

CALIFORNIA CODE OF REGULATIONS  
TITLE 3. FOOD AND AGRICULTURE  
DIVISION 8. CANNABIS CULTIVATION  
CHAPTER 3. OCAL PROGRAM

**Proposed Modifications to the Proposed Text**

Amendments to the initially proposed draft text are indicated by **red font**:

- *Current additions are italicized and double underlined*
- Previous additions are double underlined
- ~~Previous deletions are struck and double underlined~~

**Article 1. Definitions.**

Section 10000. Definitions.

The following definitions, including definitions in division 10 chapter 1 section 26001 of the Business and Professions Code, and definitions included in title 3 division 8 chapter 1 section 8000 of the California Code of Regulations apply to this chapter.

(a) “Accreditation” means a determination made by the California Department of Food and Agriculture that authorizes a private entity or local jurisdiction to conduct certification activities when registered as a certifying agent pursuant to this chapter.

(b) “Action level” means the limit at or above which the U. S. Food and Drug Administration will take legal action against a product to remove it from the market. Action levels are based on unavailability of the poisonous or deleterious substances and do not represent permissible levels of contamination where it is avoidable.

(c) “Agricultural inputs” means all substances or materials used in the production of OCal cannabis or nonmanufactured cannabis products.

(d) “Allowed synthetic” means a substance that is included on the National List of synthetic substances allowed for use in organic production, as provided in The National List of Allowed and Prohibited Substances, 7 Code of Federal Regulations (7 CFR) section 205.601.

~~(e)~~ “Annual seedling” means a plant grown from seed that will complete its life cycle or produce a harvestable yield within the same crop year or season in which it was planted.

~~(f)~~ (e) “Area of operation” means the types of operations a certifying agent may be accredited to certify pursuant to this chapter.

~~(g)~~ (f) “Audit trail” means documentation that is sufficient to determine the source, transfer of ownership, and transportation of any cannabis or nonmanufactured cannabis product labeled “OCal.”

~~(h)~~ (g) “Biodegradable” means subject to biological decomposition into simpler biochemical or chemical components.

~~(i)~~ (h) “Buffer zone” means an area located between land maintained under OCal or NOP certified Organic management and an adjacent land area not maintained under OCal or NOP certified Organic management.

~~(j)~~ (i) “Certification” or “certified” means a determination made by the registered certifying agent, and documented by a certificate, that a cultivation operation is in compliance with this chapter.

~~(k)~~ (j) “Certified operation” means a cannabis cultivator or distributor that has received OCal certification.

~~(l)~~ (k) “Certifying agent” means any entity that currently certifies operations.

~~(m)~~ (l) “Certifying agent’s operation” means all sites, facilities, personnel, and records used by a certifying agent.

~~(n)~~ (m) “Claims” means oral, written, implied, or symbolic representations, statements, advertising or other forms of communication presented to the public or consumers that relate to the OCal certification process or the term “OCal”.

~~(o)~~ (n) “Clone” means an asexually produced plant grown by taking a cutting from a mother plant or a tissue culture from a source plant that is genetically identical to the mother plant or source plant.

~~(p)~~ (o) “Commercially available” means the ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of

production as determined by the registered certifying agent in the course of reviewing the OCal system plan.

~~(g)~~ ~~(p)~~ “Commingling” means physical contact between OCal produced and non-OCal produced cannabis and nonmanufactured cannabis products.

~~(f)~~ ~~(q)~~ “Compost” means the product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil.

~~(s)~~ ~~(r)~~ “Control” means any method that reduces or limits damage by populations of pests, weeds, or diseases to levels that do not significantly reduce productivity.

~~(t)~~ ~~(s)~~ “Crop” means pastures, cover crops, green manure crops, catch crops, or any plant or part of a plant intended to be marketed as an agricultural product, or used in the field to manage nutrients and soil fertility.

~~(u)~~ ~~(t)~~ “Crop residues” means the plant parts remaining in a field after the harvest of a crop, which include stalks, stems, leaves, roots, and weeds.

~~(v)~~ ~~(u)~~ “Crop rotation” means a method of reducing soil erosion and increasing soil fertility, biodiversity, and crop yield through the practice of alternating the annual crops grown on a specific field in a planned pattern or sequence in successive crop years so that crops of the same species or family are not grown repeatedly, without interruption, on the same field.

~~(w)~~ ~~(v)~~ “Cultural methods” means methods used to enhance crop health and prevent weed, pest, or disease problems without the use of substances, such as the selection of appropriate varieties and planting sites, proper timing and density of plantings, irrigation, and extending or compressing a growing season by manipulating the microclimate with green houses, cold frames, or wind breaks.

~~(x)~~ ~~(w)~~ “Detectable residue” means the amount or presence of chemical residue or sample component that can be reliably observed or found in the sample matrix by current approved analytical methodology.

~~(y)~~ ~~(x)~~ “Disease vectors” means plants or animals that harbor or transmit disease organisms or pathogens which may attack crops.

~~(z)~~ (y) “Drift” means the physical movement of prohibited substances from the intended target site onto an OCal operation or portion thereof.

~~(aa)~~ (z) “Emergency pest or disease treatment program” means a mandatory program authorized by a federal, state, or local agency for the purpose of controlling or eradicating a pest or disease.

~~(ab)~~ (aa) “Employee” means any person providing paid or volunteer services for the registered certifying agent.

~~(ae)~~ (ab) “Excluded methods” means a variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic and OCal production. Such methods include cell fusion (except when the donor cells/protoplasts fall within the same taxonomic plant family), microencapsulation and macroencapsulation, and recombinant DNA technology (including gene deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when achieved by recombinant DNA technology). Such methods do not include the use of traditional breeding, conjugation, fermentation, hybridization, *in vitro fertilization*, or tissue culture.

~~(ad)~~ (ac) “Fertilizer” means a single or blended substance containing one or more recognized plant nutrient(s) which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

~~(ae)~~ (ad) “Field” means an area of land identified as a discrete unit within a production operation.

~~(af)~~ (ae) “Handling” means the touching or manipulating of post-harvest OCal cannabis and nonmanufactured cannabis products, processing of OCal cannabis and nonmanufactured cannabis products, or accessing OCal cannabis and nonmanufactured cannabis products via an open container or an unsealed package at any point in the supply chain.

~~(ag)~~ (af) “Immediate family” means the spouse, minor children, or blood relatives who reside in the immediate household of the registered certifying agent or an employee, inspector, contractor, or other personnel of the registered certifying agent.

~~(ah)~~ ~~(ag)~~ “Inert ingredient” means any substance (or group of substances with similar chemical structures if designated by the United States Environmental Protection Agency) other than an active ingredient which is intentionally included in any pesticide product.

~~(ai)~~ ~~(ah)~~ “Information panel” means any part of the cannabis or nonmanufactured cannabis product label that is not the primary panel and that contains required labeling information.

~~(aj)~~ ~~(ai)~~ “Ingredient” means any substance that is used in the manufacture of a cannabis product and that is intended to be present in the product’s final form.

~~(ak)~~ ~~(aj)~~ “Inspection” means the act of examining and evaluating an operation to determine compliance with this chapter.

~~(al)~~ ~~(ak)~~ “Inspector” means any person retained or used by the registered certifying agent to conduct inspections of certification applicants or certified operations.

~~(am)~~ ~~(al)~~ “Label” means a display of written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

~~(an)~~ ~~(am)~~ “Labeling” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

~~(ao)~~ ~~(an)~~ “Laboratory or Testing laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of cannabis and cannabis products and is licensed by the Bureau of Cannabis Control or accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state and approved by the department.

~~(ap)~~ ~~(ao)~~ “Limited-access area” means an area that is only accessible to the operator and authorized personnel of an operation.

~~(aq)~~ ~~(ap)~~ “Local jurisdiction” means a city, county, or city and county.

~~(ar)~~ ~~(aq)~~ “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

~~(as)~~ ~~(ar)~~ “Manure” means feces, urine, other excrement, and bedding produced by livestock that has not been composted.

~~(at)~~ (as) “Mother plant” means a plant used for the sole purpose of taking cuttings or offsets in order to grow more of the same plant.

~~(au)~~ (at) “Mulch” means any nonsynthetic material, such as wood chips, leaves, or straw, or any synthetic material included on the National List for such use, such as newspaper or plastic that serves to suppress weed growth, moderate soil temperature, or conserve soil moisture.

~~(av)~~ (au) “National List” means the list of allowed and prohibited substances included in National Organic Program regulations, 7 CFR sections 205.600 through 205.607.

~~(aw)~~ (av) “National Organic Program” or “NOP” means the federal regulatory program that develops and enforces uniform national standards for organically-produced agricultural products sold in the United States.

~~(ax)~~ (aw) “Natural resources of the operation” means the physical, hydrological, and biological features of a production operation, including but not limited to soil, water, wetlands, woodlands, and wildlife.

~~(ay)~~ (ax) “Nonsynthetic (natural)” means a substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process, as defined in (cd) of this section.

~~(az)~~ (ay) “Nonretail container” means any container used for shipping or storage of nonmanufactured OCal cannabis products that is not used in the retail display or sale of the product.

~~(ba)~~ (az) “OCal” means a labeling term that refers to cannabis and nonmanufactured cannabis products produced pursuant to this chapter or a certification program for manufactured cannabis products authorized under Business and Professions Code 26062.

~~(bb)~~ (ba) “OCal production” means a production system that is managed pursuant to this chapter to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity.

~~(be)~~ (bb) “OCal Program” means the programs authorized by Business and Professions Code 26062 (a) and (b) to assure consumers that cannabis and nonmanufactured

cannabis products certified under the OCal designation are produced pursuant to this chapter or a certification program for manufactured cannabis products and comparable to the National Organic Program regulations, 7 CFR 205.

~~(bd)~~ ~~(bc)~~ “OCal system plan” means a plan of management of an OCal operation that has been agreed to by an operator and the registered certifying agent and that includes written plans concerning all aspects of cannabis production described in this chapter.

~~(be)~~ ~~(bd)~~ “Operation” means a person that holds a valid and active commercial cannabis license from a licensing authority.

~~(bf)~~ ~~(be)~~ “Organic” means a labeling term that refers to an agricultural product produced in accordance with the Organic Foods Production Act and the National Organic Program regulations, 7 CFR 205.

~~(bg)~~ ~~(bf)~~ “Organic matter” means the remains, residues, or waste products of any organism.

~~(bh)~~ ~~(bg)~~ “Pesticide” means: (1) Any spray adjuvant. (2) Any substance, or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, as defined in section 12754.5 of the Food and Agricultural Code, which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever.

~~(bi)~~ ~~(bh)~~ “Planting stock” means any plant or plant tissue, including shoots and stem cuttings, used in plant cultivation or propagation.

~~(bj)~~ ~~(bi)~~ “Practice standard” means the guidelines and requirements through which a production operation implements a required component of its OCal system plan.

~~(bk)~~ ~~(bj)~~ “Principal display panel” means that part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for sale.

~~(bl)~~ ~~(bk)~~ “Private entity” means any domestic nongovernmental for-profit or not-for-profit organization providing certification services.

~~(bm)~~ ~~(bl)~~ “Production” means the cultivation or distribution of cannabis or nonmanufactured cannabis products.

~~(bn)~~ (bm) “Prohibited substance” means a substance that shall not be used in any aspect of United States Department of Agriculture Organic or OCal production and is prohibited by the National Organic Program.

~~(be)~~ (bn) “Records” means any information in written, visual, or electronic form that documents the activities undertaken by an operation or registered certifying agent to comply with this chapter.

~~(bp)~~ (bo) “Registered certifying agent” means any entity accredited by the department or the National Organic Program and registered by the department to certify an operation under the OCal Program pursuant to sections 10500 through 10506 of this chapter.

~~(be)~~ (bp) “Registered certifying agent's operation” means all sites, facilities, personnel, and records used by the certifying agent registered by the department to conduct certification activities pursuant to this chapter.

~~(br)~~ (bq) “Residue testing” means an official or validated analytical procedure that detects, identifies, and measures the presence of chemical substances, their metabolites, or degradation products in or on raw or processed agricultural products.

~~(br)~~ “Responsibly connected” means any person who is a partner, officer, director, holder, manager, or owner of 10 percent or more of the voting stock of an applicant or a recipient of certification, accreditation, or registration.

(bs) “Sewage sludge” means a solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes but is not limited to: domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

(bt) “Soil and water quality” means observable indicators of the physical, chemical, or biological condition of soil and water, including the presence of environmental contaminants.



(bu) “Split operation” means as an operation that produces both certified and noncertified products. The department does not consider an operation certified to produce both organic and OCal products a “split operation.”

(bv) “Synthetic” means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

(bw) “Temporary” and “Temporarily” mean occurring for a limited time only (e.g., overnight, throughout a storm, the period of time specified by the department when granting a temporary variance), not permanent or lasting.

(bx) “Tolerance” means the maximum legal level of a pesticide chemical residue in or on a raw or processed agricultural commodity or processed food.

(by) “Transplant” means a seedling which has been removed from its original place of production, transported, and replanted.

(bz) “Type of operation” means the type of operation that may be certified under this chapter.

(ca) “Unavoidable residual environmental contamination (UREC)” means background levels of naturally occurring or synthetic chemicals that are present in the soil or present in organically produced agricultural products that are below established tolerances.

(cb) “Willful” means intentional or deliberate.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26001, 26013, and 26062, Business and Professions Code.

Section 10001. Incorporation by reference.

The following OCal guidance and instructions for registered certifying agents and certified operations are incorporated by reference into this chapter:

(a) OCal 1000 Methods and Materials in OCal Production, April 6, 2020

(b) OCal 2006 Separation of Duties in Certification Decisions, April 6, 2020

(c) OCal 2602 Recordkeeping for Certified Operations, April 6, 2020

- (d) OCal 2608 Responding to Noncompliances, April 6, 2020
- (e) OCal 2609 Unannounced Inspections, April 6, 2020
- (f) OCal 2610 Sampling Procedures, April 6, 2020
- (g) OCal 2611 Laboratory Selection Criteria for Prohibited Substance Testing, April 6, 2020
- (h) OCal 2611-1 Prohibited Pesticides for Residue Testing, April 6, 2020
- (i) OCal 2613 Responding to Results of Testing, April 6, 2020
- (j) OCal 2614 Technical Assistance Instruction, April 6, 2020
- (k) OCal 2615 OSP, OSP Updates, and Notification of Changes, April 6, 2020
- (l) OCal 3012 Material Review, April 6, 2020
- (m) OCal 5006 Processed Animal Manures, April 6, 2020
- (n) OCal 5008 Prohibited Inert Ingredients, April 6, 2020
- (o) OCal 5020 Natural Resources and Biodiversity Conservation, April 6, 2020
- (p) OCal 5021 Documenting Compost and Vermicompost in the OSP, April 6, 2020
- (q) OCal 5023 Substances used in Post-Harvest Handling of OCal Products, April 6, 2020
- (r) OCal 5025 Commingling and Contamination, April 6, 2020
- (s) OCal 5026 Use of Chlorine Materials, April 6, 2020
- (t) OCal 5029 Seeds and Planting Stock in OCal Cultivation, April 6, 2020
- (u) OCal 5033 Classification of Unique Materials, April 6, 2020
- (v) OCal 5033-1 Decision Tree for Classification of Materials, April 6, 2020
- (w) OCal 5033-2 Definitions of Terms Used for Classification, April 6, 2020
- (x) OCal 5034 Materials for OCal Cannabis Production, April 6, 2020
- (y) OCal 5034-1 List of Materials for OCal Cannabis Production, April 6, 2020
- (z) OCal 5034-2 List of Materials Prohibited for Use, April 6, 2020
- (aa) OCal 5036 Treated Lumber, April 6, 2020

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

## **Article 2. Applicability**

Section 10100. Who may certify.

A private entity or local jurisdiction shall satisfy the following criteria to certify cannabis operations under the department:

- (a) Be accredited by either the department pursuant to sections 10400 through 10407 of this chapter or the National Organic Program 7 C.F.R. sections 205.500 through 205.510; and
- (b) Be registered by the department to certify under the OCal Program.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10101. What must be certified.

- (a) Except for operations excluded in section ~~10101~~ 10102 of this chapter, each operation or specified portion of an operation that holds a commercial cannabis license from the department or other cannabis licensing authority and produces cannabis and nonmanufactured cannabis products that are intended to be sold, labeled, or represented as OCal shall be certified pursuant to the provisions of Article 6 of this chapter and shall meet all other applicable requirements of this chapter.
- (b) ~~Any A~~ cultivation or distribution operation or specified portion of a cultivation or distribution operation shall be deemed to be certified under this chapter on the date ~~the~~ ~~its~~ certifying agent receives ~~its~~ registration under this chapter until the operation's next certification anniversary date ~~if the certifier can demonstrate the operation's compliance with this chapter. if the operation:~~
  - ~~(1) has been privately certified by a certifying agent; and~~
  - ~~(2) can demonstrate compliance with this chapter.~~
- (c) Such recognition under subdivision (b) shall only be available to those operations ~~privately~~ certified by a certifying agent that is registered before January 1, 2022.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10102. Exclusions from certification.

A licensed commercial cannabis operation that does not handle cannabis and nonmanufactured cannabis products to be labeled, sold or represented as OCal is excluded from the requirements of this chapter. These operations include:

(a) Distribution operations if nonmanufactured OCal cannabis products:

(1) Are received enclosed in a package or container;

(2) Remain enclosed in the same package or container while under the control of the distributor, except for Bureau sampling; and

(3) Are in a container labeled pursuant to section 10301(a) of this chapter.

(b) Laboratory operations.

(c) Retail operations.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10103. Use of the terms OCal and Organic.

(a) Any cannabis or nonmanufactured cannabis product that is sold, labeled, or represented as OCal shall be produced pursuant to the requirements of this chapter.

(b) No cannabis or nonmanufactured cannabis product shall be advertised or labeled OCal or similar terminology that leaves in doubt whether the product is being sold, labeled, or represented as certified pursuant to the requirements of this chapter.

(c) Cannabis operations are prohibited from selling, labeling, or referring to their products as organic, pursuant to section 26062.5 of the California Business and Professions Code.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10104. Recordkeeping by certified operations.

(a) A certified operation shall maintain records concerning the production of cannabis and nonmanufactured cannabis products that are or that are intended to be sold, labeled, or represented as OCal.

(b) Such records shall:

(1) Fully disclose all activities and transactions of the certified operation in enough detail as to be readily understood and audited;

(2) Be maintained for not less than 5 years beyond their creation; and

(3) Demonstrate compliance with the regulations in this chapter.

(c) The certified operation shall make such records available to authorized representatives of the department or the registered certifying agent for inspection and copying during standard business hours. For the purposes of this section, standard business hours are 8:00am – 5:00pm (Pacific Time).

(d) A certified operation shall identify within the Track-and-Trace system, in a manner specified by the Department, cannabis or nonmanufactured cannabis products that are intended to be sold, labeled, or represented as OCal.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10105. Allowed and prohibited substances and methods in OCal production.

(a) To be sold or labeled OCal, cannabis and nonmanufactured cannabis products shall be produced without the use of:

(1) Synthetic substances and ingredients, except as provided in The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.601;

(2) Nonsynthetic substances prohibited in The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.602;

(3) Substances prohibited for use on cannabis under state law as determined by the Department of Pesticide Regulation;

(4) Excluded methods;

(5) Ionizing radiation, as described in Food and Drug Administration regulation, 21 C.F.R. section 179.26; and

(6) Sewage sludge.

(b) Certified operations shall only use fertilizing materials pursuant to Fertilizing Materials Registration requirements for Organic Input Materials, 3 C.C.R. section 2320.3.

(c) Agricultural inputs shall not be used in OCal production if the input utilizes or includes:

(1) Synthetic substances and ingredients, except as provided in The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.601;

(2) Nonsynthetic substances prohibited in The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.602;

(3) Excluded methods;

(4) Ionizing radiation, as described in Food and Drug Administration regulation, 21 C.F.R. section 179.26; and

(5) Sewage sludge.

(d) If a production practice is not prohibited or otherwise restricted under this chapter, such practice shall be permitted if it complies with the requirements of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

### **Article 3. OCal Cultivation and Distribution Requirements**

#### Section 10200. General.

(a) An operation intending to sell, label, or represent cannabis or nonmanufactured cannabis products as “OCal,” shall comply with the applicable provisions of this chapter.

(b) Production practices implemented in accordance with this chapter shall maintain or improve the natural resources of the operation, including soil, water, wetlands, woodlands, and wildlife, and respond to site-specific conditions by integrating

cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity.

- (c) A certified operation shall meet or exceed all practice standards set forth in sections 10202 through 10209 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10201. OCal ~~cultivation and distribution~~ system plans.

(a) A cultivator or distributor intending to sell, label, or represent cannabis or nonmanufactured cannabis products as OCal shall develop an OCal system plan that is agreed to by the cultivator or distributor and the registered certifying agent.

(b) An OCal system plan shall meet the requirements set forth in this chapter for OCal production.

(c) A certified operation shall use the practice standards set forth in sections 10202 through 10209 of this article to define and implement required components of its OCal system plan. The OCal system plan shall include:

(1) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed;

(2) A list of each substance to be used as an OCal production input and material, indicating its composition, source, location(s) where it will be used, and documenting commercial availability, as applicable;

(A) Documentation of commercial availability of OCal seeds and planting stock is not required for the first 12 months of the program.

(3) A description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented;

(4) A description of the recordkeeping system implemented to comply with the requirements established in section ~~10103~~ 10104 of this chapter;

(5) A description of the management practices and physical barriers established to prevent commingling of OCal and non-OCal or non-organic products on a split operation and to prevent contact of OCal operations and products with prohibited substances;

(6) A description of practices implemented to maintain or improve the natural resources of the operation, including soil, water, wetlands, woodlands, and wildlife, and respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity—these practices may also be integrated into subdivisions (1) through (5) above; and

(7) Additional information deemed necessary by the registered certifying agent to evaluate compliance with this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10202. Land Requirements.

Any field or farm parcel from which harvested cannabis is intended to be sold, labeled, or represented as “OCal” shall:

- (a) Have been managed pursuant to sections 10203 through 10206 of this chapter;
- (b) Have had no prohibited substances, pursuant to section ~~10104~~10105 of this chapter, applied to it for a period of 3 years immediately preceding harvest of cannabis; and
- (c) Have ~~on the operator’s field or farm parcel~~ distinct, defined boundaries and buffer zones ~~sufficient in size or other features (e.g. windbreaks or a diversion ditch)~~ to prevent the unintended application of a prohibited substance to the ~~crop cannabis~~ or contact with a prohibited substance applied to adjoining land that is not under organic management. ~~A buffer zone shall be to prevent the possibility of unintended contact by prohibited substances applied to adjacent land areas with an area that is part of a certified operation.~~ Split operations shall use obviously visible onsite signage to identify OCal and non-OCal production areas.



Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10203. Soil fertility and crop nutrient management practice standard.

(a) A cultivator shall select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion.

(b) A cultivator shall manage crop nutrients and soil fertility through rotations, cover crops, intercropping, alley cropping, hedgerows or the application of plant and animal materials.

(c) A cultivator shall manage plant and animal materials to maintain or improve soil organic matter content, biological diversity, nutrient cycling, and microbial activity in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances.

Animal and plant materials include:

(1) Raw animal manure, which shall be composted unless it is:

(A) Incorporated into the soil not less than 120 days prior to the harvest of cannabis whose consumable portion has direct contact with the soil surface or soil particles; or

(B) Incorporated into the soil not less than 90 days prior to the harvest of cannabis whose consumable portion does not have direct contact with the soil surface or soil particles.

(2) Composted plant and animal materials produced through a process that:

(A) Established an initial C:N ratio of between 25:1 and 40:1; and

(B) Maintained a temperature of between 131 °F and 170 °F for 3 days using an in-vessel or static aerated pile system; or

(C) Maintained a temperature of between 131 °F and 170 °F for 15 days using a windrow composting system, during which period, the materials shall be turned a minimum of five times.

(3) Uncomposted plant materials.

(4) Vermicompost.

(d) Pursuant to the following requirements, a cultivator may manage plant nutrients and soil fertility to maintain or improve soil organic matter content, biological diversity, nutrient cycling, and microbial activity in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances by applying:

(1) A plant nutrient or soil amendment included on the National List of synthetic substances allowed for use in organic crop production, pursuant to The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.601;

(2) A mined substance of low solubility;

(3) A mined substance of high solubility provided that the substance is used in compliance with the conditions established on the National List of nonsynthetic substances prohibited for use in organic crop production pursuant The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.602;

(4) Ash obtained from the burning of a plant or animal material, except as prohibited in paragraph (e) of this section, provided that the material burned has not been treated or combined with a prohibited substance or the ash is not included on the National List of nonsynthetic substances prohibited for use in organic crop production, pursuant to The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.602; and

(5) A plant or animal material that has been chemically altered by a manufacturing process provided that the material is included on The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.601.

(e) The cultivator shall not use:

(1) Any fertilizer or composted plant and animal material that contains a synthetic substance not included on The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.601;

(2) Sewage sludge in accordance with section 10105 (a) (6) of this chapter; and

(3) Burning as a means of disposal for crop residues produced on the operation except that burning may be used to suppress the spread of disease or to stimulate seed germination consistent with local and state laws and regulations.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10204. Seeds and planting stock practice standard.

A cultivator shall use its own OCal grown cannabis seeds and planting stock or OCal seeds and planting stock from a nursery licensed by the department and certified pursuant to the requirements of this chapter. *Except, That,*

(a) Non-OCal grown untreated seeds and planting stock may be used to produce OCal cannabis when equivalent OCal grown seeds and planting stock are not commercially available;

(b) Non-OCal grown seeds and planting stock that have been treated with a substance allowed for use in organic crop production pursuant to the National List of Allowed and Prohibited Substances may be used to produce OCal cannabis when an equivalent OCal grown or untreated variety is not commercially available;

(c) Non-OCal grown seeds and planting stock may be used to produce an OCal crop when a temporary variance has been granted in accordance with section 10210(d) of this chapter; and

(d) Seeds and planting stock treated with prohibited substances may be used to produce OCal cannabis when the application of the materials is a requirement of federal or state phytosanitary regulations.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10205. Crop rotation practice standard.

A cultivator shall implement a crop rotation which may include but is not limited to sod, cover crops, green manure crops, and catch crops. As applicable to the operation, crops shall:

- (a) Maintain or improve soil organic matter content;
- (b) Provide for pest management;
- (c) Manage deficient or excess plant nutrients; and
- (d) Provide erosion control.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10206. Crop pest, weed, and disease management practice standard.

(a) A cultivator shall use management practices to prevent crop pests, weeds, and diseases, including but not limited to:

- (1) Crop rotation and soil and crop nutrient management practices, as provided for in section 10203 and section 10205 of this chapter;
- (2) Sanitation measures to remove disease vectors, weed seeds, and habitat for pest organisms; and
- (3) Cultural practices that enhance crop health, including selection of plant species and varieties with regard to suitability to site-specific conditions and resistance to prevalent pests, weeds, and diseases.

(b) Pest problems may be controlled through mechanical or physical methods, including but not limited to:

- (1) Augmentation or introduction of predators or parasites of the pest species;
- (2) Development of habitat for natural enemies of pests; and
- (3) Nonsynthetic controls such as lures, traps, and repellents.

(c) Weed problems may be controlled through:

- (1) Mowing;
- (2) Livestock grazing;
- (3) Hand weeding and mechanical cultivation;

(4) Flame, heat, or electrical means; and

(5) Plastic or other synthetic mulches provided that they are removed from the field at the end of the growing or harvest season.

(d) Disease problems may be controlled through:

(1) Management practices which suppress the spread of disease organisms; or

(2) Application of nonsynthetic biological, botanical, or mineral inputs.

(e) A biological or botanical substance or a substance included on the National List of synthetic substances allowed for use in organic crop production, pursuant to The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.601, may be applied to prevent, suppress, or control pests, weeds, or diseases when the practices provided for in paragraphs (a) through (d) of this section are insufficient to prevent or control crop pests, weeds, and diseases. Conditions for using the substance must be documented in the OCal system plan.

(f) A cultivator shall not use lumber treated with arsenate or other prohibited materials for new installations or replacement purposes if the treated lumber comes into contact with soil or cannabis intended to be sold, labeled or represented as OCal.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10207. OCal handling requirements.

(a) A cultivator or processor may process by drying, curing, grading, trimming, rolling, packaging, re-packaging, labeling, or re-labeling cannabis or nonmanufactured cannabis products intended to be sold, labeled, or represented as OCal.

(b) A distributor may process by packaging, re-packaging, labeling, re-labeling, or rolling cannabis or nonmanufactured cannabis products intended to be sold, labeled, or represented as OCal.

(c) A cultivator or distributor shall not use substances or methods prohibited in paragraph (a) of section 10105 of this chapter in or on cannabis or nonmanufactured cannabis products intended to be sold, labeled, or represented as OCal.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10208. Facility pest management practice standard.

(a) Pest prevention practices at a facility that produces OCal products may include but are not limited to:

- (1) Removal of pest habitat, food sources, and breeding areas;
- (2) Prevention of access to facilities in which cannabis products are handled; and
- (3) Management of environmental factors, such as temperature, light, humidity, atmosphere, and air circulation, to prevent pest reproduction.

(b) Pests may be controlled through:

- (1) Mechanical or physical controls including but not limited to traps, light, or sound; and
- (2) Lures and repellents using nonsynthetic or synthetic substances consistent with The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.601 through 205.602.

(c) If the practices provided for in paragraphs (a) and (b) of this section are not effective to prevent or control pests, a nonsynthetic or synthetic substance consistent with The National List of Allowed and Prohibited Substances 7 C.F.R. sections 205.601 through 205.602 may be applied.

(d) If the practices provided for in paragraphs (a), (b), and (c) of this section are not effective to prevent or control facility pests, a synthetic substance not included on The National List of Allowed and Prohibited Substances 7 C.F.R. section 205.601, may be applied, provided that the operation and registered certifying agent agree on the substance, method of application, and measures to be taken to prevent contact of nonmanufactured OCal cannabis products with the substance used.

(e) The cultivator or distributor of an OCal operation who applies a nonsynthetic or synthetic substance to prevent or control pests shall update the operation's OCal system plan to reflect the use of such substances and methods of application. The

updated OCal system plan shall include a list of all measures taken to prevent contact of nonmanufactured OCal cannabis products with the substance used.

(f) Notwithstanding the practices provided for in paragraphs (a), (b), (c), and (d) of this section, an operation may use substances to prevent or control pests as required by federal, state, or local laws and regulations provided that measures are taken to prevent contact of nonmanufactured OCal cannabis products with the substance used.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10209. Commingling and contact with prohibited substance prevention practice standard.

(a) A cultivator or distributor shall implement measures necessary to prevent the commingling of OCal and non-OCal cannabis and nonmanufactured cannabis products and protect nonmanufactured OCal cannabis products from contact with prohibited substances.

(b) The following are prohibited for use in the handling of any cannabis or cannabis product to be sold, labeled, or represented as OCal:

(1) Packaging materials, storage containers, or bins that contain a synthetic fungicide, preservative, or fumigant;

(2) Use or reuse of any bag or container that has been in contact with any substance in such a manner as to compromise the integrity of OCal cannabis and nonmanufactured cannabis products placed in those containers, unless such reusable bag or container has been thoroughly cleaned and poses no risk of contact of OCal cannabis and nonmanufactured cannabis products with the substance used.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10210. Temporary variances.

(a) The department may establish temporary variances from the requirements in sections 10203 through 10208 for:

(1) A disaster for which the Governor has proclaimed a state of emergency in accordance with Government Code sections 8558 and 8625, or for which a local jurisdiction has proclaimed an emergency or disaster in accordance with Government Code sections 8558 and 8630. For the purposes of this chapter, “disaster” means the condition of extreme peril to the safety of persons and property within the state or a county, city and county, or city caused by conditions such as, fire, flood, storm, epidemic, drought, sudden and severe energy shortage, plant or animal infestation or disease, an earthquake, or similar public calamity; and

(2) Conduct of research or trials of techniques, varieties, or ingredients used in OCal cultivation.

(b) The registered certifying agent shall submit a written request for temporary variance to the department accompanied by a copy of the emergency proclamation.

(c) The department will provide written notification to registered certifying agents upon establishing a temporary variance that is applicable to the registered certifying agent's certified operations. The temporary variance shall specify the period of time it shall remain in effect, subject to extension as the department deems necessary.

(d) The registered certifying agent, when notified that the department has established a temporary variance, shall notify each cultivation or distribution operation it certifies to which the temporary variance applies.

(e) Temporary variances will not be granted for any practice, material, or procedure prohibited under section ~~1010510104~~ of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

#### **Article 4. Labels, Labeling, and Market Information**

Section 10300. Cannabis and nonmanufactured cannabis products labeled OCal.



(a) Cannabis or a nonmanufactured cannabis product to be sold, labeled, or represented as OCal must contain 100 percent OCal produced cannabis. The OCal cannabis or nonmanufactured cannabis product shall be labeled pursuant to section 10302 of this chapter.

(b) The ingredient statement of nonmanufactured OCal cannabis products shall not include ingredients:

(1) produced using excluded methods, pursuant to section 10105(a) of this chapter;

(2) produced using ionizing radiation, pursuant to section 10105(a)(5) of this chapter;

and

(3) processed using sewage sludge, pursuant to section 10105(a)(6) of this chapter.

(c) OCal cannabis or cannabis product packages may display, on the principal display panel, information panel, any other panel of the package and on any labeling or marketing information concerning the product, one or more of the following:

(1) The term OCal to modify the name of the product;

(2) The OCal seal; or and

(3) The seal, logo, or other identifying mark of the registered certifying agent which certified the operation that produced the finished product provided that such seals or marks are not individually displayed more prominently than the OCal seal.

d) ~~On the information panel, below the information identifying the cultivator of the product and preceded by the statement, "Certified OCal by \* \* \*," or similar phrase, identify the~~ The registered certifying agent of the cultivator or distributor that handled the finished product must be identified on the information panel, above the statement, "Certified OCal by \* \* \*," or similar phrase. ~~cultivator's registered certifying agent.~~ The label may also display the business address, business website address, or telephone number of the identified registered certifying agent.

(e) OCal cannabis must be identified in the ingredient statement with the word, "OCal," or with an asterisk or other reference mark which is defined below the ingredient statement to indicate that the cannabis has been OCal produced.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10301. Storage and transport of nonretail containers used for nonmanufactured OCal cannabis products.

Nonretail containers used to store or transport nonmanufactured OCal cannabis products shall display on the outside of the container obviously visible OCal identifiers.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10302. OCal Seal.

(a) The OCal seal described in paragraph (b) of this section may be used only for cannabis products described in section ~~10301~~10300 of this chapter.

(b) The OCal seal must replicate the form and design of the examples in figures 1 (color) or 2 (black and white) and must be printed legibly and conspicuously:

(1) On a white background and with the term “OCal” (“O” in green with white cannabis flower inside “O” and “Cal” in orange overlapping the “O”).

(2) On a white or transparent background with the term “OCal” (“O” in dark gray with white cannabis flower inside “O” and “Cal” in black overlapping the “O”).



**Figure 1**



**Figure 2**

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10303. Registered certifying agent seal, logo, or other identifying mark.

A private entity or local jurisdiction registered as a certifying agent under this chapter may establish a seal, logo, or other identifying mark to be used by cultivation operations

certified by the registered certifying agent to indicate affiliation with the registered certifying agent provided that the registered certifying agent:

- (a) Does not require as a condition of certification use of its seal, logo, or other identifying mark on any product sold, labeled, or represented as OCal; and
- (b) Does not require as a condition of use of its identifying mark compliance with any cultivation or distribution practices other than those provided for in this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

### **Article 5. Accreditation and Registration of Certifying Agents**

Section 10400. Areas and duration of accreditation and registration.

The department shall accredit or register a qualified applicant to certify cannabis operations under the OCal Program.

- (a) Accreditation shall be for a period of not more than 5 years from the date of approval of accreditation pursuant to section 10405 of this chapter.
- (b) Registration shall be until January 1 of the following year pursuant to section ~~10406~~ 10409 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10401. Requirements for accreditation.

(a) A private entity or local jurisdiction accredited as a certifying agent under this section shall comply with each of the items listed below.

- (1) Have expertise in organic production techniques to fully comply with and implement the terms and conditions of the certification program established under the regulations in this chapter.
- (2) Demonstrate the ability to fully comply with the requirements for accreditation set forth in this chapter.

- (3) Carry out all applicable provisions of the regulations in this chapter, including the provisions of sections 10500 through 10506 and 10710 of this chapter.
- (4) Have enough trained and knowledgeable personnel, including inspectors and certification review personnel, to competently and efficiently comply with and implement the regulations of this chapter.
- (5) Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis and decision-making responsibilities have ample expertise in organic production techniques to successfully perform the duties assigned.
- (6) Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services.
- (7) Conduct an annual internal program review of the certification activities executed by certifying agent staff. The internal program review shall be performed by the certifying agent's staff, an outside auditor, or a consultant who has the expertise to conduct such reviews and implement measures to correct any non-compliances with the regulations in this chapter.
- (8) Provide enough information to persons seeking certification to enable them to comply with the regulations in this chapter.
- (9) Maintain records according to the following schedule:
- (A) Records obtained from applicants for certification and certified operations shall be maintained for not less than 5 years beyond their receipt;
  - (B) Records created by the certifying agent regarding applicants for certification and certified operations shall be maintained for not less than 10 years beyond their creation; and
  - (C) Records created or received by a certifying agent pursuant to the accreditation requirements of this chapter, excluding any records covered by section 10401(a)(9)(B), shall be maintained for not less than 5 years beyond their creation or receipt.

(10) Make all records in paragraph (9), above, available for inspection and copying during standard business hours and provide such records to authorized representatives of the department within 10 business days of a request. For the purposes of this section, standard business hours are 8:00am – 5:00pm (Pacific Time).

(11) Maintain strict confidentiality with respect to its clients under the OCal Program and not disclose to third parties, except for the department, business-related information concerning any client obtained while implementing the regulations of this chapter, except as provided for in section 10402(c)(5) of this chapter.

(12) Prevent conflicts of interest by:

(A) Not certifying an operation if a certifying agent or a responsibly connected party of such certifying agent has or previously held a commercial interest in the operation, including an immediate family interest or the ~~provision~~delivery of consulting services, within the 12-month period prior to the application for certification;

(B) Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified operations for all entities in which such person has or previously held a commercial interest, including an immediate family interest or the delivery of consulting services, within the 12-month period prior to the application for certification;

(C) Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected: *Except*, That, a certifying agent that is a not-for-profit organization with an Internal Revenue Code tax exemption, may accept voluntary labor from certified operations;

(D) Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification;

(E) Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for

certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report;

(F) Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection;

(G) Reconsidering a certified operation's application for certification and, if necessary, perform a new on-site inspection when it is determined, within 12 months of certifying the operation, that any person participating in the certification process and covered under section 10401(a)(12)(B) of this chapter has or had a conflict of interest involving the applicant. All costs associated with a reconsideration of application, including onsite inspection costs, shall be borne by the certifying agent; and

(H) Referring a certified operation to a different registered certifying agent for recertification and reimburse the operation for the cost of the recertification when it is determined that any person covered under section 10401(a)(12)(A) of this chapter at the time of certification of the applicant had a conflict of interest involving the applicant.

(13) Accept the certification decisions made by another certifying agent registered by the department to certify under the OCal Program pursuant to section 10409 of this chapter.

(14) Refrain from making false or misleading claims about its accreditation or registration status, the department's accreditation or registration program for certifying agents, or the nature or qualities of nonmanufactured OCal cannabis products.

(15) Charge applicants for certification and certified operations only those certification fees and charges that are on file with the department pursuant to section 10402(a)(8) of this chapter.

(16) Pay and submit accreditation fee, payment, or fine to the department pursuant to section 10600 of this chapter.

(17) Provide the inspector, prior to each annual on-site certification or re-certification inspection, with previous on-site inspection reports and notify the inspector of its decision regarding certification of an operation site inspected by the inspector and of any requirements for the correction of minor non-compliances.

(18) Accept all applications within its accredited certification type(s) and certify all qualified applicants, to the extent of its administrative capacity to do so, without regard to size or membership in any association or group.

(19) Comply with, implement, and carry out any other terms and conditions pursuant to this chapter or determined by the department to be necessary.

(b) The department may initiate suspension or revocation of an accreditation if the registered certifying agent fails to meet, conduct, or maintain accreditation requirements pursuant to this chapter.

(c) The accredited certifying agent may request amendment to its accredited certification types at any time. The application for amendment shall be sent to the department and shall contain information applicable to the requested change in accreditation, a complete and accurate update of the most recent information submitted pursuant to sections 10402 and 10407 of this chapter, and the applicable fee, payment, or fine required in section 10600 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10402. Application for accreditation.

An application for certifying agent accreditation shall be submitted electronically or by mailing a hard copy of the application to the department at OCal Accreditation, P.O. Box 942872, Sacramento, CA 94271-2872, or such other address as required by the department. Each application shall include the following, if applicable:

(a) Business information:

(1) Legal name;

(2) Employer Identification or Taxpayer Identification Number;

(3) Primary office physical address, mailing address, web address, and name of the person(s) responsible for the applicant's day-to-day operations and their contact number(s) and email address;

(4) Subsidiary office(s) physical address(es), mailing address(es), phone number(s), and a contact name(s) and number(s) for each subsidiary office;

(5) Business entity structure, including but not limited to a corporation, general partnership, joint venture, limited liability company, limited liability partnership, sovereign entity, sole proprietorship, not for profit corporation, or trust;

(6) For a local jurisdiction, a copy of the official's authority to conduct certification activities under this chapter;

(7) For a private entity, copies of all formation documents, which may include, but are not limited to, articles of incorporation, operating agreement, partnership agreement, and fictitious business name statement. The applicant shall also provide all documents filed with the California Secretary of State, which may include but are not limited to, articles of incorporation, certificate of stock, articles of organization, certificate of limited partnership, and statement of partnership authority. If the applicant is a foreign corporation, a certificate of qualification issued by the California Secretary of State; and

(8) Each area of operation for which accreditation is requested and the estimated number of each type of operation anticipated to be certified annually by the applicant along with a copy of the applicant's schedule of fees for all services to be provided under these regulations by the applicant.

(b) Personnel information:

(1) Copy of the applicant's policies and procedures for training, evaluating, and supervising personnel;

(2) Name and position description of all personnel to be employed within the cannabis certification operation, including administrative staff, certification inspectors, members of any certification review and evaluation committees, contractors, and all parties responsibly connected to the applicant;



(3) Description of qualifications, including experience, training, and education in agriculture, organic production, and organic handling for each inspector to be used by the applicant and each person to be designated by the applicant to review or evaluate applications for certification; and

(4) Description of training the applicant has provided or intends to provide to personnel to ensure that they comply with and implement the requirements of this chapter.

(c) Administrative policies and procedures:

(1) Copy of the procedures to be used to evaluate certification applicants, make certification decisions, and issue certificates.

(2) Copy of the procedures to be used to review and investigate certified operation compliance with this chapter and to report any violations of this chapter to the department.

(3) Copy of the procedures to be used for complying with the recordkeeping requirements set forth in section 10401(a)(9) of this chapter.

(4) Copy of the procedures to be used for maintaining the confidentiality of any business-related information as set forth in section 10401(a)(9) of this chapter.

(5) Copy of the procedures to be used, including any fees to be assessed, for making the following information available to any member of the public upon request:

(A) Copies of certification certificates issued during the current and 3 preceding calendar years;

(B) A list of operations certified during the current and 3 preceding calendar years as well as certification status (certified, surrendered, suspended, revoked), city or cities in which the operation is located, products certified by the operation, and commercial cannabis license number(s).

(C) The results of laboratory analyses for residues of pesticides and other prohibited substances conducted to assist with verifying certified operation compliance during the current year and 3 preceding calendar years; and

(D) Other business information as permitted in writing by the certified operation.

(6) Copy of the procedures to be used for sampling and residue testing pursuant to section ~~10709-10711~~ of this chapter.

(d) Conflicts of interest:

(1) Copy of the procedures intended to be implemented to prevent the occurrence of conflicts of interest, as described in section 10401(a)(~~12~~) of this chapter; and

(2) A conflict of interest disclosure report for all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make certification recommendations, make certification decisions, and all parties responsibly connected to the applicant. The conflict of interest disclosure report shall identify, for each of these persons, any cannabis-related business interests, including business interests of immediate family members, that may cause a conflict of interest.

(e) Current private entity or local jurisdiction certification activities:

(1) Number of operations certified (cannabis or other crop) during the current and previous 3 years;

(2) For each accreditation type requested, an OCal system plan (or equivalent), inspection report, and any other relevant documentation for three or more operations (cannabis or other crop) certified by the certifying agent during the current or previous year; and

(3) If the applicant underwent an accreditation process during the current or previous year, the name of the accrediting body and a copy of the written evaluation.

(f) Attestation to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true, and accurate. I understand that a misrepresentation of fact is cause for denial of the application, or revocation or suspension of the accreditation issued.

(hg) Any other information the department requires to assist in the evaluation of the application for accreditation.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10403. Review of accreditation application.

The department shall notify the applicant in writing: ~~that the application is either:~~

(a) ~~That the application is C~~complete and accepted for further review, ~~or~~

(b) ~~That the application is I~~incomplete, the reasons for incompleteness, and the date by which the missing information, fee, payment or fine is due.

(1) The department shall receive the missing information, fee, payment, or fine from the applicant no later than 30 calendar days from the date of notification from the department. The application will be deemed ~~disqualified~~ ~~abandoned~~ if the missing information, fee, payment, or fines is not provided within the specified timeframe.

(2) If the ~~application is deemed abandoned, disqualified,~~ the applicant may reapply and pay a new application fee.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10404. Withdrawal of accreditation application

The applicant may withdraw an application at any time prior to the department's issuance of accreditation or denial of accreditation.

(a) Requests to withdraw an application shall be submitted to the department in writing, dated, and signed by the applicant.

(b) The department will not refund application fees for a withdrawn application.

(c) The applicant may reapply and pay a new application fee at any time following the withdrawal of an application.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10405. Granting accreditation and registration.

(a) If the department determines the accreditation applicant meets the requirements for accreditation, pursuant to section 10401 of this chapter, the department shall notify the

accreditation applicant in writing of the determination and bill the amount due. Payment shall be due 10 calendar days past the date the notice was issued.

(b) Accreditation shall be granted and the accredited certifying agent shall be registered when the required payment has been submitted pursuant to section ~~10700~~10600 of this chapter.

(c) The department shall notify the accredited certifying agent of the granting of accreditation and registration in writing. The notice shall state the effective and expiration dates of accreditation, the type(s) of certification for which the accreditation is granted, and the registration effective and expiration dates.

(d) The accredited certifying agent shall be registered pursuant to section 10409~~(e)~~ of this chapter.

(e) The accreditation shall be valid for a period of 5 years from the effective date of accreditation. The department shall grant the accredited certifying agent a grace period between the accreditation date and January 1 of the following year so that accreditation and registration renewals may be applied for and completed concurrently. Accreditation may be renewed pursuant to section ~~10407~~10409~~(c)~~ of this chapter unless the accredited certifying agent voluntarily ceases its certification activities or the accreditation is suspended or revoked pursuant to the requirements of section 10703 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10406. Denial of accreditation.

(a) If the department determines the accreditation applicant does not meet the requirements for accreditation pursuant to section 10401 of this chapter, the department shall provide written notification of accreditation denial to the applicant. Such notification shall include the reasons for the department's assessment and appeal procedures.

(b) The applicant who receives notification of accreditation denial may appeal the denial of accreditation pursuant to section 10706 of this chapter within 30 days after the date of the notice of accreditation denial.

(c) The applicant who receives notification of accreditation denial may apply for accreditation again at any time and pay a new application fee.

Section 10407. Accreditation renewal.

An accreditation renewal application shall be submitted electronically or by mailing a hard copy of the application to the department at OCal Accreditation, P.O. Box 942872, Sacramento, CA 94271-2872, or such other address as required by the department.

(a) The accredited certifying agent shall renew its accreditation every 5 years concurrently with its annual registration renewal pursuant to sections 10405 (e) and 10410 of this chapter. *Except*, that:

(1) The accredited certifying agent renewing both accreditation and registration shall receive a notice of expiration of registration *and* accreditation approximately 6 months prior to the registration expiration date;

(2) The dual accreditation and registration renewal package shall be submitted no more than 4 months and no less than 3 months prior to the registration expiration date; and

(3) The department shall conduct a site evaluation within 3 months of the registration expiration date.

(b) If the department determines the accredited certifying agent meets the requirements for accreditation, the accredited certifying agent's accreditation and registration shall be renewed pursuant to section 10405 of this chapter except that the notice will state any terms and conditions for continued accreditation, including minor non-compliances and the date by which such non-compliances shall be satisfied by the accredited certifying agent.

(c) The department shall issue a notice of proposed suspension or revocation of accreditation to the accredited certifying agent that does not satisfy all terms and

conditions, including non-compliances, by the date specified on the notice of accreditation renewal.

(d) The department shall issue a written notice of denial of accreditation renewal pursuant to section 10406 of this chapter and ~~disqualification the certifying agent shall be disqualified from~~ registration pursuant to section ~~10410~~10409(e) of this chapter if it finds the accredited certifying agent unable to comply with the regulations of this chapter. The notice will specify the date the accreditation and registration shall expire and provide accreditation denial appeal instructions pursuant to section 10707 of this chapter.

(e) The accredited certifying agent who receives a notice of denial of accreditation renewal shall transfer to the department or make available all records or copies of records concerning the accredited certifying agent's certification activities.

(f) The accredited certifying agent who no longer wishes to maintain its department accreditation must surrender its accreditation by submitting written notification to the department and shall transfer to the department or make available all records or copies of records concerning the accredited certifying agent's certification activities.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10408. Requirements for registration.

(a) A private entity or local jurisdiction registered as an accredited certifying agent under this chapter shall:

(1) Be accredited by the department as set forth in section 10401 of this chapter or possess current and valid accreditation by the National Organic Program, pursuant to 7 C.F.R. 205. The scope of accreditation shall be comparable to scope of registration.

(2) Comply with, implement, and carry out all terms and conditions pursuant to this chapter;

(3) Annually renew registration and report activities as set forth in section 10410 of this chapter unless the accredited certifying agent voluntarily ceases its certification activities, its accreditation is suspended or revoked pursuant to 7 C.F.R. 205 or section 10705 of this chapter, as applicable, or its registration is suspended or revoked pursuant to section 10705 of this chapter;

(4) Transfer to the department or make available all records or copies of records concerning the registered certifying agent's certification activities if the registered certifying agent no longer wishes to maintain its registration, dissolves, or loses its registration;

(5) Pay and submit the registration fee and any payments or fines owed to the department in accordance with section 10601 of this chapter; and

(6) Demonstrate the ability to fully comply with the requirements for registration set forth in this section.

(b) The registered certifying agent shall notify the department in writing of receipt of payment and amount paid for certification or recertification of the operation. The notification shall also contain the operation's business name, commercial cannabis license number(s), license type(s), mailing address, physical address, telephone number, number of square feet certified, and products produced.

(1) Upon receipt of notification, the department will issue a certification number.

(2) The certification number shall be valid from the date the notification was received by the department.

(c) The department may initiate suspension or revocation of a registration if the certifying agent fails to meet, conduct, or maintain registration requirements pursuant to this chapter.

(d) The accredited certifying agent's registration shall expire unless renewed prior to the scheduled expiration date. Accredited certifying agents with an expired registration shall not perform certification activities under the regulations of this chapter.

Section 10409. Registration.

Registration information shall be submitted electronically or by mailing a hard copy to the department at OCal Registration, P.O. Box 942872, Sacramento, CA 94271-2872, or such other address as required by the department.

(a) Each application shall include the following, if applicable:

(1) Legal business name;

(2) Registration application fee pursuant to section 10601 of this chapter;

(3) A copy of the accredited certifying agent's current and valid accreditation certificate issued by the National Organic Program, if applicable;

(4) Employer Identification or Taxpayer Identification Number;

(5) Primary office physical address, mailing address, web address, and name of the person(s) responsible for the applicant's day-to-day operations and their contact number(s) and email address.

(6) Subsidiary office(s) physical address(es), mailing address(es), phone number(s), and a contact name(s) and number(s) for each subsidiary office;

(7) Business entity structure, including but not limited to a corporation, general partnership, joint venture, limited liability company, limited liability partnership, sovereign entity, sole proprietorship, not for profit corporation, or trust);

(8) The accredited areas of operation for which registration is requested and the estimated number of each type of operation anticipated to be certified annually by the accredited certifying agent;

(9) A schedule of fees for all services to be provided by the accredited certifying agent under these regulations;

(10) A conflict of interest disclosure report pursuant to section 10402(d)(2) of this chapter or 7 C.F.R. 205.504(c)(2);

(11) The most recent annual internal program review of the accredited certifying agent's certification activities conducted by accredited certifying agent staff, an outside auditor, or a consultant, accompanied by a summary of findings which documents the results of the report, pursuant to section 10401(a)(7) of this chapter or 7 C.F.R. 205.501(7), as applicable, and a description of adjustments to the



accredited certifying agent's operation and procedures implemented or to be implemented in response to the program review;

(12) Any other information the department requires to evaluate the registrant's eligibility; and

(13) Attestation to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true, and accurate. I understand that a misrepresentation of fact is cause for denial of the application, or revocation or suspension of the accreditation issued.

(b) The accredited certifying agent shall receive written notification of disqualification if the registration is disqualified due to missing information or ineligibility.

(c) The accredited certifying agent shall receive written notification of registration that includes the effective and expiration dates of the registration when:

(1) The accredited certifying agent has submitted the information pursuant to this section; and

(2) The accredited certifying agent has paid the required fee or fines pursuant to section 10601 of this chapter.

(d) Registration ~~and registration renewal are~~ valid through January 1 of the following year and may be renewed pursuant to section ~~10410 10407~~ of this chapter unless the certifying agent voluntarily ceases its certification activities or registration is suspended or revoked pursuant to section 10705 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10410. Registration renewal and reporting.

(a) The registered certifying agent's registration renewal shall be due January 2 of each year and submitted electronically or by mailing a hard copy of the renewal to the department at OCal Registration, P.O. Box 942872, Sacramento, CA 94271-2872, or such other address as required by the department.

(b) The department will send the registered certifying agent a notice of pending expiration of registration approximately ninety 90 calendar days prior to the scheduled date of expiration. The notice will include the registration number, the date of expiration, and any outstanding fines. Fines shall be paid prior to consideration for renewal of registration, regardless of the fine's due date.

(c) Failure to receive a notice of pending registration expiration does not relieve the registered certifying agent of the obligation to renew registration as required.

(d) Registration renewal shall be submitted prior to registration expiration and include the following:

(1) The legal name of the registered certifying agent.

(2) The registration number and expiration date.

(3) A complete and accurate update of information submitted pursuant to section 10409 of this chapter, or, if applying for concurrent accreditation and registration renewal, a complete and accurate update of information submitted pursuant to section 10402 (a) through (d) of this chapter.

(4) A renewal application fee pursuant to section 10601 of this chapter.

(5) Full payment of any outstanding fees, payments, or fines pursuant to sections ~~10603(b)~~ and ~~10701(e)~~ of this chapter.

(6) A list of each cannabis operation granted certification during the previous year, which includes the business name, commercial cannabis license number(s), license type(s), mailing address, physical address, county, telephone number, number of square feet certified, and products.

(7) A copy of the ~~OCal system plan and an~~ inspection report for each cannabis operation granted certification during the previous year.

(8) Certificates of Analysis (COA) for no less than 5 percent of the registered certifying agent's certified operations tested in the previous year pursuant to section 10711 of this chapter.

(9) Any other information the department requires to assist in evaluating the application. raising

(e) Registration renewals submitted before the expiration date printed on the notification of pending expiration will not expire prior to a renewal decision by the department.

(f) If a renewal is not submitted prior to the expiration date printed on the notification of pending expiration, the registered certifying agent may submit a registration renewal up to 30 calendar days after the expiration date printed on the notification of pending expiration. Registered certifying agents with an expired registration shall not perform certification activities under this chapter.

(1) A late renewal will be subject to a fee of 50 percent of the flat renewal fee to be paid in addition to the required renewal fee.

(g) The registered certifying agent that does not submit a complete registration renewal to the department within 30 calendar days after the expiration date printed on the notification of pending expiration shall forfeit its eligibility for renewal and may register pursuant to section 10409 of this chapter.

(h) The department shall notify the registered certifying agent in writing if the renewal is incomplete and the reason(s) for the incompleteness.

(1) The department shall receive the missing information or fee, payment, or fine from the applicant no more than 15 calendar days after the date of the notification.

(2) The registered certifying agent that fails to provide the missing information, fees, payments, or fines within the time allotted shall forfeit its eligibility for renewal and may re-register pursuant to section 10409 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10411. Registration renewal acceptance.

(a) The registered certifying agent shall receive written notice of renewal acceptance, which includes the registration number and the effective and expiration dates of the renewal when:

(1) All required information has been submitted pursuant to section 10410 of this chapter; and

(2) Required fee(s) or fine(s) have been paid pursuant to section 10601 of this chapter.

(b) A registration renewal will be valid for a period of 1 year and may be renewed as provided in section 10410 of this chapter unless the registered certifying agent voluntarily ceases its certification activities or registration is suspended or revoked pursuant to section 10705 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10412. Site evaluations for accredited and registered certifying agents.

(a) Site evaluations shall be conducted for the purpose of examining the certifying agent's operations and evaluating its compliance with the regulations in this chapter. Site evaluations shall include an on-site review of the registered certifying agent's certification procedures, decisions, facilities, administrative and management systems, and operations certified by the registered certifying agent. Site evaluations shall be conducted by a representative of the department.

(b) One or more site evaluations may be conducted at any time during the accreditation or registration periods to determine registered certifying agent's compliance with this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

## **Article 6. Certification of Operations**

Section 10500. General requirements for certification.

A person seeking to receive or maintain OCal certification under the regulations in this chapter shall:

- (a) Have an active and valid state commercial cannabis license;
- (b) Comply with all applicable requirements of this chapter;
- (c) Complete, implement, and update annually an OCal system plan that is submitted to the registered certifying agent pursuant to section 10201 of this chapter;
- (d) Permit on-site inspections by authorized representatives of the department and the registered certifying agent with complete access to the production operation, including noncertified production areas, structures, and offices pursuant to section 10503 of this chapter;
- (e) Maintain all records applicable to the certified operation for not less than 5 years beyond their creation and allow authorized representatives of the department and the registered certifying agent access to such records during standard business hours for review and copying to determine compliance with this chapter pursuant to section 10104 of this chapter. For the purposes of this section, standard business hours are 8:00am – 5:00pm (Pacific Time);
- (f) Submit the applicable fees charged by the registered certifying agent; and
- (g) Immediately notify the registered certifying agent concerning any:
  - (1) Application, including drift, of a prohibited substance to any product, field, production unit, site, or facility that is certified under the department;
  - (2) Change in a certified operation or any portion of a certified operation that may affect certified operations compliance with this chapter; and
  - (3) Change in commercial cannabis license status that would make an operation ineligible for certification.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10501. Application for certification.

A person seeking certification of an operation under this chapter shall submit an application for certification to the registered certifying agent. The application shall include the following information:

- (a) An OCal system plan, as required in section 10201 of this chapter;
- (b) The name, business name, and business telephone number of the individual completing the application,
- (c) The name, business address, and business telephone number of the commercial cannabis licensee;
- (d) The name, address, email address, and telephone number of the commercial cannabis licensee;
- (e) A list of all valid commercial cannabis license types the commercial cannabis licensee holds and the associated license numbers from the licensing authority;
- (f) The name(s) of any OCal registered certifying agent(s) to which application has previously been made; the year(s) of application; the outcome of the application(s) submission, including, when available, a copy of any notification of non-compliance or denial of certification issued to the applicant for certification; and a description of the actions taken by the applicant to correct the non-compliances noted in the notification of non-compliance, including evidence of such correction;
- (g) A statement of consent allowing the department to obtain all information regarding OCal certification from any certifying agent registered by the department to certify under the OCal program; and
- (h) Other information deemed necessary, by the department or registered certifying agent, to determine compliance with this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10502. Review of certification application.

(a) Upon acceptance of an application for certification, the registered certifying agent shall:

- (1) Review the application to ensure completeness pursuant to section 10501 of this chapter;

(2) Determine by a review of the application materials whether the applicant can comply with the applicable requirements of this chapter;

(3) Verify the applicant who previously applied to another registered certifying agent and received a notification of non-compliance or denial of certification, pursuant to section 10505 of this chapter, has submitted documentation to support the correction of any non-compliances identified in the notification of non-compliance or denial of certification, as required in section 10505(e) of this chapter; and

(4) Schedule an on-site inspection of the operation to determine whether the applicant qualifies for certification if the review of application materials reveals the operation may be in compliance with the applicable requirements of this chapter.

(b) The registered certifying agent shall:

(1) Review the application materials received and communicate its findings to the applicant;

(2) Provide the applicant with a copy of the on-site inspection report for any on-site inspection performed; and

(3) Provide the applicant with a copy of the test results for any samples taken by an inspector.

(c) The applicant may withdraw its application at any time. The applicant that withdraws its application shall be liable for the costs of services provided up to the time of withdrawal of its application. An applicant that voluntarily withdraws its re-certification application prior to the issuance of a notice of non-compliance will not be issued a notice of non-compliance.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10503. On-site inspections.

(a) *On-site inspections.*

(1) The registered certifying agent shall conduct an initial on-site inspection of each ~~operation, unit, facility, or site that produces OCal cannabis and is included in an~~

~~operation for which production certification is requested.~~ An on-site inspection shall be conducted annually thereafter for each certified operation that produces nonmanufactured OCal cannabis products the purpose of determining whether the certification of the operation should continue. Initial and annual on-site inspections shall include each of the operation's units, facilities, or sites intended for the production of OCal cannabis.

(2) (A) The registered certifying agent may conduct additional on-site inspections of applicants for certification and certified operations to determine compliance with this chapter.

(B) The department may require additional inspections be performed by the registered certifying agent for the purpose of determining compliance with this chapter.

(C) Additional inspections may be announced or unannounced at the discretion of the registered certifying agent or as required by the department.

(D) The registered certifying agent shall follow-up on any deficiencies found, which may include a subsequent inspection, to ensure compliance with this chapter.

~~(3) During the onsite inspection, inspectors may note exceptions to the conservation requirement such as extreme climatic conditions, or damage to the ecosystem beyond the control of the operation. The inspector should communicate this information to the certifier for consideration as part of its review and certification decision.~~

(b) Scheduling.

(1) Following a review of the certification application pursuant to this section, the initial on-site inspection shall be conducted.

(2) All on-site inspections shall be conducted when an authorized representative of the operation who is knowledgeable about the operation is present and at a time when land, facilities, and activities that demonstrate the operation's compliance with or capability to comply with the applicable provisions of this chapter can be



observed, except that this requirement does not apply to unannounced on-site inspections.

(c) Verification of information. The on-site inspection of an operation shall verify:

- (1) The operation's compliance or capability to comply with this chapter;
- (2) That the information, including the OCal system plan requirements provided pursuant to sections 10501(a), 10506(a)(1), and 10201 of this chapter, accurately reflects the practices used or to be used by the applicant for certification or by the certified operation;
- (3) That prohibited substances have not been and are not being applied to the operation through means which, at the discretion of the registered certifying agent, may include the collection and testing of soil, water, waste, seeds, plant tissue, plant, or cannabis product samples.

(d) Exit interview. The inspector shall conduct an exit interview with an authorized representative of the operation who is knowledgeable about the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection. The inspector shall also address the need for any additional information as well as any issues of concern.

(e) Documents to the inspected operation.

- (1) At the time of the inspection, the inspector shall provide the operation's authorized representative with a receipt for any samples taken by the inspector. There shall be no charge to the inspector for the samples taken.
- (2) The registered certifying agency shall send a copy of the on-site inspection report and any test results to the inspected operation.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10504. Granting certification.

(a) Upon completion of the initial on-site inspection, the registered certifying agent shall review the on-site inspection report, the results of any analyses for substances

conducted, and any additional information requested from or supplied by the applicant.

If the registered certifying agent determines that the OCal system plan and all procedures and activities of the applicant's operation are in compliance with the requirements of this chapter and that the applicant is able to conduct operations in accordance with the plan, the registered certifying agent shall begin granting certification. The certification may include requirements for the correction of correctable non-compliances within a specified time period as a condition of continued certification. The operation is certified upon issuance of the certificate.

(b) The department shall issue each operation a certification number pursuant to section 10408(b) of this chapter.

(c) The registered certifying agent shall issue a certificate of OCal operation which specifies:

(1) Name and premises address of the certified operation;

(2) Department-issued certification number;

(3) Effective date of initial certification;

(4) Most recent inspection date;

(5) The operation's commercial cannabis license numbers and license types;

(6) Name, address, and telephone number of the registered certifying agent.

(d) Subject to section 10506 of this chapter once certified, a production operation's OCal certification continues in effect until surrendered, suspended or revoked by the registered certifying agent or the department, or if the operation no longer holds a valid commercial cannabis license.

(e) The OCal certificate shall be prominently displayed by the certified operation where it can be viewed by state or local government agencies.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10505. Denial of certification.

(a) When the registered certifying agent has reason to believe, based on a review of the information specified in sections 10502 or 10504 of this chapter, that the applicant for certification is not able to comply or is not in compliance with the requirements of this chapter, the registered certifying agent shall provide a written notification of non-compliance to the applicant. When correction of a notice of non-compliance is not possible, a notification of non-compliance and a notification of denial of certification may be combined in one notification. The notification of non-compliance shall provide:

- (1) A description of each non-compliance;
- (2) The facts upon which the notification of non-compliance is based; and
- (3) The date by which the applicant shall rebut or correct each non-compliance and submit supporting documentation of each such correction when correction is possible.

(b) Upon receipt of such notification of non-compliance, the applicant may:

- (1) Correct non-compliances and submit a description of the corrective actions taken, with supporting documentation, to the registered certifying agent;
- (2) Correct non-compliances and submit a new application to another registered certifying agent and include, with the completed application, the notification of non-compliance received from the first registered certifying agent and a description of the corrective actions taken along with supporting documentation; or
- (3) Submit written information to the issuing registered certifying agent to rebut the non-compliance described in the notification of non-compliance.

(c) After issuance of a notification of non-compliance, the registered certifying agent shall:

- (1) Evaluate the applicant's corrective actions taken and supporting documentation submitted or the written rebuttal, conduct an on-site inspection if necessary, and
  - (A) When the corrective action or rebuttal is sufficient for the applicant to qualify for certification, issue the applicant an approval of certification pursuant to section 10504 of this chapter, or

(B) When the corrective action or rebuttal is not sufficient for the applicant to qualify for certification, issue the applicant a written notice of denial of certification.

(2) Issue a written notice of denial of certification to the applicant who fails to respond to the notification of non-compliance.

(3) Provide notice of approval or denial to the department.

(d) A notice of denial of certification shall state the reason(s) for denial and the applicant's right to:

(1) Reapply for certification pursuant to sections 10501 and 10505(e) of this chapter;

(2) Request mediation pursuant to section 10704 of this chapter;

(3) File an appeal of the denial of certification pursuant to section 10706 of this chapter.

(e) The applicant for certification who has received a written notification of non-compliance or a written notice of denial of certification may apply for certification again at any time with any registered certifying agent pursuant to ~~this section and sections 10501 and 10505(e)~~ of this chapter. When such applicant submits a new application to the registered certifying agent other than the agent who issued the notification of non-compliance or notice of denial of certification, the applicant for certification shall include a copy of the notification of non-compliance or notice of denial of certification and a description of the actions taken, with supporting documentation, to correct the non-compliances noted in the notification of non-compliance.

(f) The registered certifying agent that receives a new application for certification, which includes a notification of non-compliance or a notice of denial of certification, shall treat the application as a new application and begin a new application process pursuant to section 10501 of this chapter.

(g) Notwithstanding paragraph (a) of this section, if the registered certifying agent has reason to believe that the applicant for certification has willfully made a false statement or otherwise purposefully misrepresented the applicant's operation or its compliance with the certification requirements pursuant to this chapter, the registered certifying

agent may deny certification pursuant to paragraph (c)(1)(B) of this section without first issuing a notification of non-compliance.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10506. Continuation of certification.

(a) To continue certification, a certified operation shall annually pay the certification fees and submit the following information, as applicable, to the registered certifying agent:

(1) An updated OCal system plan which includes:

(A) A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's OCal system plan during the previous year; and

(B) Any additions or deletions to the previous year's OCal system plan, intended to be undertaken in the coming year, detailed pursuant to section 10201 of this chapter;

(2) Any additions to or deletions from the information required pursuant to section 10501 of this chapter;

(3) An update on the correction of minor non-compliances previously identified by the registered certifying agent as requiring correction for continued certification; and

(4) Other information as deemed necessary by the registered certifying agent to determine compliance with this chapter.

(b) Following receipt of the information specified in paragraph (a) of this section, the registered certifying agent shall arrange and conduct an on-site inspection of the certified operation pursuant to section 10503 of this chapter, except when it is impossible for the registered certifying agent to conduct the annual on-site inspection following receipt of the certified operation's annual update of information. In such cases the registered certifying agent may allow continuation of certification and issue an updated certificate of OCal operation on the basis of the information submitted and the most recent on-site inspection conducted during the previous 12 months provided that

the annual on-site inspection, required pursuant to section 10503 of this chapter, is conducted within the first 6 months following the certified operation's scheduled date of annual update.

(c) If the registered certifying agent has reason to believe, based on the on-site inspection and a review of the information specified in section ~~10504~~10501 of this chapter, a certified operation is not complying with the requirements of this chapter, the registered certifying agent shall provide a written notification of non-compliance to the operation pursuant to section 10703(b) of this chapter.

(d) If the registered certifying agent determines the certified operation is in compliance with this chapter, the registered certifying agent shall issue an updated certificate of OCal operation pursuant to section 10504 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

## **Article 7. Fees**

Section 10600. Fees and other charges for accreditation and accreditation renewal.

(a) A non-refundable application fee of \$500 shall be due at the time of application. This fee will be applied to the total amount due for accreditation.

(b) The department shall charge an hourly fee for service of \$55 for time spent on accreditation or accreditation renewal.

(c) Travel and per diem charges shall be administratively determined by the California Department of Human Resources, California Code of Regulations, title 2, sections 599.615 through 599.638.1, Traveling Expenses. Per diem charges to the applicant will cover the same period of time for which the evaluator(s) receives per diem reimbursement. The accreditation or accreditation renewal applicant will not be charged a new travel or per diem rate without notification before the service is rendered.

(d) When costs other than costs specified in paragraphs (a), (b), and (c) of this section are associated with providing the services, the accreditation or accreditation renewal applicant will be charged for these costs. Such costs include but are not limited to

equipment rental, photocopying, delivery, facsimile, telephone, or translation charges incurred in association with accreditation services. The amount of the costs charged will be determined administratively by the department.

(e) The balance due upon completion of accreditation or accreditation renewal shall be billed to the applicant and due to the department 10 calendar days after the bill or notice date. Fees shall be collected from applicant prior to issuance of accreditation or accreditation renewal.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10601. Fees for registration and registration renewal.

(a) Fees for initial registration shall be due at the time of registration. Initial registration shall expire on January 1 of the year following initial registration.

(1) The initial registration fee shall be a flat fee of \$1,000 if a certifying agent is registered during the first three quarters of 2021, or \$750 if a certifying agent is registered during the final quarter of 2021.

(2) The initial registration fee shall be a flat fee of \$5,000 if a certifying agent is registered during the first three quarters of 2022 or subsequent years, and \$3,000 if a certifying agent is registered during the final quarter of 2022 or subsequent years.

(b) Fees for registration renewal shall be due January 2 of each year. Registration shall expire on January 1 of the following year.

(1) The annual registration renewal fee of 26 percent of gross revenue earned from certification during the previous calendar year or a flat fee of \$100, whichever is higher.

(c) Fees and other charges shall be collected from applicants prior to issuance of initial registration and registration renewal.

Section 10602. Fees and other charges for certification.

(a) Fees charged by a registered certifying agent must be reasonable and a registered certifying agent shall charge applicants for certification and certified cultivation and distribution operations only those fees and charges that it has filed with the department.

(b) The registered certifying agent shall provide each applicant with an estimate of the total cost of certification and an estimate of the annual cost of updating the certification.

(c) The certifying agent may require applicants for certification to pay at the time of application a nonrefundable fee which shall be applied to the applicant's fees-for-service account.

(1) The certifying agent may set the nonrefundable portion of certification fees; however, the nonrefundable portion of certification fees must be explained in the fee schedule submitted to the department.

(2) The fee schedule must explain what fee amounts are nonrefundable and at what stage during the certification process fees become nonrefundable.

(d) The certifying agent shall provide all persons inquiring about the application process with a copy of its fee schedule.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section ~~10603~~10602. Payment of department fees and other charges.

Fees shall be paid in accordance with sections 10600 or 10601 and pursuant to the directions on the bill or notice.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

## **Article 8. Compliance**

Section 10700. General.

The department may inspect, audit, review or investigate a certified operation's or a registered certifying agent's compliance with this chapter with or without prior notice.



Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10701. Adverse actions.

(a) The department may initiate one or a combination of the following actions on a registration, accreditation, or certification:

- (1) Notice of Non-compliance;
- (2) Notice of Proposed Suspension;
- (3) Notice of Proposed Revocation; or
- (4) Notice of Suspension or Revocation.

(b) The registered certifying agent may initiate one or a combination of the following actions on a certification:

- (1) Notice of Non-compliance
- (2) Notice of Proposed Suspension; or
- (3) Notice of Proposed Revocation.

(c) The department may initiate suspension, for a term of no less than 6 months, or revocation of a certification:

- (1) When the department has reason to believe a certified operation has violated or is not in compliance with this chapter; or
- (2) When the department has reason to believe a certified operation has violated or is not in compliance with this chapter and the registered certifying agent fails to take appropriate action to enforce this chapter.

(d) The department may initiate suspension or revocation of an accreditation or registration if the registered certifying agent fails to meet, conduct, or maintain accreditation or registration requirements pursuant to this chapter. The suspension term will be no less than 6 months.

(e) The department may issue administrative fines *to certifying agents and certified operations* for violations of this chapter.

- (1) Up to \$17,952 per violation for knowingly labeling or selling a product as:

(A) "OCal" except in accordance with this chapter, or

(B) "Organic" except in accordance with the Organic Foods Production Act of 1990.

~~(2) Up to \$20,000 per violation with a Proposed Suspension or Revocation, a Suspension or Revocation, or in response to a Willful violation. The department may fine a certified operation up to \$20,000 per violation.~~

~~(3) The department may fine a registered certifying agent up to \$25,000 per violation.~~

~~(4) (3) The department shall receive payment of fines no more than 30 calendar days past the date of notification unless the fine is being appealed.~~

~~(5) (4) All fines shall be paid prior to consideration for reinstatement or renewal of accreditation or registration, regardless of due date.~~

(f) All correspondence issued pursuant to sections 10702, 10703, 10704, and 10705 of this chapter and responses to correspondence shall be sent to the recipient's place of business via a delivery service which provides dated return receipts.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10702. Investigation of certified operations.

(a) The registered certifying agent shall investigate suspected non-compliance and credible complaints of non-compliance with this chapter concerning operations certified as OCal by the registered certifying agent.

(b) The registered certifying agent must notify the department of all compliance proceedings and actions taken pursuant to this chapter.

(c) The department may assign a complaint against a certified operation to its registered certifying agent for investigation and specify a timeframe during which the investigation shall take place as agreed upon between the department and the registered certifying agent.

(d) The registered certifying agent shall investigate a complaint against a certified operation within the specified timeframe.

(e) The registered certifying agent may refer an investigation back to the department, within the specified timeframe, if the registered certifying agent lacks resources, expertise, or for some other reason beyond its control is unable to resolve the case. The registered certifying agent shall provide the department written explanation for its inability to reach a conclusion along with all findings.

(f) The registered certifying agent shall, in a timely manner, take appropriate action against a certified operation.

(g) If the registered certifying agent fails to comply with paragraphs (a) through (f) of this section, the department will resolve the complaint or take appropriate action against a certified operation and may begin non-compliance proceedings against the registered certifying agent pursuant to section 10705 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10703. Non-compliance procedures for certified operations.

(a) The registered certifying agent shall notify the certified operation and the department of any denial of certification or proposed fine, suspension or revocation of a certification pursuant to this chapter.

(b) *Notice of non-compliance.* When an inspection, audit, or review of a certified operation by the registered certifying agent or the department reveals any non-compliance with this chapter, a written notification of non-compliance shall be sent to the certified operation. Such notification shall provide:

(1) A description of each non-compliance;

(2) The facts upon which the notification of non-compliance is based; and

(3) The date by which the certified operation shall rebut or correct each non-compliance and submit supporting documentation of each such correction when correction is possible.

(c) Resolution. When a certified operation demonstrates that each non-compliance has been resolved, the registered certifying agent or the department, as applicable, shall send the certified operation a written notification of non-compliance resolution.

(d) Proposed suspension or revocation. When rebuttal is unsuccessful or correction of the non-compliance is not completed within the prescribed time period, the registered certifying agent or department official shall send the certified operation a written notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the non-compliance. When correction of a non-compliance is not possible, the notification of non-compliance and the proposed suspension or revocation of certification may be combined in one notification. The notification of proposed suspension or revocation of certification shall state:

- (1) The reasons for the proposed suspension or revocation;
- (2) The proposed effective and expiration dates of such suspension;
- (3) The proposed effective date and impact of a revocation on future eligibility for certification;
- ~~(4) The administrative fine amount; and~~
- ~~(5)~~ (4) The right to request mediation pursuant to section 10704 or request an appeal pursuant to section 10706 of this chapter.

(e) Willful violations. Notwithstanding paragraph (b) of this section, if the registered certifying agent or the department has reason to believe that a certified operation has willfully violated the Act or regulations in this chapter, the registered certifying agent or the department shall send the certified operation a notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the non-compliance.

(f) Suspension or revocation. If the certified operation fails to correct the non-compliance, to resolve the issue through rebuttal ~~or mediation~~, or to file an appeal of the proposed suspension or revocation of certification, the department shall send the certified operation a written notification of suspension or revocation that includes the amount of the administrative fine, if applicable.

(1) A certifying agent or the department must not send a notification of suspension or revocation to a certified operation that has requested mediation pursuant to section 10704 or filed an appeal pursuant to section 10706 of this chapter, while final resolution of either is pending.

(g) Eligibility for reinstatement.

(1) A certified operation whose certification has been suspended under this section may apply for reinstatement of certification, effective after the period of suspension has ended, by submitting to the registered certifying agent:

(A) A copy of the notice showing the suspension expiration date;

(B) A new application for certification in compliance with section 10501 of this chapter.

(C) Evidence demonstrating correction of each non-compliance and corrective actions taken to comply and remain in compliance with this chapter; and

(D) Evidence of payment of all fines due to the department.

(2) When the items in (g)(1) in this section have been satisfied, the registered certifying agent may issue a new OCal certificate to the operation pursuant to section 10504 of this chapter.

(3) A certified operation or a person responsibly connected with an operation whose certification has been revoked will be ineligible to receive certification for a period of 5 years following the effective date of such revocation.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10704. Mediation for certified operations.

Any dispute with respect to denial of certification or proposed suspension or revocation of certification under this chapter may be mediated at the request of the applicant for certification or certified operation and with acceptance by the registered certifying agent. Mediation shall be requested in writing to the applicable registered certifying agent. If the registered certifying agent rejects the request for mediation, the registered certifying

agent shall provide written notification to the applicant for certification or certified operation. The written notification shall advise the applicant for certification or certified operation of the right to request an appeal, pursuant to section 10706 of this chapter, within 30 calendar days of the date of the written notification of rejection of the request for mediation. If mediation is accepted by the registered certifying agent, such mediation shall be conducted by a qualified mediator mutually agreed upon by the parties to the mediation. The parties to the mediation shall have no more than 30 calendar days to reach an agreement following a mediation session. If mediation is unsuccessful, the applicant for certification or certified operation shall have 30 calendar days from termination of mediation to appeal the registered certifying agent's decision pursuant to section 10706 of this chapter. Any agreement reached during or as a result of the mediation process shall be in compliance with the regulations in this chapter. The department may review any mediated agreement for conformity to the regulations in this chapter and may reject any agreement or provision not in conformance with this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10705. Non-compliance procedure for registered certifying agents.

(a) *Notice of non-compliance.* When an inspection, audit, or review of the registered certifying agent by the department reveals any non-compliance with this chapter, a written notification of non-compliance shall be sent to the registered certifying agent.

Such notification shall provide:

- (1) A description of each non-compliance;
- (2) The facts upon which the notification of non-compliance is based;
- (3) The date by which the registered certifying agent shall rebut or correct each non-compliance and submit supporting documentation of each correction when correction is possible.

(b) Resolution. When the registered certifying agent demonstrates that each non-compliance has been resolved, the department shall send the registered certifying agent a written notification of non-compliance resolution.

(c) Proposed suspension or revocation. When rebuttal is unsuccessful or correction of the non-compliance is not completed within the prescribed time period, the department shall send a written notification of proposed suspension or revocation of accreditation or registration to the registered certifying agent. The notification of proposed suspension or revocation will state whether the registered certifying agent's accreditation or specified areas of accreditation are to be suspended or revoked. When correction of a non-compliance is not possible, the notification of non-compliance and the proposed suspension or revocation may be combined in one notification. The notification of proposed suspension or revocation of accreditation or registration will state:

- (1) The reasons for the proposed suspension or revocation;
- (2) The proposed effective and expiration dates of the suspension or revocation;
- (3) The proposed effective date of the revocation and its impact on future eligibility for accreditation;
- ~~(4) The administrative fine amount; and~~
- ~~(5) (4) The right to file an appeal pursuant to section 10706 of this chapter.~~

(d) Willful violations. Notwithstanding paragraph (a) of this section, if the department has reason to believe that the registered certifying agent has willfully violated the Act or regulations in this chapter, the department shall send a written notification of proposed suspension or revocation of accreditation or registration to the registered certifying agent.

(e) Suspension or revocation. When the accredited registered certifying agent fails to file an appeal of the proposed suspension or revocation of accreditation or registration, the department shall send a written notice of suspension or revocation of accreditation or registration to the certifying agent.

(f) Cessation of certification activities. The registered certifying agent whose accreditation or registration is suspended or revoked shall:

- (1) Cease all certification activities.

(2) Transfer to the department and make available to department officials all records concerning its certification activities that were suspended or revoked.

(g) Eligibility for reinstatement.

(1) A certifying agent whose accreditation or registration has been suspended under this chapter may submit a request to the department for reinstatement of its accreditation or registration, to take effect after the expiration date of the suspension or revocation. The request shall be accompanied by evidence demonstrating correction of each non-compliance and corrective actions taken to comply and remain in compliance with this chapter. All fines shall be paid prior to consideration for reinstatement.

(2) A certifying agent whose accreditation or registration is revoked by the department will be ineligible to be accredited or registered as a certifying agent under this chapter for a period of not less than 3 years following the date of such revocation.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10706. Appeals – general.

(a) The certified operation or certifying agent (respondent) may appeal a denial, administrative fines, or proposed notice of suspension or revocation to the department.

(b) All appeals shall be reviewed, heard, and decided by persons not involved with the decision being appealed.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10707. Appeals – submission.

(a) The registered certifying agent or certified operation may appeal a notice of ~~adverse action denial, proposed suspension or revocation, suspension or revocation, or fines~~ by submitting a written request for an informal hearing to the Department of Food and



Agriculture, Legal Office of Hearings and Appeals, 1220 "N" Street, Suite 315, Sacramento, California 95814 or via email to CDFA.LegalOffice@cdfa.ca.gov. The request shall be received by the department within 30 calendar days after the date of the notice. The request shall include the following:

(1) Certifying agent or certified operation's (respondent's) name, mailing address, and daytime phone number;

(2) Respondent's certification number (if applicable);

(3) A copy of the notice;

(b) If the respondent fails to submit a request for hearing pursuant to subdivision (a) of this section, the proposed suspension or revocation may not be appealed and the department may proceed without a hearing.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10708. Appeals – evidence provided by certifying agent.

(a) If the certified operation (respondent) appeals the proposed suspension or revocation action by the certifying agent, the department shall request in writing evidence from the certifying agent to support the suspension or revocation action.

(b) Within thirty 30 days from the date of the request by the department, the certifying agent shall provide or send all information supporting the suspension or revocation action to the department.

(c) If the certifying agent fails to send supporting information to the department within the specified time frame, the appeal shall be sustained with no impact on the respondent's certification.

(d) Within 45 days from the date of the request for supporting evidence, the department shall send the respondent either a notice of informal hearing pursuant to section 10709 of this chapter or notify the respondent that the appeal is sustained with no impact on the respondent's certification.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10709. Appeals – informal hearing schedule and notification.

(a) The department shall schedule an informal hearing within 45 calendar days from receipt of the request for an informal hearing.

(b) The department shall provide notice of the informal hearing to the respondent. The notice shall contain the following information:

(1) Date, location, and time of the informal hearing;

(2) A statement to the respondent that the respondent may, but need not, be represented by counsel at any or all stages of the proceedings;

(3) Summary of the violations;

(4) Any other information or documentation necessary for the hearing; and

(5) A copy of California Code of Regulations, title 3, section 10708.

Authority: Sections 26012, 26013, and 26031, Business and Professions Code.

Reference: Sections 26013 and 26031, Business and Professions Code.

Section 10710. Appeals – conduct of informal hearing.

Informal hearings shall be conducted as follows:

(a) The standard of proof to be applied by the hearing officer shall be a preponderance of the evidence.

(b) The respondent may request a hearing by phone by submitting the request with the appeal.

(c) The hearing officer shall issue a written decision—

(1) Within 30 calendar days after the conclusion of the hearing;

(2) That includes a statement of the factual legal basis of the decision; and

(3) By personal service, mail, email, or via facsimile, depending upon the method by which the appeal was received.

(d) Review of the department's decision may be sought by the respondent within 30 calendar days from the date of the decision pursuant to section 1094.5 of the Code of Civil Procedure.

Authority: Sections 26012, 26013, and 26031, Business and Professions Code.

Reference: Sections 26013 and 26031, Business and Professions Code.

Section 10711. Inspection, testing, and reporting.

(a) A certified operation shall make all agricultural inputs, cannabis waste or cannabis that is to be sold, labeled, or represented as OCal accessible for examination and sampling by the department or the certified operation's registered certifying agent.

(b) The department or the registered certifying agent may require preharvest or postharvest testing of any agricultural input used, cannabis waste, or cannabis that is to be sold, labeled, or represented as OCal when there is reason to believe the agricultural input or cannabis has come into contact with a prohibited substance or has been produced using excluded methods. Samples collected and tested may include soil, water, cannabis waste, seeds, plant tissue, and whole plants. Such tests shall be conducted by the department or the registered certifying agent at the department's or the registered certifying agent's own expense.

(c) The registered certifying agent shall conduct periodic residue testing of cannabis waste and pre- and post-harvest cannabis that is to be sold, labeled, or represented as OCal. Samples collected and tested may include soil, water, cannabis waste, seeds, plant tissue, and whole plants. Such tests shall be conducted by the registered certifying agent at the registered certifying agent's own expense.

(d) The registered certifying agent shall, on an annual basis, sample and test from a minimum of 5 percent of the operations it certifies, rounded to the nearest whole number. The registered certifying agent that certifies fewer than thirty operations on an annual basis shall sample and test from at least one operation annually.

(e) Sample collection in accordance with this section shall be performed by a representative of the department or the registered certifying agent. Sample integrity shall be maintained throughout the chain of custody.

(f) Testing shall be performed by the Department of Food and Agriculture Center for Analytical Chemistry or a laboratory located in California that is licensed by the Bureau of Cannabis Control or accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state and approved by the department.

(g) When testing detects prohibited substances, the registered certifying agent shall investigate to determine the cause of the prohibited substance.

(h) A certified operation must provide its registered certifying agent with a copy of the Certificate of Analysis (COA) for any batch tested, pursuant to section 26100 of the Business and Professions Code, that is destroyed within 3 business days after notification of destruction. If the batch was held or destroyed due to residue from prohibited substances, the registered certifying agent shall investigate pursuant to section 10702 of this chapter.

(i) Results of all analyses and tests performed under this chapter will be available for public access unless the testing is part of a compliance investigation or action. Results may be reviewed as part of a department audit pursuant to section 10412 of this chapter.

~~(j) If test results indicate a specific agricultural product contains pesticide residues or environmental contaminants that exceed the Food and Drug Administration's or the Environmental Protection Agency's regulatory tolerances, the registered certifying agent must promptly report such data to the department.~~

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10712. Exclusion from sale as OCal and reporting.

(a) When residue testing detects unavoidable residual environmental contamination or prohibited substances at levels greater than 0.01 parts per million (ppm) or greater than the action level set by the Bureau of Cannabis Control if this action level is greater than 0.01 parts per million (ppm), the cannabis product shall not be sold, labeled, or represented as OCal. The registered certifying agent shall investigate pursuant to section 10702 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.

Section 10713. Emergency pest or disease treatment.

When a prohibited substance is applied to a certified operation due to a federal or state emergency pest or disease treatment program and the certified operation otherwise meets the requirements of this chapter, the certification status of the operation shall not be affected as a result of the application of the prohibited substance, *but*, any harvested crop or plant part to be harvested that has contact with a prohibited substance applied as the result of a federal or state emergency pest or disease treatment program cannot be sold, labeled, or represented as OCal.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26062, and 26062.5, Business and Professions Code.