

CALIFORNIA CODE OF REGULATIONS

Title 3. FOOD AND AGRICULTURE

Division 8. CANNABIS CULTIVATION

Chapter 1. CANNABIS CULTIVATION PROGRAM

and

Chapter 2. CANNABIS APPELLATIONS PROGRAM

FOURTH ADDENDUM TO THE INITIAL STATEMENT OF REASONS

Following the Third 15-Day Comment Period.

...

This Fourth Addendum to the Initial Statement of Reasons provides rationale and explains specified changes to the modified regulation text published for the Fourth 15-day comment period.

Responses to all comments received during rulemaking will be included in the Final Statement of Reasons, which will be published upon approval by the Office of Administrative Law.

I. Summary of Revisions to the Proposed Regulations

Revisions to the proposed regulation text are shown in the accompanying document using bold and double-underline (black) for additions; and bold and double-strikeout (black) for deletions. In general, these revisions are consistent with the originally proposed regulations. Revisions generally relate to:

[1] Removal of reference citations from section 9101 that are not valid for the proposed regulation.

References to Business and Professions Code sections 26050 and 26051 were previously included for section 9101. These references to statutory sections describing commercial cannabis license types are no longer applicable to the proposed regulation text of this section describing only appellation petition fees, and therefore have been removed for clarity.

[2] Amendment of language in section 9106 to require that a petition describe at least one or more causal links between distinctive geographical features and the cannabis produced.

The proposed regulations in section 9106 and sections 9106(a), (c) and (d) were unclear and could cause confusion about the number of distinctive geographical features and causal links that are required to be described in a petition.

Amendment of the proposed regulation clarifies that the petition must include both a description of multiple distinctive geographical features affecting the cannabis produced in the area and one or more causal links between at least one of those distinctive geographical features and the quality and characteristics of the cannabis.

[3] Amendment of language in section 9200(e) to clarify a maximum 60 days to acknowledge receipt of a notice of appellation petition deficiency.

The proposed regulation in section 9200(e) was unclear and could cause confusion about the length of time provided to a petitioner for response to an appellation petition deficiency notice. Amendment of the proposed regulation clarifies that a response must be received from the petitioner within 60 days specifically to acknowledge receipt of the notice. However, the petitioner has 180 days from the date on the notice to provide the information requested in the notice.

[4] Amendment of language in section 9202(a)(3) to clarify how an interested stakeholder may subscribe to the Cannabis Appellations Program Mailing List.

A modification to Chapter 2, section 9202(a)(3) adds language clarifying how an interested stakeholder can subscribe to the Cannabis Appellations Program Mailing List. The new language specifies the three methods to subscribe to the mailing list; an electronic request form, request by email, or written request sent via mail. These methods will be published on the Cannabis Appellations Program

webpage on the Department’s website. This change is necessary to provide stakeholders more information on subscribing to the Cannabis Appellations Program Mailing List.

[5] Removal of sections 9300, 9301, and 9302, and amendment of sections 9200(c)(1) and 9203(g) that provided for the development of a petition review panel including adequate public comment not otherwise possible during the current rulemaking.

Striking of Article 4, which include sections 9300, 9301 and 9302, in Chapter 2 and all references to a petition review panel. The proposed regulations do not establish a petition review panel and therefore any roles and duties outlined are unnecessary, including section 9200(c)(1)’s reference to the petition review panel role in the petition review process; and amending Section 9203(g) to remove a reference to the petition review panel from the potential reasons for denying a petition. With the removal of the panel from the proposed regulations, these references are no longer relevant.

Specific details of revisions may be found below by section.

II. Update to the Initial Statement of Reasons

A. Modifications Provided for in the Fourth 15-Day Comment Period

The fourth 15-day modifications to the text as initially proposed, identified below by their respective section and subdivision numbers to Title 3 of the California Code of Regulations, are as follows:

CHAPTER 2. CANNABIS APPELLATIONS PROGRAM

ARTICLE 2. PETITIONS

Section 9101. Petition Fees.

Reference: Removed references to Business and Professions Code sections 26050 and 26051 as these sections of statute are specific to commercial cannabis license types and are not applicable for this section on appellation petition fees. Inclusion of these references was in error and would cause confusion, so removal of the references increases the clarity of the regulation.

Section 9106. Geographical Features.

9106: Struck the phrase “describe the distinctive geographical features affecting cannabis produced in the geographical area of the proposed appellation of origin, including” and replaced it with the word “include.” The phrase was redundant with Section 9102(f). Also, the previous language used a plural form of feature, which indicated the need for two or more features to be described throughout the section.

9106(a): Added the word “distinctive” and the phrase “affecting cannabis production” to clarify that this requirement is limited to geographical features that are both differentiating and relevant to cannabis production. Struck the comma after the word “features” and before the word “including” and replaced it with a period to start a new sentence. Added the word “Examples,” replaced the word “including” with “include,” and added the word “are” to clarify that the geographical features listed in 9106(a)(1)-(5) are only examples of geographical features that could be described in the petition.

9106(c): Added an “s” to the first occurrence of the word “characteristic” to pluralize. Replaced the word “is” with “are” for grammatic consistency with the plural “characteristics.” Struck the word “each” and replaced it with the phrase “one or more” to state that at least one geographical feature needs to be described in this section. The previous language in section 9106(c) stated that the petition was required to describe the plural “geographical features.” The word “distinctive” was added prior to both occurrences of “geographical feature(s)” to clarify that the description of the relationship between the quality or characteristics of the cannabis and geographical features is limited to geographical features that the petition has identified as distinctive to the area. An “(s)” was added to both occurrences of “feature” to indicate that the

feature could be singular or plural. A set of brackets was added to the “s” in the word “causes” to be consistent with adding an “(s)” to the second occurrence of “feature.”

9106(d): Struck the word “each” and replaced it with the phrase “one or more” to state that at least one geographical feature needs to be described in this section. Added an “(s)” to the word “link” for consistency with the pluralized “feature(s).” The word “distinctive” was added to “geographical feature(s)” to clarify that causal links, maintained by at least one specific standard, practice, or cultivar, are limited to the geographical features that the petition has identified as distinctive.

ARTICLE 3. PETITION REVIEW PROCESS

Section 9200. Petition Review.

9200(c): Struck the entire sub-section 9200(c)(1), which relates to the petition review panel role in the petition review process. Sections 9300, 9301, and 9302, which established and defined the petition review panel, were struck from the proposed regulations. Without these sections, there is no petition review panel to be included in section 9200(c).

Striking sub-section 9200(c)(1) leaves only one sub-section in section 9200(c). Section 9200(c) was reformatted to remove the remaining single sub-section denotation.

9200(e): Struck the word “to” and replaced it with the phrase “acknowledging receipt” to clarify that the 60-day time limit applies only to the requirement that the petitioner acknowledge receipt of the appellation petition deficiency notice. This change increases the clarity of the regulation by more clearly differentiating between the limit of 60 days to acknowledge receipt of the notice and the limit of 180 days to provide the information requested in the notice. The Department determined that due to the fact that communication between the petitioner and Department staff during petition review is expected to be infrequent, it is necessary to require acknowledgment of receipt of an appellation petition deficiency notice within 60 days to ensure that petitioners will have at least 120 days remaining to consult with others in the local area in order to provide the information requested in the notice.

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

9202(a)(3): Added language clarifying where an interested stakeholder can subscribe to the Cannabis Appellations Program Mailing List. This language is necessary to specify the various ways a stakeholder could enroll themselves onto the mailing list. The changes to Business and Professions Code division 10 resulting from Assembly Bill 141 transferred the authority to create and modify cannabis cultivation licensing regulations from the Department of Food and Agriculture to the Department of Cannabis Control. However, the Cannabis Appellations Program remains under the authority of the Department of Food and Agriculture. Specificity is needed in the regulations to clarify that an interested stakeholder may subscribe to the mailing list on the Department of Food and Agriculture’s Cannabis Appellations Program webpage.

Section 9203. Denial of Petition for Appellation of Origin.

9203(g): Struck the words “by the petition review panel or.” Sections 9300, 9301, and 9302, which established and defined the petition review panel, were struck from the proposed regulations. Without these sections, there is no petition review panel to be included in section 9203(g).

ARTICLE 4. PETITION REVIEW PANEL

Section 9300. Establishment of the Petition Review Panel.

Section 9301. Membership of the Petition Review Panel.

Section 9302. Duties of the Petition Review Panel.

Struck Article 4 entirely, which includes sections 9300, 9301, and 9302. The petition review panel has not been formed prior to the development of these proposed regulations. As such, the public have not had adequate opportunity to comment on its creation and role in the Program. The Department received requests in public comment for more detailed regulation of the panel’s operation, membership, and duties. The Department determined that it would be impractical to develop further details in regulations regarding the panel during this rulemaking, due to the nascent nature of the petition review process for cannabis appellations of origin and

the uncertainty inherent in establishing a new program. However, this resulted in a simple structure for the panel in previously proposed regulations without adequate detail on how the panel may be selected and operated, which would allow the public to provide more meaningful comments. Based on the preceding, the Department determined that it would be inappropriate to include these sections in this rulemaking without sufficient public consideration and comment. Regulations regarding the establishment, membership, and duties of an advisory body to the Cannabis Appellations Program may be developed and proposed by the Department in a subsequent rulemaking to allow for full consideration of public comment.