

## Separation of Duties in Certification Decisions

### 1. Purpose

This instruction clarifies the separation of duties procedures to be followed by registered certifying agents when making certification decisions. Certification decisions include granting initial certification of applicants or continuing OCal certification and issuing any adverse action notices.

### 2. OCal Regulations, Title 3 California Code of Regulations (3 CCR)

3 CCR § 10000. Definitions.

3 CCR § 10401. Requirements for accreditation.

3 CCR § 10408. Requirements for registration.

3 CCR § 10502. Review of certification application.

3 CCR § 10504. Granting certification.

3 CCR § 10506. Continuation of certification.

3 CCR § 10701. Adverse actions.

3 CCR § 10703. Non-compliance procedures for certified operations.

3 CCR § 10704. Mediation for certified operations.

### 3. Policy

The OCal regulations outline the roles and responsibilities of certifying agents for reviewing, inspecting, and granting certification of applicants for certification and operations continuing certification. To prevent a conflict of interest, the regulations require separation of the duties of the onsite inspector and the final certification decision-maker. The individual who conducted the onsite inspection cannot conduct a final review of documents or make a certification decision for the operation they inspected for 12 months after the date of that inspection.

The following roles are required to complete the certification process:

- a. **Reviewer of documents.** Reviews the application, the OCal system plan (OSP) or annual update, inspection reports, and any other related documents.
- b. **Inspector.** Conducts the onsite inspection and audit.
- c. **Certification decision-maker.** Makes the final decision to grant or deny certification of an operation based on a review of the documents referenced in a, above.

These roles are typically and best filled by at least three people. Two people may fill these roles, however, so long as the person who conducted the onsite inspection does not conduct the final document review or make the final certification decision.

The OCal Program considers the issuance of a Notice of Proposed Suspension or Revocation a substantial certification decision and therefore recommends the certifying agent use at least two people when issuing this notice. A Notice of Proposed Suspension or Revocation will become a Suspension or Revocation if it is not appealed within the time allotted in section 10704 of the OCal regulations. After an appeal, if the Notice of Proposed Suspension or Revocation is upheld, the department will issue a Notice of Suspension or Revocation.

#### **4. Procedure**

4.1. Certifying agents must use at least two people to complete the certification process.

4.1.1. The person who conducted the onsite inspection cannot conduct a final review of documents or make a certification decision for an operation he or she previously inspected for 12 months after that inspection.

4.1.2. Certifying agents are encouraged to use at least three different people for the initial certification, the continuation of certification, and the adverse action process, namely, a document reviewer, an inspector, and a certification and/or adverse action decisionmaker.

4.1.3. In order to adequately perform their duties, all inspectors, document reviewers, and certification decision-makers must have sufficient expertise in organic production and handling standards and practices.

#### **5. Compliance with this instruction will be verified by the department during compliance assessments.**