

# HUMBOLDT COUNTY GROWERS ALLIANCE

## **HCGA Comments: Cannabis Advisory Committee, September 24-25, 2020**

Date: September 21, 2020

Humboldt County Growers Alliance (HCGA) appreciates the opportunity to comment on the regulatory items under consideration by the Cannabis Advisory Committee. HCGA is a trade association representing nearly 300 licensed cannabis businesses in Humboldt County, including cultivators, manufacturers, distributors, testing laboratories, and retailers.

Humboldt County is home to the greatest number of licensed cannabis farms in North America, with Humboldt farmers holding approximately 30% of state cultivation licenses. These farms are largely small, independent, and owner-operated: the average size of a licensed Humboldt cannabis farm is approximately half an acre, and 51% of Humboldt cannabis farms are licensed for less than 10,000 square feet of canopy area.

Additionally, Humboldt County is home to many small and independent cannabis businesses across the supply chain, including 60 manufacturers, 58 distributors, 20 retailers, and 14 microbusinesses.

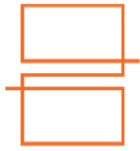
The presence of many small and independent cannabis businesses in Humboldt County informs our perspective on the regulatory issues under consideration by the CAC and state regulators, and we look forward to working with policymakers on these important issues.

### **1. Operating During Loss of Connectivity with Track and Trace**

We are disappointed to see the agendized discussion on track and trace limited to issues related to loss of connectivity. While loss of connectivity is a concern, the impact of the existing system more broadly on cannabis business, and particularly on small and independent owner-operated farms, deserves open public consideration.

As long as cannabis remains federally prohibited, we understand the rationale for requiring some form of track and trace system. We believe it should be a priority for state regulators, however, to streamline this system to the greatest extent possible to provide the state with the data it needs, while reducing substantial and unnecessary burden on licensees. As we discussed in our public comment submitted to the CAC last month, eliminating the requirement to tag and weigh each individual plant, and eliminating the requirement to measure wet weight, would save thousands of hours of labor and reduce waste from excess METRC tags while having no impact on the integrity of state data collection.

We view loss of connectivity as primarily an IT issue, rather than a regulatory issue – one of many IT issues that ultimately become compliance burdens for licensed businesses. Connectivity issues often occur due to server-side problems, not due to the licensee's connection. Small businesses generally cannot afford to hire separate METRC/data entry employees, and so owner-operators must specifically set aside time for METRC data entry among other daily tasks.



# HUMBOLDT COUNTY GROWERS ALLIANCE

When data entry is not possible due to connectivity issues, it affects the operations for the business as a whole.

As with many other track and trace requirements, loss of connectivity triggers requirements to upload data within three days, inclusive of weekends. This is a short turnaround time for small businesses with many other tasks to perform. Additionally, METRC technical support is not available on weekends, placing expectations on licensees that METRC itself is not held to.

We ask the committee and regulators to look past the formality of bureaucracy and regulation and to consider the basic, material reality of what licensees are being asked to do every day. The existing system requires small businesses, most of whom are operated by regular people with families and lives, to perform large amounts of work that everyone agrees is meaningless, through a buggy IT system, under the constant threat of disciplinary action. We believe this system can be substantially improved without compromising the state's ability to collect necessary data, and hope that the state and regulators take the opportunity of agency consolidation to seriously consider how this can be accomplished.

*We suggest the CAC recommend that the state perform an IT and usability assessment of the existing METRC system, including issues related to loss of connectivity.*

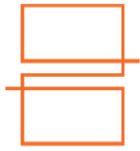
*We also suggest the CAC agendaize for discussion at future meetings track and trace regulations including 1) the requirement to tag each individual plant, 2) the requirement to record wet weight, and 3) the requirement to upload data within three days.*

## **2. Premises and Security Requirements for Microbusinesses**

In the run-up to the vote on Proposition 64, microbusinesses were frequently cited as a key provision protecting the competitiveness of small and independent businesses, and small craft cultivators in particular (for example, see “Prop 64: A boon to small cannabis growers,” <http://theleafonline.com/c/business/2016/09/prop-64-a-boon-to-small-cannabis-growers/>). In practice, however – due to dynamics around local zoning and the details of state regulation – microbusiness licenses have only been accessible to larger, vertically-integrated businesses located in cities.

Moving in the direction of farm-based retail sales, whether through a microbusiness license or other approaches, would be a major benefit for small and independent farms in legacy producing regions.

Rolling back one-size-fits all security and premises requirements, and devolving these requirements to local governments, would help make microbusiness licenses available in rural as well as urban areas. Existing BCC microbusiness regulations are developed under assumptions more appropriate for businesses located in dense urban areas. In particular, §5044 (video surveillance), §5045 (security personnel), and §5047 (alarm systems) are often unnecessary for rural and home-based microbusinesses. CDFR regulations – which have been geared more



# HUMBOLDT COUNTY GROWERS ALLIANCE

towards rural businesses – already do not include requirements for video surveillance, security personnel, or alarm systems.

We understand that eliminating some or all of the state’s security requirements is not practical given that local governments, especially in urban areas, have relied on BCC regulations to ensure the security of local licensees. Instead, regulators could stipulate that BCC §5042-§5047 do not apply to microbusinesses in jurisdictions where the local government has made an affirmative finding that they are not necessary to ensure security. This “opt-out” clause would allow each local government to strike the appropriate balance between accessibility and security for their local conditions.

Additionally, §5026 of BCC regulation prohibits a premises from being located within a residence. The option to locate part of a microbusiness premises within a residence would increase flexibility for some rural operators seeking to apply for a microbusiness and remove barriers to obtaining licensure.

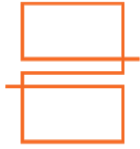
*We suggest the CAC recommend that 1) the BCC waive state security and/or premises requirements for microbusinesses based upon a finding by the local government that these restrictions are not necessary, and 2) remove the restriction on licenses being located in a residence.*

### **3. Regulatory Compliance Testing of Analytes and Other Substances in Cannabis Goods**

Based on the agenda item, we are unclear on what specifically is being proposed.

In general, however, preserving the integrity of California’s cannabis testing system is a major priority for our membership. The existing system, which requires final-product testing for a wide range of pesticides and contaminants, provides a unique assurance of consumer safety while simultaneously promoting organic and regenerative agricultural practices. The widespread adoption of such practices is critical to the health of our local environment in Humboldt County, as well as global efforts to combat climate change and promote environmental sustainability. We view the existing testing system as one of the best aspects of the regulatory framework and oppose attempts to weaken it.

This is not to say, however, that the testing system cannot be improved. Certain aspects of the testing system could be streamlined to level the playing field for small farmers. Because the maximum batch size for testing under state regulation is fifty pounds, cultivators who grow multiple strains under fifty pounds - typical for smaller farmers - are required to conduct multiple tests at higher cost. “Compositing” rules, already implemented in Oregon (see: Oregon’s OLCC testing guide, p. 2-4, <https://www.oregon.gov/olcc/marijuana/Documents/CTS/SamplingandTestingGuide.pdf>) would allow farmers to test multiple strains collectively for contaminants up to the fifty pound



# HUMBOLDT COUNTY GROWERS ALLIANCE

maximum batch size limit, significantly decreasing testing costs without affecting quality standards.

*We suggest the CAC recommend the adoption of compositing testing standards, modeled off those already adopted in Oregon, in order to mitigate testing costs for small farmers.*

#### **4. Testing of Non-Cannabis Goods**

In 2019 and 2020, the California legislature considered hemp-related legislation in which the testing of hemp-derived products was a major point of discussion. In these discussions, we have advocated strongly that hemp and cannabis products should be tested to identical standards. Hemp and cannabis products are both derived from the same botanical plant, both consumed in the same ways, and both marketed as wellness products and medicines. Pesticides or contaminants in either product are an identical threat to human health and should be regulated identically by the state.

If the agendized item is related to hemp, we strongly support testing parity between hemp and cannabis products, and can provide the committee and regulators with further materials and analysis we have developed since 2019 upon request.

Thank you for your consideration on these important issues.

Sincerely,  
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