

CALCANNABIS CULTIVATION LICENSING
PROPOSED TEXT OF REGULATIONS

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

Proposed Modifications to the Proposed Text

Additions are indicated by blue font and double underlining and ~~deletions are double struck and in red font.~~

CHAPTER 1. CANNABIS CULTIVATION PROGRAM

Article 1. Definitions

§ 8000. Definitions

The following definitions, in addition to those stated in section 26001 of the Business and Professions Code, apply to this ~~chapter~~ division.

- (a) “Act” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, division 10, chapter 1 (commencing with section 26000) of the Business and Professions Code.
- (b) “Appellation of origin” means a name established through the process set forth in chapter 2 of this division.
- ~~(b)~~ (c) “Applicant” means an owner of the applicant entity or sole proprietor applying for a state license pursuant to this division.
- ~~(d)~~ (e) “Applicant entity” means the entity or sole proprietor applying for a state cannabis cultivation license.
- ~~(e)~~ (f) “Batch” or “harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain or cultivar, harvested in whole, or in part, at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.
- ~~(f)~~ (g) “Bureau” means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- ~~(g)~~ (h) “Canopy” means the designated area(s) at a licensed premises, except nurseries and processors, that will contain mature plants at any point in time, as follows:

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- (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
- (2) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and
- (3) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

~~(g)~~ “Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as provided for in this chapter.

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

~~(i)~~ “Cultivation site” means a location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

~~(j)~~ “Department” means the California Department of Food and Agriculture.

~~(k)~~ “Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

~~(l)~~ “Flowering” means that a cannabis plant has formed a mass of pistils measuring greater than one half inch wide at its widest point.

~~(m)~~ “Immature plant” or “immature” means a cannabis plant that has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.

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(~~h~~o) “Indoor cultivation” means the cultivation of cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.

(~~h~~p) “Kief” means the resinous trichomes of cannabis that have been separated from the cannabis plant.

(~~h~~q) “Licensee” means any person holding a license pursuant to this chapter.

(~~h~~r) “Light deprivation” means the use of any technique to eliminate natural light in order to induce flowering.

(~~h~~s) “Lot” means a batch, or a specifically identified portion of a batch.

(~~h~~t) “Mature plant” or “mature” means a cannabis plant that is flowering.

(~~h~~u) “Mixed-light cultivation” means the cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using a combination of:

(1) Natural light and light deprivation and one of the artificial lighting models listed below:

(A) “Mixed-light Tier 1” without the use of artificial light or the use of artificial light at a rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot; or

(2) Natural light and one of the artificial lighting models listed below:

(A) “Mixed-light Tier 1” the use of artificial light at a rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.

(~~h~~v) “Net weight” means the weight of harvested cannabis and cannabis products, exclusive of all materials, substances, or items not part of the commodity itself, including but not limited to containers, conveyances, bags, wrappers, packaging materials, labels, and individual piece coverings, and that meet the requirements in section 8406(b).

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~~(vw)~~ “Nonmanufactured cannabis product” means flower, shake, leaf, pre-rolls, and kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower or leaf with a mesh screen or sieve.

~~(wx)~~ “Nursery” means all activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

~~(xy)~~ “Outdoor cultivation” means the cultivation of mature cannabis without the use of artificial lighting or light deprivation in the canopy area at any point in time. Artificial lighting is permissible only to maintain immature plants outside the canopy area.

~~(yz)~~ “Pest” means any of the following that is, or is liable to become, dangerous or detrimental to the agricultural or nonagricultural environment of the state:

(1) Any insect, predatory animal, rodent, nematode, or weed; and

(2) Any form of terrestrial, aquatic, or aerial plant or animal virus, fungus, bacteria, or other microorganism (except viruses, fungi, bacteria, or other microorganisms on or in living man or other living animals).

~~(zaa)~~ “Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

~~(aab)~~ “Pre-roll” means any combination of the following rolled in paper: flower, shake, leaf, or kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower or leaf with a mesh screen or sieve.

~~(abc)~~ “Process,” “Processing,” and “Processes” mean all activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or nonmanufactured cannabis products.

~~(acd)~~ “Track-and-trace system” means the state-approved system used to track commercial cannabis activity and movement.

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~~(ade)~~ “Unique identifier” or “UID” means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

~~(aeaf)~~ “Watts per square foot” means the sum of the maximum wattage of all lights identified in the designated canopy area(s) in the cultivation plan divided by the sum of the dimensions in square feet of designated canopy area(s) identified in the cultivation plan.

~~(afag)~~ “Wet weight” means the weight of harvested, non-dried cannabis on the licensed premises or being transported between licensees that does not meet the net weight requirements in section 8406(b).

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26001, ~~and~~ 26013 and 26063, Business and Professions Code; and Section 12754.5, Food and Agricultural Code.

Article 2. Applications

§ 8106. Cultivation Plan Requirements.

- (a) The cultivation plan for each Specialty Cottage, Specialty, Small, and Medium licenses shall include all of the following:
- (1) A detailed premises diagram showing all boundaries and dimensions in feet of the following proposed areas to scale:
 - (A) Canopy area(s), including aggregate square footage if the canopy areas are noncontiguous. All unique areas separated by identifiable boundaries pursuant to section 8000(~~fg~~) shall be clearly described and labeled in the premises diagram;
 - (B) Area(s) outside of the canopy where only immature plants shall be maintained, if applicable. This area may not be shared among multiple licenses held by one licensee;
 - (C) Designated pesticide and other agricultural chemical storage area(s);
 - (D) Designated processing area(s) if the licensee will process on site. This area may not be shared among multiple licenses held by one licensee;

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- (E) Designated packaging area(s) if the licensee will package products on site. This area may not be shared among multiple licenses held by one licensee;
 - (F) Designated composting area(s) if the licensee will compost cannabis waste on site;
 - (G) Designated secured area(s) for cannabis waste if different from subsection (F) above;
 - (H) Designated area(s) for harvested cannabis storage;
 - (I) Designated area(s) for physically segregating cannabis or nonmanufactured cannabis products subject to an administrative hold pursuant to section 8604 of this chapter. This area may not be shared among multiple licenses held by one licensee;
 - (J) Designated area(s) that are shared between licenses held by one licensee. The shared area(s) must be contiguous, be indicated on the property diagram for each application, and be one or more of the following designated area(s) shared between licenses held by one licensee: pesticide and other agricultural chemical storage area(s), composting area(s), and secured area(s) for cannabis waste;
 - (K) Common use area(s), such as hallways, bathrooms, or break rooms. This area may be shared by multiple licensees.
- (2) For indoor and mixed-light license type applications, a lighting diagram with the following information shall be included:
- (A) Location of all lights in the canopy area(s); and
 - (B) Maximum wattage, or wattage equivalent, of each light.
- (3) A pest management plan which shall include, but not be limited to, the following:
- (A) Product name and active ingredient(s) of all pesticides to be applied to cannabis during any stage of plant growth;
 - (B) Integrated pest management protocols, including chemical, biological, and cultural methods the applicant anticipates using to control or prevent the introduction of pests on the cultivation site; and
 - (C) A signed attestation that states the applicant shall contact the appropriate County Agricultural Commissioner regarding requirements for legal use of pesticides on cannabis prior to using any of the active ingredients or products included in the pest management plan and shall comply with all pesticide laws.
- (4) A cannabis waste management plan meeting the requirements of section 8108 of this chapter.

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- (b) The cultivation plan for nursery licenses shall include the following information:
- (1) A detailed premises diagram showing all boundaries and dimensions, in feet, of the following proposed areas to scale:
 - (A) Designated pesticide and other agricultural chemical storage area(s);
 - (B) Designated composting area(s) if the licensee will compost cannabis waste on site;
 - (C) Designated secured area(s) for cannabis waste if different from subsection (B) above;
 - (D) At least one of the following areas:
 - 1. Area(s) which shall contain only immature plants;
 - 2. Designated seed production area(s) that may contain mature plants.
 - (E) Designated research and development area(s) that may contain mature plants, if the licensee will be conducting research and development activities that require a plant to flower.
 - (2) A pest management plan that shall include, but not be limited to, the following:
 - (A) Product name and active ingredient(s) of all pesticides to be applied to cannabis at any time;
 - (B) Integrated pest management protocols, including chemical, biological, and cultural methods the applicant anticipates using to control or prevent the introduction of pests on the cultivation site; and
 - (C) A signed attestation that states the applicant shall contact the appropriate County Agricultural Commissioner regarding requirements for legal use of pesticides on cannabis prior to using any of the active ingredients or products included in the pest management plan and shall comply with all pesticide laws.
 - (3) A cannabis waste management plan pursuant to section 8108 of this chapter.
- (c) The cultivation plan for processor licenses shall include a detailed premises diagram showing all boundaries and dimensions, in feet, of the following proposed areas:
- (1) Designated processing area(s);
 - (2) Designated packaging area(s), if the licensee will package and label products on site;
 - (3) Designated composting area(s) if the licensee will compost cannabis waste on site;
 - (4) Designated secured area(s) for cannabis waste if different from subsection (3) above;
 - (5) Designated area(s) for harvested cannabis storage;
 - (6) A cannabis waste management plan pursuant to section 8108 of this chapter.

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Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26051.5, 26060 and 26060.1, Business and Professions Code.

Article 3. Cultivation License Fees and Requirements

§ 8212. Advertising, Marketing, Packaging, and Labeling of Cannabis and Nonmanufactured Cannabis Products.

- (a) Advertising and marketing of cannabis and nonmanufactured cannabis products shall meet all of the following:
- (1) Applicable requirements pursuant to sections 26150 through 26156 of the Business and Professions Code;
 - (2) Any other requirements for cannabis and nonmanufactured cannabis product specified by the bureau;
 - (3) Applicable advertising and marketing requirements pursuant to chapter 1 (commencing with section 17500), division 7 and chapter 2 (commencing with section 5200), division 3 of the Business and Professions Code; and
 - (4) Cannabis shall not be advertised or marketed containing any statement, design, device, or representation which tends to create the impression that the cannabis originated from a particular county, city, city and county, or appellation of origin, unless the label of the advertised product bears that county of origin, city of origin, city and county of origin, or appellation of origin.
- (ab) ~~All~~ Packaging and labeling of cannabis and nonmanufactured cannabis products ~~packaging and/or labeling by a licensed cultivator~~ shall meet all of the following:
- (1) ~~All applicable~~ Applicable requirements ~~including implementing regulations~~ pursuant to sections 26120 and 26121 of the Business and Professions Code;
 - (2) Any other requirements for cannabis and nonmanufactured cannabis product specified by the bureau and the California Department of Public Health;
 - (3) Packaging and labeling requirements pursuant to chapter 6 (commencing with section 12601), division 5 of the Business and Professions Code;
 - (4) ~~Beginning January 1, 2020, a~~ package for retail sale, excluding those solely containing immature plants ~~and~~ or seeds, shall be child-resistant; ~~and~~

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(5) A county of origin, ~~city of origin, city and county of origin,~~ appellation of origin, or any similar name that is likely to mislead consumers as to the kind or origin of the cannabis shall not be used in the labeling of cannabis unless:

(A) One-hundred percent of the cannabis was produced in the named county, ~~city, city and county,~~ or appellation of origin;

(B) Records demonstrating compliance with subdivision (b)(5)(A) of this section have been retained by the licensee pursuant to section 8400 of this chapter; and

(C) Within 30 days of the use of an appellation of origin, Notice of Use of the appellation of origin has been filed with the department pursuant to section 8212.1 of this chapter.

(6) For purposes of labeling and packaging using a county of origin ~~or appellation,~~ ~~city of origin, or city and county~~ of origin, cannabis is produced in a county ~~or appellation of origin,~~ ~~city, or city and county~~ if all cultivation as defined in Business and Professions Code, section 26001, subdivision (l), starting from the time the cannabis plants were taller or wider than 18 inches, was conducted within the county ~~or appellation of origin and according to any applicable standard, practice, and cultivar requirements,~~ ~~city, or city and county;~~ and

(7) For purposes of labeling and packaging using an appellation of origin; cannabis is produced in the appellation of origin if all cultivation as defined in Business and Professions Code, section 26001, subdivision (l); starting from the time the cannabis plants were taller or wider than 18 inches; was conducted within the appellation boundary and according to the appellation standard, practice, and cultivar requirements.

~~(b) A label may specify the county of origin only if one hundred (100) percent of the cannabis or nonmanufactured cannabis product contained in the package was produced within the designated county, as defined by finite political boundaries.~~

Authority: Sections 26012, ~~and~~ 26013, and 26063, Business and Professions Code. Reference: Sections 5200 et seq, 12601 et seq, 17500 et seq, 26013, 26063, 26120, 26121, 26150, 26151, 26152, 26153, 26154, 26155, and 26156, Business and Professions Code.

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§ 8212.1 Notice of Use for Appellation of Origin

(a) A licensee shall submit a Notice of Use to the department within 30 days of use of an appellation of origin by email to CDFA.CalCannabis_Appellations@cdfa.ca.gov.

(b) The Notice of Use shall include:

(1) The licensee's name and license number(s) using the appellation of origin.

(2) The contact email address.

(3) The appellation of origin used.

(4) The date that the licensee began or will begin use of the appellation of origin.

(c) A Notice of Use shall be effective for three years.

(d) Filing a Notice of Use is not evidence of compliance with the standard, practice, and cultivar requirements for the appellation of origin.

(e) If the department does not receive Notice of Use of a specific appellation of origin during a period of five years, the department may in its sole discretion issue notice of final decision that the appellation of origin is cancelled.

(f) A Notice of Use may include more than one appellation of origin only if all license numbers listed in the Notice of Use begin use of all of the listed appellations of origin on the specified date.

Authority: Sections 26012, 26013, and 26063, Business and Professions Code. Reference: Sections 26012, 26013, and 26063, Business and Professions Code.

Article 5. Records and Reporting

§ 8400. Record Retention.

For the purposes of this chapter, "record" includes all records, applications, reports, or other supporting documents required by the department.

(a) Each licensee shall keep and maintain the records listed in section 8400(d) of this chapter for at least seven (7) years from the date the document was created.

(b) Licensees shall keep records, either electronically or otherwise, identified in section 8400(d) of this chapter on the premises of the location licensed. All required records shall be kept in a manner that allows the records to be examined at the licensed premises or delivered to the department, upon request.

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- (c) All records are subject to review by the department during standard business hours or at any other reasonable time as mutually agreed to by the department and the licensee. For the purposes of this section, standard business hours are deemed to be 8:00am - 5:00pm (Pacific Time). Prior notice by the department to review records is not required.
- (d) Each licensee shall maintain all the following records on the licensed premises, including but not limited to:
- (1) Department issued cultivation license(s);
 - (2) Cultivation plan;
 - (3) All records evidencing compliance with the environmental protection measures pursuant to sections 8304, 8305, 8306, and 8307 of this chapter;
 - (4) All supporting documentation for data or information entered into the track-and-trace system;
 - (5) All UIDs assigned to product in inventory and all unassigned UIDs. UIDs associated with product that has been retired from the track-and-trace system must be retained for six (6) months after the date the tags were retired;
 - (6) Financial records related to the licensed commercial cannabis activity, including but not limited to, bank statements, tax records, contracts, purchase orders, sales invoices, and sales receipts;
 - (7) Personnel records, including each employee's full name, social security number or individual tax payer identification number, date of beginning employment, and, if applicable, date of termination of employment;
 - (8) Records related to employee training for the track-and-trace system or other requirements of this chapter. Records shall include, but are not limited to, the date(s) training occurred, description of the training provided, and the names of the employees that received the training;
 - (9) Contracts with other state licensed cannabis businesses;
 - (10) All permits, licenses, and other authorizations to conduct the licensee's commercial cannabis activity;
 - (11) Records associated with composting or disposal of cannabis waste;
 - (12) Documentation associated with loss of access to the track-and-trace system prepared pursuant to section 8402(d) of this chapter.
 - (13) For each county of origin, city of origin, and city and county of origin used in the advertising, labeling, marketing, or packaging of cannabis; documentation demonstrating that the cannabis was produced in the named county, city, or city and county.

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(14) For each appellation of origin used in the advertising, labeling, marketing, or packaging of cannabis:
documentation demonstrating that the cannabis was produced in the geographical area of the
appellation of origin and according to all standard, practice, and cultivar requirements of the
appellation of origin.

(e) All required records shall be prepared and retained in accordance with the following conditions:

- (1) Records shall be legible; and
- (2) Records shall be stored in a secured area where the records are protected from debris, moisture, contamination, hazardous waste, fire, and theft.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26055, 26060, 26060.1, 26063, 26067, 26069, 26160 and 26161, Business and Professions Code.

§ 8403. Track-and-Trace System Unique Identifiers (UID).

(a) Within five (5) calendar days of the date the licensee's designated account manager(s) was credentialed by the department to use the track-and-trace system, the designated account manager shall request UIDs using the track-and-trace system as prescribed by the department in Article 5 of this chapter.

- (1) The licensee shall only use UIDs provisioned and distributed by the department or the department's designee.
- (2) The licensee shall maintain a sufficient supply of UIDs in inventory to support tagging in accordance with this section.
- (3) The licensee shall use the track-and-trace system to document receipt of provisioned and distributed UIDs within three (3) calendar days of physical receipt of the UIDs by the licensee.
- (4) Except as provided in section 8407 of this chapter, all cannabis shall be entered into the track-and-trace system by the licensee starting with seed, cannabis which has been propagated onsite or purchased from a licensed nursery, or seedling purchased from a licensed nursery pursuant to this chapter.

(b) The UID shall accompany the cannabis products through all phases of the growing cycle, as follows:

- (1) Licensees with immature plants shall assign a UID to each established lot respectively. The lot UID shall be placed in a position so it is visible and within clear view of an individual standing next to the immature lot to which the UID was assigned, and all UIDs shall be kept free from dirt and debris. For

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the purposes of this subsection, each lot of immature plants shall be uniform in strain or cultivar and shall not have more than one hundred (100) immature plants at any one time. All immature plants in a lot shall be labeled with the corresponding UID number assigned to the lot and shall be contiguous to one another to facilitate identification by the department.

- (2) Immature plants transferred from a licensed nursery, via a distributor, to a licensed cultivator shall meet requirements of subsection (b)(1) above. Each immature plant intended for retail sale shall have a UID affixed, or be labeled with the corresponding UID number of the lot, and be recorded in the track-and-trace system prior to transfer from the licensed nursery.
 - (3) The licensee shall apply a UID to all individual plants at the time any plant is moved to the designated canopy area or when an individual plant begins flowering, as defined in section 8000(4m) of this chapter. The licensee may tag individual immature plants prior to movement to the designated canopy area or prior to flowering.
 - (4) UIDs are required for each mature plant. UIDs shall be attached to the main stem, at the base of each plant. The UID shall be attached to the plant using a tamper evident strap or zip tie and placed in a position so it is visible and within clear view of an individual standing next to the mature plant to which the UID was assigned and UIDs shall be kept free from dirt and debris. Licensees are prohibited from removing the UID from the mature plant to which it was attached and assigned until the plant is harvested, destroyed, or disposed.
- (c) Each harvest batch shall be assigned a unique harvest batch name which will be associated with all UIDs for each individual plant, or portion thereof, contained in the harvest batch.
- (d) UIDs are required for all cannabis and nonmanufactured cannabis products and shall be associated with the corresponding harvest batch name from which the cannabis and nonmanufactured cannabis products were derived.
- (e) Upon destruction or disposal of any cannabis or nonmanufactured cannabis products, the applicable UIDs shall be retired in the track-and-trace system by the licensee within three (3) calendar days of the destruction or disposal and be performed in accordance with the licensee's approved cannabis waste management plan.

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Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26067, 26069 and 26160 Business and Professions Code.

Article 7. Enforcement

§ 8601. Administrative Actions - Operations.

TABLE A:

Authority	Description of Violation	Violation Type	Fine Range
BPC 26031 3 CCR 8212(a)	Failure to comply with packaging <u>advertising or marketing</u> requirements.	Minor	\$100 - \$500
BPC 26031 3 CCR 8212(b)	Failure to comply with <u>labeling or packaging</u> requirements.	Minor	\$100 - \$500
BPC 26031 3 CCR 8403(b)(3)	Failure to apply UID to all individual plants at the time the plants were moved to the designated canopy area identified in the licensee's approved cultivation plan or when individual plants began flowering, as defined in section 8000(m).	Moderate	\$501 - \$1,000

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

§ 8602. Administrative Actions - Recordkeeping.

TABLE B:

Authority	Description of Violation	Violation Type	Fine Range
BPC 26160 3 CCR 8400(d)(12)	Failure to maintain on the licensed premises documentation associated with loss of access to the track-and-trace system prepared pursuant to section 8402(d) of this chapter.	Minor	\$100-\$1,000
<u>BPC 26160</u> <u>3 CCR 8400(d)(13)</u>	<u>Failure to maintain on the licensed premises records demonstrating that the cannabis was produced in the named county, city, or city and county if a county of origin, city of origin, or city and county of origin is used in advertising, labeling, marketing, or packaging.</u>	Minor	\$100-\$1,000

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<u>BPC 26160</u> <u>3 CCR 8400(d)(14)</u>	<u>Failure to maintain on the licensed premises records demonstrating that the cannabis was produced within the boundary of and in compliance with all standard, practice, and cultivar requirements of the named appellation of origin if used in advertising, labeling, marketing, or packaging.</u>	Minor	\$100-\$1,000
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Authority: Sections 26012, 26013 and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

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CHAPTER 2. CANNABIS APPELLATIONS PROGRAM

Article 1. Definitions

§ 9000. Definitions.

The following definitions apply to this chapter:

- (a) "Cultivar" means a cultivated variety, trade designation, or strain of cannabis.
- (b) "Petitioning organization" means a group of licensed cultivators representing three or more unique businesses within the geographical area of the proposed appellation of origin.
- (c) "Petitioner" means the licensee designated by the petitioning organization to be the primary contact for the petition.
- (d) "Practice" means an allowed or prohibited method of cultivation [or method of conducting commercial cannabis activity](#).
- (e) "Standard" means a measurable, scorable, or certified requirement applicable to the cannabis or cultivation.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

Article 2. Petitions

§ 9100. Submission of Petitions.

- (a) A petitioning organization may submit a petition to the department to:
 - (1) Establish a new appellation of origin; or
 - (2) Amend an existing appellation of origin.
- (b) Petitions shall be submitted by emailing an electronic copy of the petition to the department at calcannabis.cdfa.ca.gov or by mail to the department at P.O. Box 942872, Sacramento, CA 94271-2872.
- (c) Petition [submission](#) fees, pursuant to section 9101 of this chapter, shall be paid at the time the petition is submitted to the department.
- (d) [Petition approval fees, pursuant to section 9101 of this chapter, shall be paid at the request of the department according to section 9200, subdivision \(f\) of this chapter.](#)

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Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9101. Petition Fees.

(a) The following are the non-refundable petition fees for the specified petitions:

(1) Petition to Establish an Appellation of Origin:

(A) A petition submission fee of \$2,850; and

(B) A petition approval fee of \$14,250. ~~\$20,880~~

(2) Petition to Amend an Appellation of Origin:

(A) A petition submission fee of \$1,425; and

(B) A petition approval fee of \$7,125. ~~\$10,440~~

Authority: Sections 26012, 26013, 26063, and 26180, Business and Professions Code. Reference: Sections 26012, 26013, 26050, 26051 and 26180, Business and Professions Code.

§ 9102. Petition to Establish an Appellation of Origin.

A petition to establish a new appellation of origin shall include:

(a) Petitioner name, license numbers issued by the department, primary contact phone number, email address, and preferred method of contact;

(b) Names, license numbers issued by the department, and signatures of individuals in the petitioning organization;

(c) A general description and location of the proposed geographical area which may include information such as total acreage of the area, total canopy acreage within the area that is currently occupied under licensed commercial cannabis cultivation, and estimated cannabis canopy acreage eligible to use the proposed appellation of origin;

(d) Evidence of name use pursuant to section 9104 of this chapter;

(e) A description and documentation of the boundary of the proposed appellation of origin pursuant to section 9105 of this chapter;

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- (f) A description and evidence of distinctive geographical features affecting cannabis ~~cultivation~~ produced in the boundary of the proposed appellation of origin pursuant to section 9106 of this chapter;
- (g) Identification and definition of all standard, practice, and cultivar requirements of the proposed appellation of origin pursuant to section 9107 of this chapter;
- (h) A description and evidence of the legacy, history, and economic importance of cannabis ~~cultivation~~ production in the area; and
- (i) If the proposed appellation of origin is located either partially or fully within the geographical area of another appellation of origin, an explanation of how the proposed appellation of origin is distinct from the existing appellation of origin; ~~and~~.
- ~~(j) A list of cultivator license types issued by the department (such as Indoor, Mixed light Tier 1, Mixed light Tier 2, or Outdoor) which are prohibited from using the appellation of origin.~~

Authority: Section 26063, Business and Professions Code. Reference: Sections 26061 and 26063, Business and Professions Code.

§ 9103. Petition to Amend an Appellation of Origin.

A petition to amend any parts of an established appellation of origin shall include:

- (a) All requirements of section 9102;
- (b) A summary description of the amendments to the appellation of origin and the reason for each amendment;
- (c) An explanation of how the amended appellation of origin preserves the causal links between the geographical features and the cannabis, consistent with section 9106; and
- (d) Evidence supporting the amendments.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9104. Evidence of Name Use.

The petition shall describe the name and history of the proposed appellation of origin, including:

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- (a) In narrative form, an explanation of how the name has been used in the geographical area covered by the proposed appellation of origin, supported by evidence of name usage. The relationship of the name and boundary of the proposed appellation of origin should be thoroughly explained; and
- (b) Evidence of name usage shall conform to the following requirements:
- (1) Evidence shall be appropriately cross-referenced in the petition;
 - (2) Evidence shall demonstrate the proposed name is directly associated with an area in which cannabis cultivation exists;
 - (3) Evidence to support the proposed name shall come from sources independent of the petitioner; and
 - (4) Appropriate name evidence sources include but are not limited to historical and modern government or commercial maps, books, newspapers, magazines, tourist and other promotional materials, local business or school names, and road names.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9105. Maps and Boundary Description.

The petition shall describe the area and boundary of the proposed appellation of origin, including:

- (a) The proposed boundary shall be depicted on United States Geological Survey topographical maps and shall conform to the following:
- (1) The scale should be large enough to show adequate geographical detail of the proposed boundary line.
 - (2) The exact boundary of the appellation of origin shall be prominently and clearly drawn on the maps without obscuring the underlying features that define the boundary line.
- (b) A detailed narrative description of the proposed boundary. The description shall have a specific beginning point, shall proceed unbroken from that point in a clockwise direction, and shall return to that beginning point to complete the boundary description. The proposed boundary description may rely on any of the following map features:
- (1) State, county, township, forest, and other political entity lines; except the boundary cannot be based solely on the political entity lines of a single county, [city, or city and county](#);
 - (2) Highways, roads (including unimproved roads), and trails;

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- (3) Contour or elevation lines;
- (4) Natural geographical features, including rivers, streams, creeks, ridges, and marked elevation points (such as summits or benchmarks);
- (5) Human-made features (such as bridges, buildings, windmills, or water tanks); and
- (6) Straight lines between marked intersections, human-made features, or other map points.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9106. Geographical Features.

The petition shall describe each distinctive geographical feature affecting cannabis ~~cultivation~~ produced in the geographical area of the proposed appellation of origin, including:

(a) A narrative description of the geographical feature, including, but not limited to:

- (1) Climate information which may include temperature, precipitation, wind, fog, solar orientation and radiation;
- (2) Geological information which may include underlying formations, landforms, and such geophysical events as earthquakes, eruptions, and major floods;
- (3) Soil features which may include microbiology and soil series or phases of a soil series;
- (~~3~~4) Physical features which may include flat, hilly, or mountainous topography, geographical formations, bodies of water, watersheds, and irrigation resources;
- (~~4~~5) Cultural features which may include political boundaries associated with a history or reputation of cannabis cultivation, the distribution of a specific set of cultivation practices, and anthropogenic features; and
- (~~5~~6) Minimum and maximum elevations.

- (b) Substantial evidence that the geographical area is distinctive when compared to areas outside the proposed boundary and to other relevant areas which produce cannabis for sale into the marketplace;
- (c) An explanation of how the geographical feature is considered intrinsic to the identity or character of the area by means other than being required by local or state law, regulation, or ordinance;

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- (d) A description of the quality, characteristic, or reputation of the cannabis which is [essentially or exclusively](#) caused by the geographical feature, including an explanation of how the geographical feature causes the cannabis to have that quality, characteristic, or reputation; and
- (e) Identification of at least one specific standard, practice, or cultivar requirement which acts to preserve the distinctiveness of the geographical feature and maintain its relevance to [the cannabis](#)~~cultivation~~, including:
- (1) Description of the mechanism by which the requirement preserves or maintains the relevance of the distinctive geographical feature; and
 - (2) A clear distinction between cultivation methods which are allowed and prohibited under each requirement.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9107. Standard, Practice, and Cultivar Requirements.

The petition shall identify and define at least one of each of the following production requirements for the proposed appellation of origin: standard, practice, and cultivar.

- (a) Standard, practice, and cultivar requirements shall be reviewed for clarity. To satisfy this review the following conditions shall be met:
- (1) The standard, practice, and cultivar requirements must be reasonable and logical and cannot have more than one meaning;
 - (2) The standard, practice, and cultivar requirements cannot conflict with one another or any other information provided in the petition;
 - (3) The meaning of terms used in the standard, practice, and cultivar requirements are generally familiar to other licensed cultivators;
 - (4) The language used for the standard, practice, and cultivar requirements is correct including grammar, punctuation, and spelling;
 - (5) The standard, practice, and cultivar requirements are presented in a format that is readily understandable by the public; and

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(6) Licensees understand the requirements necessary to qualify for use of the appellation of origin.

(b) Standard requirements in a petition shall be either:

(1) Composed of upper limits, lower limits, or accepted ranges of measurable or scorable characteristics, including measurement and variance tolerances; or

(2) Program-level certifications granted by a certifier in good standing [according to the certification owner](#); including but not limited to those associated with the department's comparable-to-organics certification program or certification marks registered with the United States Patent and Trademark Office and applicable to cannabis.

(c) Practice requirements in a petition shall:

(1) Include a description of the practice requirement to allow any unfamiliar person to comply without substantial additional research, and in plain language to provide clear understanding to the public; and

(2) Not use any term likely to mislead consumers as to the practice or its implementation.

(d) Cultivar requirements in a petition may take the form of:

(1) Allowed and/or prohibited lists of cultivar names, which may contain any number of entries including zero; or

(2) Requirements including genetic testing, seed or plant specimen preservation, or cultivar identity certification with identified limits on acceptable methods, vendors, and practices.

(e) Each standard, practice, and cultivar requirement shall include description of a mandatory mechanism by which compliance with the requirement shall be documented and supported by record retention pursuant to section 8400 of this division. Appellation compliance documentation shall be thorough and appropriate to the requirement to allow timely determination of compliance based solely upon review of the records.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

Article 3. Petition Review Process

§ 9200. Petition Review.

(a) The department shall notify the petitioner by e-mail when the petition is received. A petition shall not be deemed received unless the petition [submission](#) fee is submitted in full along with the petition.

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- (b) The department shall review the petition to determine whether it meets the requirements set forth in sections 9102 and 9103 of this chapter.
- (c) If the department finds that the petition is complete pursuant to subsection (b), the department shall:
- (1) Notify the petitioner by e-mail of the determination that the petition is complete;
 - (2) Request that the Petition Review Panel, if established, review and provide a recommendation on the petition pursuant to article 4 of this chapter; and
 - (3) Issue notice of proposed action on the petition pursuant to Section 9201.
- (d) If the department finds that the petition is incomplete or additional information is required to make a decision on the petition, the department shall notify the petitioner by e-mail of what information the petitioner needs to provide.
- (e) If the department has not received a response to an appellation petition deficiency notice from the petitioner within 60 days from the date on the appellation petition deficiency notice, or if the petitioner fails to provide the requested information within 180 days from the date on the appellation petition deficiency notice, the department shall notify the petitioner by e-mail that the petition is abandoned and shall no longer be considered by the department.
- (f) If the department intends to approve the petition, the department shall send a notice to the petitioner requesting payment of the petition approval fee. The petitioner shall pay the petition approval fee before the notice of final decision is issued pursuant to section 9202. The petitioner shall have 120 days from the date of the request to submit the payment to the department. If the petition approval fee is not submitted in full, the department shall notify the petitioner by e-mail that the petition is abandoned and shall no longer be considered by the department.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9201. Notice of Proposed Action on Appellation of Origin.

- (a) Following determination that a petition is complete pursuant to section 9200 of this chapter, the department shall provide public notice of ~~the proposal~~ proposed action to establish or amend the appellation of origin. The public will have 30 days from the initial date identified in the notice to provide

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comments on the ~~proposal~~ petition. Comments shall be submitted to the contact person identified in the notice and shall be received by 5:00 p.m. on the final day identified in the notice.

(b) A notice of proposed action on an appellation of origin shall include weblinks to:

- (1) The completed petition;
- (2) A map of the area described by the petition; and
- (3) The standard, practice, and cultivar requirements identified in the petition.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9202. Notice of Final Decision on Appellation of Origin.

(a) Following submission of any applicable petition approval fee in full, the ~~The~~ department shall provide notice ~~by e-mail~~ of final decision on a petition for an appellation of origin (i.e. established, amended, denied, or cancelled) ~~to the petitioner. In addition, the department shall notify the following of the decision~~ by e-mail ~~to:~~

(1) The petitioner;

(~~a~~2) Designated responsible parties of licenses issued by the department and located within the areas directly impacted by the decision; and

(~~b~~3) Stakeholders enrolled on the department's Appellations list serv.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9203. Effective Dates.

(a) An appellation of origin shall be considered established and protected against misuse on the date identified in the notice of final decision to establish the appellation of origin pursuant to section 9202.

(b) An appellation of origin shall cease to exist on the date identified in the notice of ~~a~~ final decision to cancel the appellation of origin issued pursuant to section 9202 and subdivision (e) of section 8212.1 of this division.

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(c) The use of trademarks containing words or phrases which are part of or similar to an appellation of origin in advertising, labeling, marketing, or packaging shall not be ~~considered misbranding or false advertising~~ subject to fines during a period of ~~three years~~ one year following the date identified in the notice of final decision to establish the appellation of origin pursuant to section 9202, provided that:

- (1) The trademark was ~~registered~~ filed with the California Secretary of State or the United States Patent and Trademark Office prior to ~~the initial date identified in the notice of proposed establishment of the appellation of origin pursuant to section 9201~~ February 21, 2020;
- (2) The trademark was used in the California cannabis marketplace prior to ~~the initial date identified in the notice of proposed establishment of the appellation of origin~~ February 21, 2020;
- (3) Documentation of compliance with the requirements in subdivisions (c)(1) and (c)(2) is retained by the trademark owner and is provided to the department upon request; and
- (4) The use of the trademark is accompanied by a county of origin, city of origin, city and county of origin, or appellation of origin applicable to the cannabis and clearly indicated as the geographical origin pursuant to section 8212 of this division.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

Article 4. Petition Review Panel

§ 9300. Establishment of the Petition Review Panel.

- (a) The department may establish a Petition Review Panel to assist the department with review of petitions.
- (b) The Petition Review Panel shall continue in effect until suspended or terminated by the department.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9301. Membership of the Petition Review Panel.

- (a) The panel shall be composed of seven (7) members and two (2) alternates.
- (b) The two (2) alternate members will be designated in priority to act in the place of any absent members.

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- (c) Members of the panel shall be individual residents of California and appointed by the department from nominations requested by the department.
- (d) Members of the panel shall have relevant experience in [geography](#), cannabis cultivation, intellectual property, sustainable agriculture, ~~or~~ community-based research, [or other areas determined necessary by the department](#).
- (e) The term of office of members and alternate members of the panel shall be four (4) years from the appointment date. All members and alternates of the panel shall serve at the sole discretion of the department.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.

§ 9302. Duties of the Petition Review Panel.

- (a) The panel shall provide a recommendation on the pending petition by 5:00 p.m. (Pacific Time) on the final date identified in a request from the department.
- (b) This section shall not be construed to prohibit members of the panel from submitting comments or analyses to the department during a 30-day public comment period provided by section 9201.
- (c) Any member of the panel holding ownership or economic interest in any cannabis business located within the areas directly impacted by a petition shall recuse themselves from contributing to the panel's recommendation on the petition.
- (d) A recommendation from the panel shall indicate the names of participating and recused members.

Authority: Section 26063, Business and Professions Code. Reference: Section 26063, Business and Professions Code.