

California Code of Regulations
Title 3. California Department of Food and Agriculture
Division 8. Cannabis Cultivation
Chapter 3. OCal Program

SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

This Supplement to the Initial Statement of Reasons presents modifications to the Initial Statement of Reasons (ISOR) made after it was published for the first public comment period that began May 1, 2020 and ended July 7, 2020. Specifically, this Supplement includes inadvertently omitted regulation purpose and necessity statements and changes to the Economic Impact Assessment section.

Changes are indicated in [blue](#) text, ~~strikeout for deletions~~ and [underline for additions](#).

I. Purpose and Necessity Statements Inadvertently Omitted from the ISOR

Article 1. Definitions

Section 10000. Definitions.

Subdivision (ag) defines **Manufacture** as to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. This definition is included in California commercial cannabis regulations and repeated here for clarity.

Article 5. Accreditation and Registration

Section 10407. Accreditation renewal.

Subdivision (f) specifies 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. This is necessary so the department can keep track of the certifying agent's certified operations to ensure they've been contacted by the certifying agent and transfer any records, if the former certifying agent cannot or is unavailable, to a new certifying agent upon request.

Article 8. Compliance

Section 10711. Inspection, testing, and reporting.

Subdivision (i) specifies that 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 and that results may be reviewed as part of a department audit pursuant to section 10412 of this chapter. This is necessary because transparency is critical to consumer trust, which is fundamental to the success of any certification. This is comparable to section 205.670 (f) of NOP the regulations.

Subdivision (j) specifies if sample test results indicate that pesticide residues or environmental contaminants exceed FDA, EPA or BCC regulatory tolerances, the registered certifying agent must promptly report such data to the department. This is necessary to ensure that environmental contaminants are reported to the proper authorities. This is comparable to section 205.670 (g) of NOP the regulations.

II. Changes to the Economic Impact Assessment section of the ISOR

Description of changes

- A. Added a description of the economic impact methodology.
- B. Revised and expanded analysis of each area required by Government Code section 11346.3(b).
- C. Edited for clarity throughout.

Text of the Economic Impact Assessment section of the ISOR with changes indicated in blue text, ~~strikeout~~/underline.

California Government Code section 11346.3 requires state agencies to assess the potential economic impacts on California businesses and individuals when proposing to adopt or amend any administrative regulation.

The economic impact assessment ([EIA](#)) (~~i.e. Economic and Fiscal Impact Analysis~~) of the OCal Program regulations summarizes the data, methods, and results of the analysis developed to evaluate the required economic and fiscal impacts of the proposed regulation as required by Government Code section 11346.3(b). Additional information and analysis of the economic impact of the regulations is available in Attachment 1.

[The EIA applies a standard economic impact methodology to assess and monetize economic costs and benefits of the OCal Program using the following technical approach:](#)

[A. Develop a framework to assess the potential effect of OCal labeling on the cannabis cultivation market.](#)

[B. Estimate the potential number of organic-type operations and the share of licensed cannabis production that is likely to be certified and labeled organic-type or OCal with and without OCal implementation, respectively.](#)

[C. Quantify benefits:](#)

- [1. Estimate the price premium associated with products labeled OCal of varying quality.](#)
- [2. Quantify indirect and induced effect of an expansion in cannabis industry size, value, and potential businesses associated with OCal labeling.](#)

[D. Quantify costs:](#)

- [1. Estimate cultivator costs to develop and implement OCal production practices.](#)
- [2. Estimate costs to the certifying agent to become accredited, register, and comply with all OCal Program certifying agent requirements.](#)
- [3. Estimate Department fiscal costs for staff level of effort to maintain program.](#)
- [4. Estimate other indirect costs to implement the program.](#)
- [5. Estimate indirect and induced effects of any direct economic costs of the program.](#)

E. Summarize total costs and benefits

F. Use quantified benefit and cost information to help assess other non-quantified impacts.

Economic Impact Assessment

A. Creation or elimination of jobs within the state

The OCal Program is expected to add 66 full time equivalent (FTE) jobs statewide. This does not include jobs that could be created in new industries that develop to support expansion of OCal cannabis in the future.

The costs of OCal compliance are offset by increased spending on sectors providing inputs and services to cannabis operations, resulting in a net increase of 75 FTE jobs.

For the first year of full implementation, the net effect of the OCal Program is an increase of approximately 141 FTE jobs statewide.

See Attachment 1 for more detail.

B. Creation of new businesses or elimination of existing businesses

Most of the changes due to the OCal regulations are expected to be the result of licensed cannabis businesses shifting some or all production from conventional to OCal production, but the certification industry may see modest new business creation.

Stakeholders estimated the number of existing certifying agents interested in certifying under the OCal program ranged from 5 to 15. With the number of certified cultivators and distributors expected to increase to 355 and 90, respectively, by year 4, at least 5 new certifying agent business are expected to emerge to service regional areas.

See Attachment 1 for more detail.

~~The impact of the OCal Program on businesses is likely to be positive. It will not eliminate existing businesses and it will encourage modest development of new businesses and industries in the State.~~

C. Expansion of businesses currently doing business within the state

Based on commodities that benefit from organic labeling, such as coffee and fresh produce, OCal products will command a price premium that will expand certified OCal businesses, certifying agent businesses, and ancillary businesses and industries.

A plausible price premium for OCal cannabis was established by leveraging organic data for organic wine, tobacco, and coffee. This data was used because the underlying studies of these commodities have attempted to isolate the effect of organic labeling from the effects of other attributes. An average price premium of 35 percent is applied, though in practice, premiums will vary across brands and with other cannabis product attributes.

The average annual benefit of the proposed OCal Program to cultivators, distributors, and certifying agents (proprietors), is \$13.3 million during the first 4 years of the program.

Ancillary businesses and industries that innovate products and provide services for OCal businesses are expected to benefit from an additional \$11.5 million in sales.

The total quantified benefit of the OCal Program for 1 year would equal \$24.8 million in output (\$13.3 million + \$11.5 million). This is decreased by the annual cost to comply with proposed OCal Program regulations.

The proprietor average annual cost to comply is \$8.26 million during the first 4 years of the program. A cultivator's average annual cost about \$7.3 million. A distributor's average annual cost is about \$0.33 million. A certifying agent's average annual cost is \$0.66 million.

\$5.94 million of the \$8.26 million average annual cost to proprietors increases spending in other industries, creating an increase in gross output value of \$3.28 million.

Summary:

<u>Average annual benefit to proprietor</u>	<u>\$13.3 million</u>
<u>Ancillary businesses and industries</u>	<u>\$11.5 million</u>
<u>Average annual cost of compliance for proprietor</u>	<u>\$8.26 million</u>
• <u>Cultivator average</u>	<u>\$7.3 million</u>
• <u>Distributor average</u>	<u>\$0.33 million</u>
• <u>Certifying agent average</u>	<u>\$0.66 million</u>
<u>Gross output value from increased compliance spending in other industries</u>	<u>\$3.28 million</u>

Cultivators, distributors, certifying agents and ancillary businesses are expected to expand—add fields, square footage, and employees—as a result of the price premium.

See Attachment 1 for more detail.

~~The proposed OCal Program would not affect the expansion of businesses currently doing business within the State.~~

D. Benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment

The proposed OCal Program is expected to provide benefits to the health and welfare of California residents, worker safety, and the state's environment by creating additional jobs, providing consumers with a means for product differentiation, spurring industry innovation in sustainable agriculture, and stimulating increased economic activity in regions heavily populated by OCal cannabis producers.