



OAL Reference Attorney  
300 Capitol Mall, Suite 1250  
Sacramento CA 95814  
[staff@oal.ca.gov](mailto:staff@oal.ca.gov)

February 12th, 2024

DCC Legal Affairs Division  
2920 Kilgore Road  
Rancho Cordova CA 95670  
[publiccomment@cannabis.ca.gov](mailto:publiccomment@cannabis.ca.gov)

### **Comment on Proposed DCC Regulations to Implement SB 833**

On behalf of Origins Council, representing nearly 800 licensed small and independent cannabis businesses in five counties throughout California, we appreciate the opportunity to comment on the DCC's proposed regulations regarding implementation of SB 833.

SB 833 provides important and commonsense opportunities for cannabis cultivators to reduce or pause their cultivation from year to year in response to environmental or market conditions. This opportunity, referred to throughout this comment as "fallowing," is common in other agricultural sectors, but is complicated in the regulated cannabis framework by administrative requirements associated with annual license renewals. If implemented effectively in regulation, SB 833 holds promise to address these administrative hurdles and enable cannabis cultivators the same opportunity as any other farmer to temporarily reduce cultivation scale.

Origins Council supports most aspects of the proposed regulations, including the proposed fee structure, option to either reduce or fully pause cultivation, and the ability for fallowed farmers to continue with ancillary activities such as maintenance of immature plants, processing, and sales. These provisions are critical and necessary aspects of a viable fallowing framework.

However, we also believe that additional technical changes are required to make fallowing viable for a majority of cultivators in 2024, understanding that a typical outdoor cultivation season, accounting for differences in climate and cultivation practices, spans from approximately April 1 to November 1.

While technical, we believe these changes are at the heart of the administrative issues that have prevented most cultivators from fallowing under emergency regulatory authority provided by DCC in prior years.

The barriers to fallowing that cultivators will encounter under proposed regulations are best illustrated through specific examples. For example, a 10,000 square foot outdoor cultivator whose license renews on September 1 has already paid their \$4,820 annual licensing fee on September 1, 2023 in order to be able to retain their state license through the conclusion of the 2023 cultivation season. This \$4,820 payment authorizes them to cultivate through September 1, 2024.

Under §15020.3(c) as written, however, this cultivator only has the ability to change their license renewal date at their next license renewal on September 1, 2024 - near the end of the 2024 cultivation season. Effectively, then, this cultivator will not have an opportunity to fallow in 2024, despite the March 1, 2024 implementation deadline for the program.

As another example, a cultivator who last renewed their license in December 2023, or February 2024 - after the 2023 cultivation season, but before the availability of the fallowing program on March 1 - has already paid for cultivation through all of 2024 and has no opportunity to fallow under the proposed program.

Some version of the above situation is the rule, not the exception. In fact, only the small fraction of cultivators whose license renewals happen to be scheduled after March 1, but near the beginning of growing season, will be practically able to fallow in 2024 under proposed rules.

**We recommend the following amendments to address these challenges:**

- **Amend §15020.3(c) to allow cultivators a one-time ability to change their license renewal date to an earlier date at any time; not only at the time of license renewal.** For example, a cultivator whose license is next slated to renew on September 1, 2024 needs the ability to change their renewal date on (and to) March 1, 2024 in order to fallow for the 2024 cultivation season.
- **Offer license fee credits to accommodate cultivators who move their license renewal date to an earlier time.** For example: a cultivator who paid \$4,820 for their one-year renewal on September 1, 2023, and who then moves their renewal date to March 1, 2024, should receive a licensing fee credit for the six months they reduced from their license term (\$2,410). This credit could then be applied towards any fees associated with the March 1, 2024 renewal, and/or towards future licensing fees in 2025.

These mechanisms are consistent with the statutory direction provided by SB 833. BPC 26061.5(d) states that “...the department shall allow each licensee a one-time opportunity to change the date of license renewal, in implementing subdivisions (b) and (c).” Statute does not require that a licensee may only change their license renewal date on their existing date license renewal.

BPC 26061.5(d) also suggests that the reason to provide licensees with a one-time opportunity to change their date of license renewal is to implement the following provisions established by BPC 26061.5(b) and (c); as demonstrated above, the ability to change a license renewal date at any time is practically necessary to implement these provisions for cultivators who seek to fallow in 2024.

With these mechanisms in place, the cultivator whose license renews on September 1, 2024 could viably fallow for 2024 by 1) changing their renewal date to March 1, 2024, 2) going to "limited operations" status and fallowing for the 2024 cultivation season, and then 3) re-evaluating in March 2025 whether they want to cultivate for the 2025 season.

Absent these changes, we are concerned that most cultivators will not be able to viably fallow in 2024.

Thank you for your consideration,

Sincerely,



Genine Coleman  
Executive Director  
Origins Council



Natalynne DeLapp  
Executive Director  
Humboldt County Growers Alliance



Oliver Bates  
President  
Big Sur Farmers Association



Diana Gamzon  
Executive Director  
Nevada County Cannabis Alliance



Steve Amato  
President  
Mendocino Cannabis Alliance



Adrien Keys  
President  
Trinity County Agricultural Alliance