements, Violations and Sanctions ¶

(1) An authorized farmer must:¶

- (a) Comply with ~~FDNP~~Program requirements ~~contained in and standards in Program rules, 7 CFR 248 and, 7 CFR 249,~~ and the terms and conditions of the farmer agreement;¶
- (b) ~~Accept~~Complete training on ~~FDNP~~Program 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 on Program requirements;¶~~
- ~~(c) Accept Farm Direct voucheekrs;¶~~
- (A) For eligible foods only; and¶
- (B) Within the valid dates of the ~~p~~Program.¶
- (d) Prominently display the official ~~FDNP~~Program sign provided by the Authority on each day of operation when at authorized farmers' markets or authorized farm stands;¶
- (e) Provide ~~FDNP~~farm Direct participants with the full amount of product for the value of each ~~FDNP~~arm Direct voucheekr;¶
- (f) Cooperate with staff from the ~~Authority~~Oregon Health Authority (Authority) or their designees in monitoring for compliance with ~~p~~Program requirements and provide documentation or information that the Authority or their designees may require;¶
- (g) Comply with all state or federal laws regarding non-discrimination, and applicable USDA instructions as described in 7 CFR 248.10 to ensure that no individual will, on the grounds of race, color, national origin, sex (including gender identity and sexual orientation), 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~~arm Direct Nutrition Program;¶
- (h) Ensure that ~~FDNP~~arm Direct 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 the Authority~~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;¶~~
- (k) Reimburse the Authority for ~~FDNP~~arm Direct voucheekrs 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~~arm Direct voucheekrs;¶
- (n) Not charge sales tax on ~~FDNP~~arm Direct voucheekr purchases;¶
- (o) Not seek restitution from ~~FDNP~~arm Direct participants for a voucheekr not paid by the Authority;¶
- (p) Not give cash back for purchases that amount to less than the value of a Farm Direct voucheekr (providing change);¶
- ~~(q) Not use FDNP~~arm Direct voucheekrs for any purpose other than deposit or cash at their financial institution to process for payment for eligible items; and¶

- (r) Not accept FDNP-arm Direct voucheekrs from unauthorized farmers.¶¶
- (2) A farmer is in violation of the FDNPProgram if the farmer:¶¶
  - (a) Fails to:¶¶
    - (A) Comply with FDNPProgram rules and the terms and conditions of the farmer application and the farmer agreement;¶¶
    - (B) Accept training on FDNPProgram 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 FDNPProgram sign provided by the Authority on each day of operation when at authorized farmers' markets or authorized farm stands;¶¶
    - (D) Provide FDNP-clientarm Direct participants with the full amount of product for the value of each FDNP-arm Direct voucheekr;¶¶
    - (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 (including gender identity and sexual orientation), 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-shopperarm Direct Nutrition Program;¶¶~~
    - (F) Ensure that Farm Direct participants 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-arm Direct voucheekrs that are improperly transacted;¶¶
    - (J) Cooperate with staff from the Authority or their designees in monitoring for compliance with pProgram requirements and provide information that the Authority or their designees may require; or¶¶
    - (K) Respond to requests, implement corrective action, or comply with the terms in final orders as directed by the Authority.¶¶
  - (b) Accepts FDNP-arm Direct voucheekrs:¶¶
    - (A) For ineligible foods;¶¶
    - (B) For invalid dates; or¶¶
    - (C) From an unauthorized farmer.¶¶
  - (c) Provides credit in exchange for FDNP-arm Direct voucheekrs;¶¶
  - (d) Charges sales tax on FDNP-arm Direct voucheekr purchases;¶¶
  - (e) Seeks restitution from FDNParm Direct 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); or¶¶
  - (g) Uses FDNP-arm Direct 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-arm Direct 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-clientarm Direct participants with the full amount of product for the value of each FDNP-arm Direct voucheekr;¶¶
    - (D) Failing to ensure that FDNParm Direct 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-arm Direct voucheekrs that are improperly transacted;¶¶
    - (F) Charging sales tax on FDNP-charm Direct purchases;¶¶
    - (G) Seeking restitution from FDNParm Direct 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-arm Direct 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-arm Direct voucheekrs for any purpose other than deposit or cash at the authorized farmer's financial institution; and to process for payment; or¶¶

- (L) Failing to cooperate with staff from the Authority or their designees in monitoring for compliance with ~~p~~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~~continue from the year during which the violation occurred into the following year for an initial incident of providing credit in exchange for ~~FDNP arm Direct voucheekrs~~.¶
- (c) The Authority may disqualify a farmer for four season months, which may ~~cross~~continue from the year during which the violation occurred into the following year, for second or subsequent incidents of:¶
- (A) Accepting ~~FDNP arm Direct 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 arm Direct participants~~ with the full amount of product for the value of each ~~FDNP arm Direct voucheekr~~;¶
- (D) Failing to ensure that ~~FDNP arm Direct~~ 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 arm Direct voucheekr~~ purchases;¶
- (F) Seeking restitution from ~~FDNP arm Direct~~ participants for ~~voucheekrs~~ not paid by the Authority;¶
- (G) Using ~~FDNP arm Direct voucheekrs~~ for any purpose other than ~~deposit or cash at the authorized farmer's financial institution to process for payment~~;¶
- (H) Charging ~~FDNP arm Direct~~ participants higher prices than other customers;¶
- (I) Giving cash back for purchases less than the value of the ~~voucheekrs~~ (providing change);¶
- (J) Accepting ~~FDNP arm Direct voucheekrs~~ from an unauthorized farmer; ~~and/or~~¶
- (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 arm Direct voucheekrs~~ the season following second or subsequent incidents of:¶
- (A) Failing to reimburse the Authority for ~~FDNP arm Direct voucheekrs~~ that are improperly transacted; or¶
- (B) Failing to cooperate with staff from the Authority or their designees in monitoring for compliance with ~~p~~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 p~~Program for the remainder of the current season and the entire following season for an initial incident of:¶
- (A) Trafficking in ~~FDNP arm Direct 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 or~~ applicable USDA instructions.¶
- (f) ~~FDNP checks that farmers who are not stamped with the farmer's authorized to participate in Farm Direct will not receive an Authority-assigned identification number and will be returned to the farmer without payment;~~¶
- ~~(g) FDNP not be paid for Farm Direct vouchers they attempt to process; and¶~~
- ~~(g) Farm Direct voucheekrs redeemed outside the dates ideterminintified byon the Authority will not be reimbursed; and¶~~
- ~~(h) FDNP checks redeemed by a farmer who has not been authorized voucher will not be reimbursed.¶~~
- (4) Farmers who do not comply with ~~FDNP arm Direct~~ 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~~civil money penalty in lieu of disqualification in the amount of ~~5~~five percent of the farmer's previous season ~~FDNP arm Direct~~ 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 Program~~ may reapply at the end of the disqualification period.¶
- (d) The Authority may accept a farmer's voluntary withdrawal from the ~~p~~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 Order~~.¶
- (5) A farmer who commits fraud or abuse of the ~~FDNP Program~~ is subject to prosecution under applicable federal,

state or local laws.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0090: Change wording to reflect new payment instrument; remove acronyms when referring to Farm Direct; clarify that "Authority" refers to "Oregon Health Authority"; change "and" to "or" to clarify that only one condition needs to be met; clarify that USDA non-discrimination instructions are described in 7 CFR 248.10; clarify that "sex" includes gender identity and sexual orientation; replace "procedures" with "rules or standards"; replace "requirements" with "rules"; move accountability for actions of staff and volunteers to section covering sanctions: include that markets may be sanctioned for action of staff and volunteers; replace repeated list of violations with reference to initial list.

CHANGES TO RULE:

333-052-0090

Market Participation Requirements, Violations and Sanctions ¶¶

(1) An authorized market must:¶¶

(a) Comply with ~~FDNPP~~Farm Direct Nutrition Program standards and requirements contained in 7 CFR 248 and 7 CFR 249, ~~FDNPP~~Program rules, and the terms and conditions of the market application and the market agreement;¶¶

(b) Ensure that an authorized ~~FDNPP~~Farm Direct farmer is present at the market during all market hours of operation;¶¶

(c) Accept training on ~~FDNPP~~Program procedures and provide such training to market staff including volunteers on behalf of the ~~Authority~~Oregon Health Authority (Authority);¶¶

(d) Cooperate in the Authority investigations of authorized farmers who:¶¶

(A) Redeem ~~you~~checks for ineligible foods;¶¶

(B) Charge ~~FDNPP~~farm Direct shoppers higher prices than other ~~customer~~shoppers;¶¶

(C) Accept ~~you~~checks outside the Authority determined market season;¶¶

(D) Give change for food purchased with ~~FDNPP~~farm Direct ~~you~~checks (providing change);¶¶

(E) May not meet the definitions of "eligible farmer;" ~~and/or~~¶¶

(F) Abuse any other ~~p~~Program ~~procedur~~e ~~rules or standards~~.¶¶

(e) Comply with all state or federal laws regarding non-discrimination; and applicable USDA instructions as described in 7 CFR 248.10 to ensure that no individual will, on the grounds of race, color, national origin, sex (including gender identity and sexual orientation), 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 ~~FDNPP~~Farm Direct Nutrition Program;¶¶

(f) Cooperate with staff from the Authority or their designees in monitoring for compliance with ~~p~~Program ~~requirement~~rules 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 ~~FDNPP~~Program 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~~Complete training on ~~FDNPP~~Program 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 (including gender identity and sexual orientation), 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 ~~FDNPP~~Farm Direct Nutrition Program;¶¶

(e) Cooperate with staff from the Authority or their designees in monitoring for compliance with ~~p~~Program ~~requirement~~rules 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 or~~¶¶

(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 FDNParm Direct 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 pProgram 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, any action described in section (3)(a) of this rule. ¶

(c) The Authority may immediately disqualify a market from the FDNP pProgram 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.¶

(d) The market is responsible, and may be sanctioned, for any action of market staff, including volunteers, in the provision of foods and related activities, and any violations by market staff are attributable to the market.¶

(4) Markets ~~whethat~~ do not comply with FDNPPProgram 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 FDNPPProgram may reapply at the end of the disqualification period; and¶

(c) The Authority may accept a market's voluntary withdrawal from the pProgram 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 FDNPPProgram is subject to prosecution under applicable federal, state or local laws.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813



AMEND: 333-052-0100

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0100: Change wording to reflect new payment instrument; remove references to old system; remove acronyms when referring to Farm Direct; clarify that "Authority" refers to "Oregon Health Authority".

CHANGES TO RULE:

333-052-0100

Oregon Health Authority Responsibilities ¶

The ~~Authority~~ Oregon Health Authority (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-arm Direct voucheekrs~~ FDNP-arm Direct voucheekrs to participants;¶
- (3) Assure payment to farmers for properly redeemed ~~FDNP-arm Direct voucheekrs~~;¶
- (4) Assure that training is provided to new market managers and farmers who are new to the ~~FDNPPProgram~~;¶
- (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 ~~FDNPPProgram~~ rules and agreements, and if necessary, impose sanctions.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0110

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0110: Remove acronyms when referring to Farm Direct; clarify that "Authority" refers to "Oregon Health Authority".

CHANGES TO RULE:

333-052-0110

Monitoring ¶

(1) The ~~Authority~~Oregon Health Authority (Authority) must monitor farmers and markets for compliance with applicable laws and rules, including on-site investigation of randomly selected farmers and markets.¶

(2) The Authority may conduct covert compliance buys of ~~FDP-arm Direct~~-authorized farmers for compliance with the Authority rules and regulations.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0120

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0120: Remove acronyms when referring to Farm Direct; clarify that "Authority" refers to "Oregon Health Authority"; replace acronyms with full terms; clarify that "sex" includes gender identity and sexual orientation; update contact information for filing a complaint.

CHANGES TO RULE:

333-052-0120

Complaints ¶

(1) Anyone wishing to file a complaint against a ~~FDNP~~Farm Direct participant, an authorized farmer, an authorized market, or the ~~FDNP~~Program may do so in the following manner:¶

(a) Send a written comment to the WIC Compliance & Civil Rights Coordinator at PO Box 14450, Portland, Oregon, 97293; or¶

(b) Call the state WIC, Vendor Answer Line at (877) 807-0889.¶

(2) A local WIC clinic, ~~APD office, ADRC, AAA~~an Aging and Disability Services office, an Aging and Disability Resource Connection of Oregon office, an Area Agency on Aging office or market manager may file a complaint on behalf of an individual who does not want to file a complaint independently.¶

(3) When the ~~Authority~~Oregon Health Authority (Authority) receives a complaint alleging discrimination on the basis of race, color, national origin, age, sex (including gender identity and sexual orientation) or disability the Authority must automatically forward the complaint to USDA for investigation.¶

(4) Individuals alleging discrimination on the basis of race, color, national origin, age, sex (including gender identity and sexual orientation) or disability may also write directly to USDA, ~~Director, Office of Adjudication and Compliance~~Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or ~~(202) 720-6382 (TTY)~~66) 632-9992.¶

(5) The Authority may refer complaints regarding farmers or markets to the Oregon ~~FDNP~~Farm Direct Nutrition Program for investigation.¶

(6) The identity of any individual filing a complaint will be kept confidential except to the extent necessary to conduct any investigation, hearing or judicial proceeding regarding the complaint.

Statutory/Other Authority: ORS 413.500, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813

AMEND: 333-052-0130

NOTICE FILED DATE: 08/10/2023

RULE SUMMARY: Amend OAR 333-052-0130: Change wording to reflect new payment instrument; clarify that individuals who do not receive benefits due to funding are not entitled to a hearing; remove acronyms when referring to Farm Direct; clarify that "Authority" refers to "Oregon Health Authority"; clarify the conditions under which a hearing outcome may result in the farmer being required to repay funds.

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) Individuals who do not receive a Farm Direct benefit are not entitled to a hearing if the non-award is based on funding. ¶

(3) 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~~ Oregon Health Authority (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 voucher payment or claims. ¶

(~~3~~4) The Authority may, at its discretion, permit the market or farmer to continue participating in ~~the program~~ Farm Direct pending the outcome of an administrative hearing. The farmer may be required to repay funds for ~~FDNP~~ Farm Direct vouchers redeemed during the pendency of the hearing, ~~depending on the hearing outcome if the denial, sanction, or disqualification is affirmed.~~ ¶

(45) 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. ¶

(56) 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. ¶

(67) 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, ORS 411.813

Statutes/Other Implemented: ORS 413.500, ORS 411.813