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CALIFORNIA CODE OF REGULATIONS
TITLE 17. PUBLIC HEALTH
DIVISION 1. STATE DEPARTMENT OF HEALTH SERVICES
CHAPTER 5. SANITATION (ENVIRONMENTAL)
SUBCHAPTER 2.5 OCAL

PROPOSED REGULATION TEXT

ADOPT

Article 1. Definitions

Section 22000. Definitions.

The following definitions apply to this Subchapter:

“Accreditation” means a determination made by the Secretary of United States Department of Agriculture that authorizes a certifying agency to conduct certification activities as a certifying agent for the National Organic Program (as described in 7 CFR Part 205).

“Advertisement” means all representations disseminated in any manner or by any means for the purpose of inducing or likely to induce, directly or indirectly, the purchase of a product including but not limited to a display of written, printed, or graphic matter regarding any cannabis product including digital content.

“Advertise” means to represent or disseminate in any manner or by any means for the purpose of inducing or likely to induce, directly or indirectly, the purchase of a product including but not limited to a display of written, printed, or graphic matter regarding any cannabis product including digital content.

“Cannabis” has the same meaning as Section 26001(f) of Division 10 of the Business and Professions Code.

“Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate. This includes, but is not limited to,

concentrated cannabis, an edible or topical product containing cannabis, or concentrated cannabis containing other ingredients.

“Certification” refers to an approval or credential process that has been finalized that generates a unique certificate number.

“Certifying agent” means any entity that has a valid federal accreditation by the United States Department of Agriculture under the National Organic Program to certify organic operations.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Department” means California Department of Public Health.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

“Information panel” means any part of the cannabis product label that is not the primary panel or principal display panel and that contains required labeling information.

“Label” means a display of written, printed, or graphic matter upon a cannabis product container or wrapper.

“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.

“Manufacture” or “Manufacturing” means all aspects of the extraction process, infusion process, and packaging, re-packaging, labeling, or re-labeling of cannabis products. It also means cooking, baking, heating, mixing, churning, fermenting, preserving, dehydrating, freezing, and includes jarring, or otherwise enclosing cannabis product in a container or synonyms of the above terms. It also means adding ingredients including any non-cannabis ingredients to a cannabis product. It does not include the repacking of cannabis products from a bulk shipping container by distributor or retailer where the cannabis product’s original packaging and labeling is not altered.

“Manufacturer” means an entity which manufactures cannabis products that it intends to sell, label, or represent as cannabis products which are “sold as OCal”.

“Misbranded” under this Subchapter means a cannabis product that is 1) labeled falsely or misleading in any particular way, 2) manufactured in violation of this Subchapter, and 3) labeled in violation of this Subchapter.

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

“National Organic Program” or “NOP” means the federal program established pursuant to the Organic Foods Production Act of 1990 (7 USC Section 6501 et seq.) and the regulations adopted thereof.

“OCal” is a trademark labeling term for a comparable program to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 USC Section 6501 et seq.) and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

“OCal system plan” means a plan of management between an OCal-certified manufacturer and a registered certifying agent that includes written plans concerning all aspects of cannabis product manufacturing.

“Organic” means a trademark 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 Part 205).

“Primary panel or principal display panel” means the part of a cannabis product label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

“Prohibited substance” means a substance that must not be used in any aspect of United States Department of Agriculture Organic or OCal manufacturing and cultivation and is prohibited by the National Organic Program.

“Registration” means an approval or credential process that has been finalized that generates a unique registration number.

“Sold as OCal” means any use of the terms “OCal,” “OCal grown,” or grammatical variations of those terms that must include “OCal” as required under this Subchapter or pursuant to the regulations promulgated under Subsection (a) of Section 26062 of Division 10 of the Business and Professions Code; whether orally or in writing; in connection with any cannabis product; sold or offered for sale; including, but not limited

to, any use of these terms in labeling or advertising of any cannabis product; and any ingredient in a multi-ingredient cannabis product.

“Split operation” means an operation that manufactures both OCal-certified and noncertified cannabis products. “Split operation” does not mean an operation certified to produce both organic and OCal products.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code.

Reference: Section 110811 and 110815, Health and Safety Code; Section 26062.5 Business and Professions Code.

Article 2. Applicability

Section 22005. General.

(a) This Subchapter applies to manufacturers with a valid cannabis license that intend to sell, label, or represent cannabis products as OCal and to federally accredited certifying agents that intend to certify cannabis products as OCal.

(b) A certifying agent must obtain a registration from the department pursuant to Article 5.

(c) A manufacturer must obtain a registration from the department pursuant to Article 6.

(d) A manufacturer that intends to only identify OCal cannabis and organic ingredients in the ingredient statement on the information panel:

(1) Must obtain a registration from the department pursuant to Article 6, and

(2) Is exempt from OCal certification.

(e) The provisions of this Subchapter only apply within the state. It is the intent of the state to follow federal law regarding interstate commerce.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22015. Allowed and Prohibited Substances and Methods in OCal Manufacturing.

(a) To be sold or labeled OCal, cannabis products must be manufactured without the use of:

(1) Synthetic substances and ingredients, except as provided in The National List of Allowed and Prohibited Substances 7 CFR Section 205.601;

(2) Nonsynthetic substances prohibited in The National List of Allowed and Prohibited Substances 7 CFR Section 205.602;

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

(4) Excluded methods as defined in 7 CFR Section 205.2;

(5) Ionizing radiation, as described in Food and Drug Administration regulation (21 CFR Section 179.26); and

(6) Sewage sludge.

(b) If a manufacturing practice is not prohibited or otherwise restricted under this Subchapter, such practice may be permitted if it complies with the requirements of this Subchapter.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22020. Inspection or Investigation.

The department may inspect, audit, review or investigate any registered or nonregistered manufacturer required to comply with this Subchapter for compliance with this Subchapter with or without prior notice.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22025. Severability.

In this Subchapter, if any section, subsection, clause, sentence, or phrase of these regulations is for any reason held to be invalid or unconstitutional, or if any application of this Subchapter to any person or circumstance is found to be invalid, the invalidity or unconstitutionality must not affect any other section, subsection, clause, sentence, phrase or application which can be given effect without the invalid provision or application in this Subchapter.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22030. Excluded Operations.

The following operations are excluded from this Subchapter:

(a) A cultivator or processor that dries, cures, grades, trims, rolls, packages, re-packages, labels, re-labels or otherwise processes cannabis or nonmanufactured cannabis products intended to be sold, labeled, or represented as OCal.

(b) A distributor that packages, re-packages, labels, re-labels, or rolls cannabis or nonmanufactured cannabis products intended to be sold, labeled, or represented as OCal.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 3. Manufactured OCal Cannabis Product Requirements

Section 22035. Minimum Manufacturing Requirements.

Manufacturers must manufacture cannabis products to be sold as OCal in accordance with the following requirements:

(a) All cannabis used by a manufacturer must be obtained from an entity with valid, current cannabis licenses issued by the cannabis licensing authority pursuant to Division 10 of the Business and Professions Code.

(b) All cannabis extract used in manufacturing must be:

(1) Manufactured in accordance with this Subchapter, or

(2) Acquired from an OCal-certified manufacturer in accordance with this Subchapter.

(c) All cannabis extract used in the manufacture of OCal cannabis product must be extracted by only one or more of the following methods:

(1) Water;

(2) Steam;

(3) Ice or dry ice;

(4) Butter or food-grade oil that has been certified organic under the National Organic Program;

(5) Ethanol that has been certified organic under the National Organic Program;

(6) Carbon dioxide; or

(7) Mechanical methods.

(d) Nonagricultural substances allowed under the National List may be used only under the following circumstances:

(1) In or on a cannabis product intended to be sold, labeled, or represented as "OCal," if not commercially available in organic form, or

(2) In or on a cannabis product intended to be sold, labeled, or represented as "Made with OCal Cannabis".

(e) The following must not be used in or on a cannabis product that is intended to be sold, labeled, or represented as "100 percent OCal," "OCal," or "Made with OCal Cannabis," or in or on any ingredients labeled as OCal:

(1) Any practices prohibited under of 7 CFR §205.105, or

(2) A volatile synthetic solvent or other synthetic processing aid not allowed under 7 CFR Sections 205.605 and 205.606.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22040. OCal System Plans.

(a) A manufacturer must develop an OCal system plan.

(b) The OCal system plan must contain, at a minimum, all the following:

(1) Descriptions of each ingredient, manufacturing aid, and material to be used in the manufacturing and packaging of an OCal cannabis product;

(2) Storage practices for OCal cannabis, cannabis products, cannabis extract, and organic ingredients;

(3) Pest management practices;

(4) Manufacturing methods;

(5) Cleaning and sanitizing practices, including equipment cleanout;

(6) Labeling procedures;

(7) Procedures for obtaining OCal ingredients and organic ingredients;

- (8) Any other policies and procedures used to ensure the manufacturing standards in this Subchapter are met;
- (9) A description of the recordkeeping system implemented to comply with the requirements established in Section 22140;
- (10) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed;
- (11) A description of the management practices and physical barriers established to prevent commingling of OCal and non-OCal products on a split operation and to prevent contact of OCal operations and products with prohibited substances; and
- (12) Additional information deemed necessary by the certifying agent to evaluate compliance with this section.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22045. Facility Pest Management Practice Standard.

A manufacturer must establish pest prevention practices at each facility that manufactures OCal cannabis products.

(a) The pest prevention plan must include but is not limited to:

- (1) Removal of pest habitat, food sources, and breeding areas;
- (2) Prevention of access to facilities in which OCal cannabis products are manufactured; 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 CFR 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 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 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 OCal cannabis products with the substance used.

(e) The manufacturer of an OCal operation who applies a nonsynthetic or synthetic substance to prevent or control pests must update the operation's OCal system plan to reflect the use of such substances and methods of application. The updated OCal system plan must include a list of all measures taken to prevent contact of OCal cannabis products with the substance used.

(f) Regardless of the practices described in this section, a manufacturer 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 OCal cannabis products with the substance used.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22050. Commingling and Contact with Prohibited Substance Prevention Practice Standard.

(a) A manufacturer must implement measures necessary to:

(1) Prevent the commingling of OCal and non-OCal cannabis products;

(2) Prevent the commingling of organic ingredients with non-organic ingredients and OCal cannabis with non-OCal cannabis; and

(3) Protect OCal cannabis, OCal cannabis products, and organic ingredients from contact with prohibited substances.

(b) A manufacturer must not allow any of the following for use with regard to any cannabis products to be sold, labeled, or represented as OCal:

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

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

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 4. OCal Labels, Labeling, and Advertising Information

Section 22055. Cannabis Products Labeled OCal.

In addition to the cannabis labeling required pursuant to Division 10 of the Business and Professions Code and its implementing regulations, a manufacturer intending to sell cannabis products as OCal must comply with the following in regard to labels, labeling and advertising information:

(a) Calculating organic ingredients. The percentage of organic ingredients in a cannabis product must be calculated as specified in 7 CFR Section 205.302.

(b) 95 percent or greater. Cannabis products manufactured with only OCal-certified cannabis and 95 percent or greater certified organic ingredients may be labeled “100 percent OCal,” or “OCal”. The following labeling terms, may be used on the primary or principal display panel, information panel, and in any advertising information:

(1) “100 percent OCal” or “OCal” to modify the name of the product;

(2) For cannabis products labeled “OCal”, the size of the percentage statement must not exceed one-half the size of the largest type size on the panel on which the statement is displayed and must appear in the same type size, style, and color without highlighting;

(3) The OCal seal; and

(4) The seal, logo, or other identifying mark of the certifying agent which certified the operation that manufactured the finished cannabis product. Such seals or marks must not be individually displayed more prominently than the OCal seal.

(c) 70 percent or greater. Cannabis products manufactured with only OCal-certified cannabis and 70 percent or greater certified organic ingredients may be labeled “Made with OCal Cannabis”. The following labeling terms may be used on the primary or principal display panel, information panel, and in any advertising information:

(1) The statement “Made with OCal Cannabis”; and

(2) The seal, logo, or other identifying mark of the certifying agent which certified the operation that manufactured the finished cannabis product.

The label on a cannabis product labeled “Made with OCal Cannabis” must not include the term OCal to modify the name of the product or display the OCal seal.

(d) OCal ingredient. Each OCal cannabis ingredient must be identified in the ingredient statement with the word “OCal” or with an asterisk or other reference mark that is defined below the ingredient statement to indicate the ingredient has been OCal produced.

(e) Organic ingredient. Each organic ingredient must be identified only in the ingredient statement with the word “organic” or with an asterisk or other reference mark that is defined below the ingredient statement to indicate the ingredient has been organically produced.

(f) Information panel. On the information panel, below the information identifying the manufacturer of the cannabis product and preceded by the statement, “Certified OCal by * * *,” or similar phrase, the certifying agent that certified the manufacturer of the finished product must be identified. The business address, Internet address, or telephone number of the certifying agent may be included on the label.

(g) OCal-certified manufacturers.

(1) An OCal-certified manufacturer must not use the term “organic” or include any reference on the primary or principal display panel or in any advertising material used to describe the product or modify the name of the cannabis product.

(2) Organic ingredients may only be identified in the ingredients statement on the information panel as described in paragraph (e) of this section.

(h) Manufacturers not OCal-certified.

(1) Manufacturers registered with the department that are not OCal-certified may only identify OCal cannabis or organic ingredients in the ingredient statement on the information panel as described in paragraphs (d) and (e) of this section.

(2) The term “OCal,” “organic” or any other similar term cannot appear on the primary or principal display panel or in any advertising material used to describe the product or modify the name of the cannabis product.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22060. Labeling of Bulk Containers Used for OCal Cannabis Products.

(a) Bulk containers used to store or transport cannabis products sold as OCal must display identifying information that the product is “OCal” on the outside of the container.

(b) Bulk containers used to ship or store OCal cannabis products must display the batch or lot number.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22065. OCal Seal.

(a) The OCal seal described in this Subchapter must only be used for cannabis products that meet the requirements of the laws under Section 26062 of Division 10 of the Business and Professions Code and its regulations (including Division 8 of Title 3 of the California Code of Regulations and this Subchapter).

(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



Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22070. Registered Certifying Agent Seal, Logo, or Other Identifying Mark.

A registered certifying agent under this Subchapter may establish a seal, logo, or other identifying mark to be used by a manufacturer certified by the certifying agent to indicate affiliation with the registered certifying agent provided that the registered certifying agent:

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

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 5. Registration and Requirements of Certifying Agents

Section 22075. Minimum Requirements for Certifying Agents.

- (a) Only certifying agents federally accredited pursuant to the areas of manufacturing and handling may apply for registration to the department.
- (b) Prior to initial OCal certification of a manufacturer, a registered certifying agent must conduct at least one initial physical inspection per each premise where the cannabis product to be certified is manufactured. This inspection must include Recordkeeping by Manufacturers pursuant to Section 22140, OCal System Plan pursuant to Section 22040, and Facility Pest Management Practice Standard pursuant to Section 22045.
- (c) A registered certifying agent must after the initial OCal certification, at least annually, physically inspect each premise where the cannabis product to be certified is manufactured. The inspection must include the recordkeeping system necessary for

compliance with Recordkeeping by Manufacturers pursuant to Section 22140, OCal System Plan pursuant to Section 22040, and Facility Pest Management Practice Standard pursuant to Section 22045.

(d) A registered certifying agent must verify as part of the OCal certification process that each manufacturer has:

(1) Valid, current cannabis licenses issued by the cannabis licensing authority pursuant to Division 10 of Business and Professions Code;

(2) For new applicants, verify that the manufacturer has applied for OCal registration from the department; and

(3) For renewal applicants, verify that the manufacturer has an active and valid OCal registration from the department.

(e) A registered certifying agent must adhere to the accreditation requirements as specified in 7 CFR Part 205, Subpart F and must make all accreditation documents available for copying and inspection immediately upon request by the department.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22080. Application for Registration of Certifying Agents.

(a) Each applicant must provide all requested information on the application form approved by the department.

(b) Each applicant must pay a non-refundable \$100 registration fee.

(c) Upon review and approval of the completed application and registration fees, the certifying agent will be issued a registration certificate valid for one year from the date of application.

(d) A registrant must immediately notify the department of any change in the information reported on the application form.

(e) A registrant must immediately notify the department of any change in operation that may affect its compliance with this Subchapter.

(f) A registration is considered legal and valid until revoked, suspended, or until the expiration of the registration.

(g) A registration under this section is not transferrable to any other entity, owner, address, or location.

(h) An ownership change of more than 5 percent will require a new application and registration fee.

(i) If at any time the registered certifying agent is no longer federally accredited pursuant to this article:

(1) If there has been no determination on the initial application, the application is considered immediately denied unless the certifying agent elects to withdraw its application, or

(2) If there has been a determination on the initial application, the application will be considered immediately suspended.

(j) Revenue received pursuant to this section must be deposited in the Food Safety Fund created pursuant to Health and Safety Code Section 110050.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22085. Review of Registration Application for Certifying Agents.

(a) If an application for certifying agent is incomplete, the applicant must submit missing information, fee, payment, or fine no later than 30 calendar days from the date of notification from the department.

(b) The application will be deemed abandoned if the missing information, fee, payment, or fine is not submitted within the specified timeframe.

(c) If the application is deemed abandoned, the applicant may reapply and pay a new registration fee.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22090. Withdrawal of Application for Certifying Agents.

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

- (a) Requests to withdraw an application must be submitted to the department in writing, dated, and signed by the applicant.
- (b) The department will not refund registration fees for a withdrawn application.
- (c) The applicant may reapply and pay a new registration fee following the withdrawal of an application.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22095. Registration Renewal for Certifying Agents.

- (a) The registered certifying agent must renew their registration with the department annually prior to the registration expiration date. Any certifying agent that does not pay the registration fee within 30 days of the date on which the fee is due and payable must pay a penalty of 1.5 percent per month on the unpaid balance.
- (b) When the registration fee is not paid within 60 days from the expiration date, the account may be considered closed and the registration voided. A notification may be sent to the registrant to notify them that they are no longer able to certify products as OCal until the account is paid in full.
- (c) Any registration that is more than 60 days late will be considered invalid.
- (d) The registered certifying agent will receive a registration certificate, which includes the registration number and the expiration date only when:
 - (1) All required information is submitted pursuant to Sections 22080 and 22095 of this Subchapter;
 - (2) Required fee(s) or fine(s) are paid pursuant to Sections 22080 and 22095 of this Subchapter; and
 - (3) The department approves the renewal application.
- (e) A registration renewal will be valid for a period of one year and may be renewed as provided in this section unless the registered certifying agent notifies the department that it voluntarily ceases its OCal certification activities, or registration is suspended, expired or revoked pursuant to this Subchapter.
- (f) If at any time the registered certifying agent is no longer federally accredited pursuant to this article the registration is considered immediately suspended.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22100. List of OCal-certified Manufacturers.

At the request of the department, a registered certifying agent must, at the end of each calendar quarter, prepare a list by name of all manufacturers whose cannabis product is OCal-certified or pending OCal certification by the certifying agent. This list may be made publicly available on the department's web site.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22105. Site Evaluations for Registered Certifying Agents.

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

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

(c) A representative from the department may accompany a certifying agent on a site evaluation of a manufacturer to ensure the certifying agent's compliance with this Subchapter.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22110. Investigation of Manufacturers by Registered Certifying Agents.

(a) The registered certifying agent must conduct an inspection of their OCal-certified manufacturers at least once a year.

(b) The registered certifying agent must investigate suspected noncompliance(s) and credible complaints of noncompliance with this Subchapter concerning manufacturers certified as OCal by the registered certifying agent.

(c) The registered certifying agent must notify the department of all noncompliance proceedings and actions taken pursuant to this Subchapter.

(d) The department may assign a complaint against a certified manufacturer to its registered certifying agent for investigation.

(1) The registered certifying agent must investigate and resolve a complaint against a manufacturer within 90 days unless otherwise specified by the department.

(2) The registered certifying agent must provide the department written documentation of all complaint outcomes and findings.

(3) If the registered certifying agent is unable to resolve the complaint, the registered certifying agent must provide the department written explanation for its inability to reach a conclusion along with all findings.

(4) If the registered certifying agent fails to comply with paragraphs (1) through (3) of this section, the department may resolve the complaint or may begin noncompliance proceedings against the registered certifying agent pursuant to this Subchapter.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 6. Registration and Requirements of OCal Manufacturers

Section 22115. Minimum Requirements for Department Registration of OCal Manufacturers.

(a) Every person engaged in this state in the manufacturing of cannabis products for human or animal consumption or use sold as OCal, must register with the department, and must annually renew its registration unless no longer so engaged in manufacturing.

(b) Manufacturers only claiming OCal or organic ingredients in the ingredients statement on the information panel must register with the department and are exempt from certification by a registered certifying agent.

(c) To obtain registration from the department under this Subchapter, manufacturers must comply as follows:

- (1) Possess valid, current cannabis licenses issued by the cannabis licensing authority under Division 10 of the Business and Professions Code;
- (2) Possess a valid and current OCal certification by a department-registered certifying agent for each operation or specified portion of an operation that meets all applicable requirements of this Subchapter. Except for operations excluded under Sections 22005(d), 22030, and 22115(b) of this Subchapter;
- (3) Develop, maintain, and adhere to the recordkeeping system necessary for compliance with Recordkeeping by Manufacturers pursuant to Section 22140, OCal System Plan pursuant to Section 22040, and Facility Pest Management Practice Standard pursuant to Section 22045;
- (4) Permit on-site inspections of the premises by the department and by the registered certifying agent to ensure compliance with this Subchapter;
- (5) Immediately notify the department and registered certifying agent regarding any change in operation or any portion of operation that may affect its compliance with this Subchapter;

(d) Manufacturers must comply with all requirements of this Subchapter unless specified by an exemption in this Subchapter.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22120. Application for Registration of Manufacturers.

(a) Each applicant must provide all requested information on the application to be approved by the department.

(b) At a minimum, each applicant must provide the following information:

- (1) The OCal certification number issued to the firm and a copy of the OCal certification document pursuant to Section 22115, if applicable;

(2) The cannabis license number and expiration date issued to the firm by the cannabis licensing authority and a copy of the cannabis license pursuant to Section 22115;

(3) For renewal applications only, the total annual OCal gross revenue received from manufacturing OCal cannabis products in dollars, for the previous 12 months;

(4) For renewal applications only, the quantity (in pounds) of all finished cannabis products sold as OCal by product type (commodity) as determined by the department for the previous 12 months; and

(5) Documents requested by the department or supplied by the applicant under paragraphs (3) and (4) above must be marked "confidential financial documents" by the applicant.

(c) A registration application must be accompanied by payment of a nonrefundable registration fee payable to the department. The fee must be based on annual gross revenue of OCal product received from manufacturing by the registrant in the calendar year that precedes the date of registration.

(1) New applicants will pay \$350 for the first year of registration. Renewal fees will be based on annual gross revenue and the fee schedule in this section.

(2) For a manufacturer licensee that is also licensed as a distributor or retailer by the cannabis licensing authority, and that sells or transfers cannabis products manufactured on the licensed premises in a non-arm's length transaction, the annual gross revenue for such transactions must be based on the product's fair market value if it were to be sold in an arm's length transaction at wholesale.

(3) For purposes of this section, an "arm's length transaction" means a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

The fee is based according to the following schedule:

<u>Type of Applicant</u>	<u>Fee</u>
<u>New Applicants</u>	<u>\$350</u>

Renewal Applicants

<u>Gross Annual Revenue</u>	<u>Annual Registration Fee</u>
<u>\$0-\$5,000</u>	<u>\$50</u>
<u>\$5,001-\$50,000</u>	<u>\$100</u>
<u>\$50,001-\$125,000</u>	<u>\$200</u>
<u>\$125,001-\$500,000</u>	<u>\$300</u>
<u>\$500,001-\$1,500,000</u>	<u>\$400</u>
<u>\$1,500,001-\$2,500,000</u>	<u>\$600</u>
<u>\$2,500,001-and above</u>	<u>\$700</u>

(d) Fees may be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees, or charges subject to subsequent adjustment must be the fees or charges for the prior calendar year. The percentage change must be determined by the Department of Finance and must include at least the total percentage change in salaries and operating expenses of the state department. However, the total increase in amounts collected under this section must not exceed the total increased cost of the program or service provided.

(e) An approved registration is considered legal and valid until revoked, suspended, or until the expiration of the registration.

(f) A registration under this section is not transferrable to any other entity, licensee, address, or location.

(g) Any change that requires a new license under Division 10 of the Business and Professions Code will require the applicant to submit a new application and registration fees required under this Subchapter.

(h) The applicant must immediately notify the department of any change in the information reported on an application form.

(i) Any manufacturer required to be registered by the department under this Subchapter that does not pay the registration fee required by section will be considered as having an incomplete application and is not authorized to manufacture under this Subchapter and is subject to fines and/or penalties under this Subchapter.

(j) If at any time the manufacturer does not possess valid, current cannabis licenses issued by the cannabis licensing authority pursuant to Division 10 of Business and Professions Code or does not possess an active and valid OCal certification pursuant to Section 22115:

(1) If there has been no determination on the initial application, the application is considered immediately denied unless the manufacturer elects to withdraw the application, or

(2) If there has been a determination by the department on the initial application, the application will be considered immediately suspended.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22125. Review of Registration Application for OCal Manufacturers.

(a) If an application is incomplete, the applicant must submit the missing information, fee, payment, or fine no later than 30 calendar days from the date of notification from the department.

(b) The application will be deemed abandoned if the missing information, fee, payment, or fine is not submitted within the specified timeframe.

(c) If the application is deemed abandoned, the applicant may reapply and pay a new registration fee.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22130. Withdrawal of Application for Manufacturers.

An applicant may withdraw an application at any time prior to the department's approval, denial, suspension, or revocation of registration.

(a) Requests to withdraw an application must be submitted to the department in writing, dated, and signed by the firm owner(s).

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

(c) An applicant may reapply and pay a new registration fee following the withdrawal of an application.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22135. Registration Renewal for OCal Manufacturers.

(a) Manufacturers must renew their registration with the department annually prior to the registration expiration date. Any manufacturer that does not pay the registration fee within 30 days of the date on which the fee is due and payable must pay a penalty of 1.5 percent per month on the unpaid balance.

(b) When the registration fee is not paid within 60 days from the expiration date, the account may be considered closed and the registration voided. A notification may be sent to the registrant that they are no longer able to advertise or sell cannabis products as OCal until the account is paid in full.

(c) Any registration that is more than 60 days late will be considered invalid and it is a violation if cannabis product is sold as OCal.

(d) The manufacturer will receive a registration certificate, which includes the registration number and the expiration date only when:

(1) All required information has been submitted pursuant to this article;

(2) Required fee(s) or fine(s) have been paid pursuant to this article; and

(3) The department approves the renewal application.

(e) A registration renewal will be valid for a period of one year and may be renewed as provided in this article, unless the manufacturer notifies the department that it voluntarily ceases its manufacturing activities, or registration is suspended, expired or revoked pursuant to this Subchapter.

(f) If at any time the manufacturer does not possess an active and valid cannabis license pursuant to Section 22115 or does not possess an active and valid OCal

certification pursuant to Section 22115, the department registration is considered automatically and immediately suspended by the department.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22140. Recordkeeping by Manufacturers.

(a) A manufacturer registered by the department must maintain the following documents onsite for cannabis products intended to be sold, labeled, or represented as OCal:

- (1) OCal system plan;
- (2) Sales invoices and receipts of cannabis and organic ingredients purchased for use in OCal cannabis products;
- (3) The name and address of all persons, to whom or from whom the OCal cannabis products are sold, purchased, or otherwise transferred, the quantity of product sold or otherwise transferred, and the date of the transaction;
- (4) Invoices, bills of lading, or other documents that show transfer of title of certified cannabis products must indicate the product is "OCal" or "certified OCal"; and
- (5) All substances applied to the product or used in or around any area where product is kept, including the quantity applied and the date of each application.

All pesticide chemicals must be identified by brand name, if any, and by source.

(b) The records must be maintained for a period of five years and must be maintained in a manner distinguishable from other records related to commercial cannabis activity.

(c) Regardless of any other provision of law, a manufacturer must provide any record or document required to be kept under this Subchapter onsite for cannabis products intended to be sold, labeled, or represented as OCal, and must make the documents immediately available for inspection and copying by the department or the certifying agent upon request.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 7. Compliance

Section 22145. It is unlawful for any person to sell, offer for sale, advertise, or label cannabis products in noncompliance of this Subchapter.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22150. It is unlawful for any person other than the department to register OCal cannabis manufacturers.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22155. It is unlawful for any person to certify cannabis products as OCal unless duly registered with the department and federally accredited as a certification organization under the NOP.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22160. It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, on a registration application or document. False means untruthful.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22165. It is unlawful for any person to sell, label, advertise, cause in any way to appear in advertisement or similar, or otherwise refer to cannabis products as organic except as permitted under section 22055.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22170. It is unlawful for any person to manufacture cannabis products sold as OCal unless registered by the department and in compliance with this Subchapter.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22175. It is unlawful for any person to forge, falsify, fail to retain, fail to obtain, or fail to disclose records pursuant to section 22140.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22180. It is unlawful for any person to represent the registration number, any logo or trademark of the department or status of the registration in advertising or labeling.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22185. It is unlawful for any person to alter any OCal certification or certification documents.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22190. It is unlawful for any person to alter any OCal registration certificate or registration document.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22195. It is unlawful for any person to falsify any document.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22200. It is unlawful for any person to use the term “transitional OCal” or “OCal when available” or similar terminology to represent a cannabis product for sale.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22205. It is unlawful for any person to use or represent the word “OCal” or the OCal seal regarding a cannabis product unless in compliance with this Subchapter.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22210. It is unlawful for any person to disseminate any false advertisement for cannabis products under this Subchapter. An advertisement is false if it is untruthful or misleading.

Note: Authority cite: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 8. Actions Upon a Manufacturer or Certifying Agent

Section 22215. Adverse Actions.

(a) The department may initiate one or a combination of the following actions on a manufacturer or certifying agent:

- (1) Notice of Noncompliance;
- (2) Suspension;
- (3) Revocation;
- (4) Denial;
- (5) Penalty; or
- (6) Fine.

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

- (1) Notice of Noncompliance;
- (2) Revocation;
- (3) Suspension;
- (4) Denial;

(5) Penalty; or

(6) Fine.

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

(1) When the department has reason to believe a registered manufacturer or registered certifier has violated or is not in compliance with this Subchapter; or

(2) When the department has reason to believe a registered manufacturer has violated or is not in compliance with this Subchapter and the registered certifying agent fails to take appropriate action to enforce this Subchapter.

(3) This section does not apply when the suspension of a registration is initiated pursuant Sections 22080(f), 22095(f), 22120(k), or 22135(e).

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 9. Actions Between a Certifying Agent and a Manufacturer

Section 22220. Noncompliance Procedures for Manufacturers by Registered Certifying Agents.

(a) The registered certifying agent must notify the manufacturer and the department of any denial of OCal certification or proposed fine, proposed suspension, or proposed revocation of an OCal certification pursuant to this Subchapter.

(b) Notice of noncompliance. When an inspection, audit, or review of a manufacturer by the registered certifying agent reveals any noncompliance with this Subchapter, a written notification of noncompliance must be sent to the manufacturer. Such notification must provide at a minimum:

(1) A description of each noncompliance;

(2) The facts upon which the notification of noncompliance is based; and

(3) The date by which the manufacturer must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

(c) Resolution. When a manufacturer demonstrates that each noncompliance has been resolved, the registered certifying agent must send the manufacturer a written notification of noncompliance resolution.

(d) Proposed suspension or revocation. When resolution is unsuccessful or correction of the noncompliance is not completed within the prescribed time period, the registered certifying agent must send the manufacturer a written notification of proposed suspension or revocation of OCal certification of the entire operation or a portion of the operation, as applicable to the noncompliance. When correction of a noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation of OCal certification may be combined in one notification. The notification of proposed suspension or revocation of OCal certification must state at a minimum:

(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 OCal certification; and

(4) The right to request mediation from the department between the manufacturer and the registered certifying agent within 30 calendar days from the notice.

(e) Willful noncompliance. Regardless of paragraph (b), if the registered certifying agent has reason to believe that a manufacturer has willfully violated the regulations in this Subchapter, the registered certifying agent must send the manufacturer a notification of proposed suspension or revocation of OCal certification of the entire operation or a portion of the operation, as applicable to the noncompliance.

(f) Suspension or revocation. If the manufacturer fails to correct the noncompliance, to resolve the issue through mediation, or to file an appeal of the proposed suspension or revocation of OCal certification under Article 10, the certifying agent must send the manufacturer a written notification of suspension or revocation that includes the amount of the administrative fine, if applicable.

(g) Eligibility for reinstatement:

(1) A manufacturer whose OCal certification has been suspended under this section may apply for reinstatement of OCal 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) Evidence demonstrating correction of each noncompliance and corrective actions taken to comply and remain in compliance with this Subchapter; and
- (C) Evidence of payment of all fines due to the department.

(2) When the items in paragraph (g) in this section have been satisfied, the registered certifying agent may re-issue the OCal certificate to the manufacturer pursuant to this Subchapter.

(3) A manufacturer whose OCal certification has been revoked will be ineligible to receive OCal certification for a period of five years following the effective date of such revocation. The department may, when in the best interest of the certification program, reduce or eliminate the period of ineligibility.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22225. Mediation for Manufacturers and Registered Certifying Agents.

(a) Any dispute with respect to denial of OCal certification or proposed suspension or revocation of certification under this Subchapter between a manufacturer and a registered certifying agent may be mediated at the request of the manufacturer.

(b) Mediation must be requested in writing to the department within 30 calendar days from the notice by the registered certifying agent regarding the manufacturer's certification status.

(c) If mediation is unsuccessful, the manufacturer must have 30 calendar days from termination of mediation to appeal the registered certifying agent's decision pursuant to Section 22230.

(d) The department will document in writing the results of such mediation including any agreement reached.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22230. Appeal between Manufacturers and Registered Certifying Agents.

(a) Upon a request pursuant to Section 22225, a manufacturer seeking OCal certification may request appeal of a decision by a registered certifying agent as follows:

(1) Submitting a written request for appeal to the Chief of the Food and Drug Branch, and

(2) The request for appeal must be postmarked or received by the department no later than 30 calendar days after the date of the registered certifying agent's notice of decision to the manufacturer or applicant, and

(3) The request must include the following:

(A) A copy of the department's written report of mediation, if applicable.

(B) A copy of the registered certifying agent's notice of noncompliance and any documented resolution of noncompliance.

(C) A copy of the registered certifying agent's decision of denial of OCal certification, proposed suspension, or revocation.

(D) All documentation that support the request for appeal.

(b) The Chief of the Food and Drug Branch must notify of his or her decision within 15 calendar days for proposed suspension and within 30 calendar days for all other decisions.

(c) Within 14 calendar days of the decision of the Chief of the Food and Drug Branch, a requesting party may petition for reconsideration from the Division Chief over the Food and Drug Branch in the Center for Environmental Health.

(1) The Division Chief over the Food and Drug Branch in the Center for Environmental Health must notify the requesting party of his or her decision within 30 calendar days.

(2) The decision of the Division Chief over the Food and Drug Branch in the Center for Environmental Health constitutes a final and nonreviewable order.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 10. Department Actions and Appeals

Section 22235. Noncompliance Procedures for Certifying Agents and Manufacturers.

(a) Notice of Noncompliance.

(1) When the department issues written notification of noncompliance, the certifying agent or manufacturer must demonstrate that each noncompliance has been resolved within an agreed upon timeframe.

(2) The department may send a written notification of noncompliance resolution, if applicable.

(b) Suspension, revocation, or denial. When correction of the noncompliance is not completed by the certifying agent or manufacturer, the department may proceed with the suspension, revocation, or denial process.

(c) Willful noncompliance. Regardless of paragraph (a) of this section, if the department has reason to believe that the certifying agent or manufacturer has willfully violated regulations in this Subchapter, the department will send a written notification of suspension, proposed suspension, or revocation of registration.

(d) Suspension or revocation. When the certifying agent or manufacturer fails to file an appeal of the proposed suspension or revocation of registration pursuant to this article, the department will send a written notice of suspension or revocation of registration.

(e) Cessation of activities:

(1) The registered certifying must:

(A) Cease all OCal certification activities of OCal cannabis manufacturers, and

(B) At the request of the department, transfer to the department and make available to department officials all records concerning its certification activities that were suspended or revoked.

(2) The manufacturer must:

(A) Cease all labeling and advertising of cannabis products sold as OCal, and

(B) At the request of the department, transfer to the department and make available to department officials all records concerning its manufacturing activities that were suspended or revoked.

(f) Eligibility for reinstatement.

A certifying agent or manufacturer whose registration has been suspended under this Subchapter may:

- (1) Submit a request to the department for reinstatement of its registration by submitting a new application and paying the registration fee. If approved by the department, the reinstatement will take effect after the expiration date of the suspension.
- (2) The application must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply and remain in compliance with this Subchapter.
- (3) All fines or penalties or both must be paid prior to consideration for reinstatement.
- (4) A certifying agent whose registration is revoked by the department will be ineligible to be registered as a certifying agent under this Subchapter for a period of not less than three years following the date of such revocation.
- (5) A manufacturer whose registration is revoked by the department will be ineligible to be registered by the department as a manufacturer under this Subchapter for a period of not less than three years following the date of such revocation.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22240. Appeals – General.

- (a) If the department seeks action against a certifying agent or manufacturer, an opportunity to appeal the action must be afforded.
- (b) The certifying agent whose registration has been denied, suspended, pending revocation or is revoked may request an appeal by filing a written notice with the department no later than 30 calendar days after the date of the department's written notice of the suspension, denial, intent to revoke, or revocation.
- (c) The manufacturer whose registration has been denied, suspended, pending revocation or is revoked may request an appeal by filing a written notice with the

department no later than 30 calendar days after the date of the department's written notice of the suspension, denial, intent to revoke, or revocation.

(d) If certifying agent or manufacturer fails to submit a timely written request for appeal pursuant to this section, the department may proceed without a hearing.

(e) Any appeal requested under this section must be conducted pursuant to the procedures specified in Section 131071 of Division 101 of the Health and Safety Code.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22245. Evidence Provided by Certifying Agent.

(a) If the department seeks suspension, revocation, denial, or penalty against a manufacturer, the department may request evidence from the certifying agent to support the proposed suspension, revocation, or denial action or penalty.

(b) Within 30 calendar days from the date of the request by the department, the certifying agent must provide or submit all information supporting the proposed suspension, revocation, or denial action or penalty to the department. The certifying agent must also be available for department interview and for any testimony needed in an appeal.

(c) If the certifying agent fails to submit supporting information to the department within the specified time frame or is not available for department interview or testimony, the department may revoke the registration of the certifying agent.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Article 11. Penalties

Section 22250. Penalties.

(a) The department may levy a civil penalty against any person who violates this Subchapter, in an amount not more than \$5,000 for each violation. The amount of the penalty assessed for each violation must be based upon the nature of the violation, the

seriousness of the effect of the violation upon effectuation of the purposes and provisions of this Subchapter, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Notwithstanding the penalties prescribed in paragraph (a), if the department finds that a violation was not intentional, the department may levy a civil penalty of not more than \$2,500 for each violation.

(c) For a first offense, in lieu of a civil penalty as prescribed in paragraphs (a) and (b), the department may issue a notice of noncompliance, if the department finds that the violation is minor.

(d) Any fees and civil penalties collected pursuant to this Subchapter must be deposited in the Food Safety Fund established pursuant to Section 110050 of Division 104 of the Health and Safety Code.

(e) A person against whom a civil penalty is levied must be afforded an opportunity for a hearing before the department pursuant to Section 131071 of Division 101 of the Health and Safety Code. If no hearing is requested, the civil penalty must constitute a final and nonreviewable order.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22255. Embargo.

Whenever an agent of the department finds, or has probable cause to believe, that a cannabis product subject to this Subchapter is misbranded or falsely advertised (orally, in printed form, or in any other form of media), that agent must affix to the affected cannabis products a tag or other appropriate marking. The agent must describe the misbranded or false advertising violations and that the cannabis products have been embargoed, and that no person may remove or dispose of cannabis products until permission for removal or disposal is given by an agent of the department or the court.

Note: Authority cited: Sections 100275, 110065, 110835, 111860, and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22260. It is unlawful for any person to remove, sell, or dispose of detained or embargoed cannabis products without permission of an authorized agent of the department or the court.

Note: Authority cited: Sections 100275, 110065, 110835, 111865, and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22265. When an agent of the department finds, or has reasonable cause to believe, that the embargo will be violated, that agent may remove the embargoed product to a place of safekeeping.

Note: Authority cited: Sections 100275, 110065, 110835, 111875, and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22267. Any superior court of this state may condemn any cannabis product under this Subchapter. In the absence of an order, the cannabis product may be destroyed by the owner, a responsible party with written consent of the owner, the owner's attorney, or an authorized representative, and while under the supervision of an authorized agent of the department. The destruction is at the expense of the owner.

Note: Authority cited: Sections 100275, 110065, 110835, 111885, 111890, 111895, and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.

Section 22270. The remedies under this section are in addition to, and do not supersede, or limit, any and all other remedies, civil or criminal.

Note: Authority cited: Sections 100275, 110065, 110835 and 113115, Health and Safety Code; Section 26062(a)(2), Business and Professions Code. Reference: Section 26062.5 Business and Professions Code.