

State of California
Department of Food and Agriculture
Cannabis Appellations Program

Notice of Modifications to Proposed Regulation Text

In accordance with Government Code section 11346.8(c) and section 44 of title 1 of the California Code of Regulations (CCR), the Department of Food and Agriculture (Department) hereby provides notice of modifications to the proposed regulation text in response to comments received during two 45-day public comment periods ending on February 17 and April 30, 2026, and a public hearing on April 30, 2026.

The original action published in the California Regulatory Notice Register on January 2, 2026 (File Number Z2025-1217-01) proposed changes to CCR Title 3, Division 8, Chapter 2, Sections 9000, 9100, 9102, and 9204. The Department is withdrawing the proposals to amend sections 9000, 9100 and 9102 as notified on January 2 and March 1, 2026. Together they address the number of cultivators required in an area to submit a petition to establish an appellation of origin.

The text of the regulations with proposed modifications is attached to this Notice.

Written Comment Period

Any interested person, or their authorized representative, may submit written comments relevant to the proposed text modifications by mail or email to:

California Department of Food and Agriculture
Office of Agricultural Resilience and Sustainability

1220 N Street, Sacramento, CA 95814

E-mail: CannabisAg@cdfa.ca.gov

The written comment period closes on **Monday, August 24, 2026**. All written comments received by the closing and pertaining to the proposed text modifications will be considered by the Department and summarized and responded to in the Final Statement of Reasons. Any written comments received during the previous two 45-day public comment periods remain in the rulemaking file and will also be addressed.

Availability of Rulemaking Documents

Materials associated with this rulemaking may be accessed via the Department's website at: <https://www.cdfa.ca.gov/oars/cap/>

Summary of, and Rationale for, Proposed Modifications to Regulation Text

Issue: Three-Cultivator Requirement

Existing regulations require a minimum of three licensed cultivators to submit a petition to establish an appellation of origin. In January 2026, the Department proposed to modify that requirement and allow a single licensed cultivator to petition to establish an appellation of origin. This action was based on stakeholders' communications suggesting the existing three-cultivator requirement is preventing the development of petitions in regions impacted by the attrition in the outdoor cultivation community after legalization and will negatively impact the success of the program due to lack of petitioners.

Many public comments received during the first 45-day comment period strongly opposed the proposed change from three to one cultivator, indicating the Department's initial findings were based on insufficient information. Many cultivators requested maintaining the three-cultivator requirement to protect against exclusionary appellations. In response, the Department revised the initial proposal returning to the three-cultivator requirement but providing an exception which allowed single-cultivator petitions when there are less than three licensed cultivators in the area.

Commentors supporting the change to allow single-cultivator petitions strongly opposed reverting back to the three-cultivator requirement even with the exemption.

The primary reasons for opposing CDFA's proposal to return to the existing three-cultivator requirement are summarized below with the Department's response.

1. Opponents of returning to the three-cultivator requirement claim it is not necessary and does nothing to prevent capture (i.e., a single entity exerting control over the name and potentially excluding others from its use).

The three-cultivator requirement was deemed necessary in 2020 by the Department working in collaboration with the stakeholders and subject matter experts.

Commentors state that the "Department's concerns regarding the potential for weak, unsupported, or exclusionary petitions are already fully addressed through the existing regulatory framework governing appellation petitions."

The Department agrees the existing regulatory framework was designed to address the referenced concerns; however, no individual component of the petition process fully resolves them. It is only when these elements operate collectively that they function as effective safeguards. One of the referenced safeguards is the opportunity for the public to comment on the proposed appellations. Comments from cultivators overwhelmingly supported keeping the three-cultivator requirement, although most recognized the need to provide a pathway for participation in unique areas.

2. Opponents of returning to the three-cultivator requirement state the requirement is a barrier to participation in the program.

The commentors claim that the three-cultivator requirement creates an excessive barrier to participation in the program. However, the hypothetical scenario (e.g., comparing it to a formal business partnership) repeatedly presented as an example of how the requirement functions as a barrier is not in any way mandated in regulations. Rather, the requirement was intended to incentivize the collaboration the commenters characterize as a barrier.

3. Opponents of returning to the three-cultivator requirement claim the requirement excludes some cultivators from participation because of their isolation, either geographically or socio-politically.

Statute excludes many cultivators from participation in the appellation program. The scenarios presented by the commenters existed when the three-cultivator petitioning requirement was established in 2020. CDFA cannot evaluate comments indicating “no one else in the area,” without additional information on the area. Importantly, the appellation regulations do not exclude these cultivators from using their geographical names on their products or establishing an appellation of origin for those areas in the future.

Commentors also note that even if other licensees are in the area, they may be excluded from petitioning because other licensees are not willing to sign the petition. A cultivator who cannot gain a minimum amount of community support might be indicative of a problem for a collective right. The three-cultivator requirement was intended to establish a minimum of community support for a petition seeking a collective right to use a name that will also exclude others from its use.

4. Because of these barriers and exclusions, opponents of returning to the three-cultivator requirement claim it will result in fewer petitions potentially leading to program failure.

The Department agrees the requirement may result in fewer petitions, but the risk of program failure is conjecture. As of May 2026, the Department estimates over 1,000 licensed outdoor cultivation businesses statewide eligible for participation in the

CAP.¹

5. Opponents of returning to the three-cultivator requirement claim the attrition of outdoor licensees necessitates a change to allow single cultivator petitions.

CDFA agrees that the attrition of licensed outdoor cannabis cultivators supports revisiting the three-cultivator rule. However, it does not appear that it can be completed within the statutory timeframe required to complete this regulatory action. Further, the Department determined that opening the program would provide more information on whether the three-cultivator requirement is having a significant adverse impact on the success of the program.

6. Opponents of returning to the three-cultivator requirement assert that the Department must adopt the change to allow single cultivator petitions because of its own findings in the ISOR.

It is the Department's opinion that if the findings presented in the ISOR (January 2, 2026) are insufficient based on additional data provided through the rulemaking process, then the Department has the responsibility to refine those findings and assess if the originally proposed solutions apply. As noted by several commentors, this will require more time than currently allowed in the rulemaking process. To be consistent with the historical intentions of the program and to ensure evidence-based solutions, the Department is rescinding the proposed change to the three-cultivator requirement and initiating more thorough assessment.

7. Opponents of returning to the three-cultivator requirement opposed doing so even with an exemption for areas with less cultivators, noting that the exemption "...raises additional operational, legal, and administrative questions that we are unable to resolve at this late stage in the regulatory process."

The Department agrees and to avoid arbitrary and capricious action is withdrawing the proposal to change the petition requirement.

8. Commenters supporting maintaining the three-cultivator requirement agreed that some areas may warrant an exemption and suggested various details to maintain the original intent of the requirements.

Some of those suggestions are beyond the Department's authority and others are too complex (e.g., determination of no other willing participants) to implement.

The Department shares the concern from multiple commentors of the potential for single-cultivator petitions to result in single-cultivator appellations, effectually providing

¹ Based on DCC licensing data available at: <https://search.cannabis.ca.gov/results?licenseStatus=Active>

a collective right to an individual. Proponents of single-cultivator petitions argue that other elements of the petition (unique geography and public comment) already provide sufficient protection. Those advocating to retain the three-cultivator requirement suggest that similar protections can be accomplished in the details of the exemption. It is the Department's opinion that both sides are partially correct, and more time is needed to assess the problem and potential solutions.

Since 2022, the Department worked to reintroduce important elements of the Appellations Program that were included in publicly noticed actions in 2019 and subsequently removed from the final regulations in 2020. The revisited issues include; defining "Appellation of Origin" and "Produced" as they relate to the program, clarifying recordkeeping requirements, requiring a Notice of Use, and the currently (i.e., 2026) proposed trademark transition clause. Those regulations were developed in collaboration with stakeholders and subject matter experts, like the development of the three-cultivator requirement. While public input was received during a statewide outreach event, the proposed change to allow single-cultivator petitions did not go through that same collaborative process as the referenced regulatory issues.

The Department retracts the findings presented in January 2026 ISOR and subsequent March 2026 addendum, and thus the proposed changes in the three-cultivator petitioning requirement. The Department will gather data to reassess the necessity of the change and work with stakeholders to address potential solutions.

The changes shown in red text in the attached Express Terms show a return to the existing regulations associated with the three-cultivator petitioning requirement. Previous modifications to subsections 9000(e), 9100(a) and 9102(a and b) are reversed to effectuate the return to the existing regulations.

Issue: Effective Date

Comments generally supported the proposed modification to section 9204. One commentor recommended an additional subsection addressing use of an appellation in conjunction with a trademark. The Department has no authority over trademarks and cannot accommodate this suggestion. There are no additional modifications to this section.