



August 2nd, 2022

**Re: OC Comments on Proposed, Readopted and Revised DCC Equity Fee Waiver
Emergency Regulations**

Dear Deputy Director Hillsman and DCC Staff,

On behalf of Origins Council, representing nearly 900 licensed small and independent cannabis businesses in six rural, historic cannabis farming regions throughout California, we appreciate the opportunity to comment on proposed changes to state equity fee waiver regulations.

The legalization of cannabis in California has catalyzed both the opportunity and the need to research, contextualize and meaningfully address individual and community-wide harms from the War on Drugs. Origins Council believes that this must be a collective priority of the industry and the State if there is to be an equitable regulated commercial cannabis industry in California.

California has the largest and most diverse population of any state in the U.S. The landmass of California ranks as the third largest of any state in the Nation, with a natural geography as diverse as its current population. The economy of California is the 5th largest in the world. It is also arguably the most historically significant cannabis producing region in the United States.

Since the decline of commercial fishing, timber and mining in California's natural resource lands over the past several decades, cottage industry cannabis production has become so prolific in these areas as to now be fundamentally woven through these rural regional economies.

There is an urgent movement underway within these historic rural producing regions to research and address the unique nature of individual and community-wide impacts from the War on Drugs over the past several decades. The urgency is driven by the fast eroding economic circumstances threatening the cultural extinction of these historic producing communities and the yet-to-be identified social equity cannabis entrepreneurs within them.

The unique geographical landscape of the War on Drugs in California and the resulting diversity of communities impacted has led rise to an increasingly complex set of considerations and policies governing state-funded cannabis social equity programs.

The complexity is illustrated in this rulemaking within the tension between region-specific qualifying criteria of jurisdictional social equity programs and the overriding DCC criteria to qualify for state equity fee waiver and deferrals for state cannabis licensing. This overriding state criteria, which may not comport with local criteria, has already resulted in locally verified equity operators being turned away from state equity fee waivers under the DCC's readopted emergency regulations. It is our assumption that this proposed overriding DCC criteria will also determine who qualifies for the equity tax provisions within AB/SB 195, recently passed into law.

Origins Council recognizes that it is important to distinguish between the disproportionate effects of the Drug War that were caused by racial discrimination versus the criminalization of the plant itself. We understand the challenges in establishing statewide equity criteria in a large and diverse state, particularly one with California's unique and deeply-embedded cannabis legacy, and do not expect the line-drawing exercise of establishing social equity standards to be an easy one. We also recognize the challenges in policy making around these issues, since the passage of Proposition 209 in 1996. Our organization takes the issue of the perpetuation of white privilege within the cannabis industry seriously, and is committed to taking leadership from those communities historically most impacted by the War on Drugs. We are grateful for our partnership with the Cannabis Equity Policy Council on this complex and critical issue, and we look forward to supporting the defining work ahead to ensure that these state-funded social equity programs meaningfully benefit those most impacted by the War on Drugs.

Over the past seven months, equity licensing fee waivers have been a lifeline for small rural social equity farmers who are undergoing unprecedented economic hardship since investing in licensing their homestead cannabis farms in order to participate in the regulated market. At this juncture, it must be stated that these small independently owned and operated legacy cannabis family farms are shuttering at an alarming rate.

All six of Origins Council's representative member regions - Trinity County, Humboldt County, Mendocino County, Sonoma County, Nevada County, and the Big Sur region - have a local

equity program in place, or one under development. Our communities have experienced significant, well documented region-wide impacts from the militarized War on Drugs, as evidenced within completed and in-process local equity needs assessments.

A significant number of our members have applied for state equity licensing fee waivers while they wait for local equity needs assessments to be conducted, local equity programs to be launched, or grants to be issued from their recently established local equity programs. However, changes in qualifying criteria for equity fee waivers have now caused many applications for fee relief to be denied, while disqualifying others from applying in the future. These changes also affect jurisdictional governments that are working under considerable pressure to support local equity applicants and licensees in our communities experiencing active economic crises.

For this reason, on May 2 and May 31, we submitted comments requesting: **1) the ability for operators to qualify for equity fee waivers under their local equity program guidelines, and 2) modifications of state equity eligibility criteria to reflect the impacts of the War on Drugs in rural areas, including expanding eligibility to encompass individuals and family members who were targeted by raids and detentions.**

We continue to believe these modifications are critical to ensure that rural operators who were impacted by the War on Drugs are adequately included within fee waiver criteria.

Since submitting our prior comments, we have had additional time to review the impacts of proposed changes to the equity definition at the state level. Below, we review several challenges with equity criteria as currently proposed. Given these challenges, we believe it's critical that local equity criteria remain adequate to qualify for state fee waivers, at least until state-level definitions can be developed that adequately capture the impact of the War on Drugs in rural areas.

The Impact of the War on Drugs in Rural Areas Includes Raids and Detentions, in Addition to Arrests and Convictions

Proposed regulations would enable individuals to be recognized as equity-qualified based on arrest or conviction of oneself or an immediate family member.

In rural communities, patterns of cannabis enforcement did not result in arrests or convictions in many cases. The character of the War on Drugs in rural communities has been documented in many places, including a series of Cannabis Equity Assessments¹ conducted by the California Center for Rural Policy (CCRP). In the Humboldt Cannabis Equity Assessment, CCRP documents a range of CAMP and COMMET law enforcement practices that were premised on inflicting terror and disrupting community networks, but fell short of conviction in many cases.

¹ <https://ccrp.humboldt.edu/research/cannabis-social-equity>

“Communities were disrupted from regular paramilitary raids that disproportionately targeted Humboldt and Mendocino counties. Rural policing methods sometimes deviated from standards of professional police conduct toward citizens with constitutional protections...

Fifty sworn declarations from County residents alleged

... warrantless searches and seizures, arbitrary detentions and destruction of property, and sustained low-altitude helicopter activity resulting in repeated invasions of privacy, emotional distress, property damage, disrupted schooling and work, and general danger to the public. Plaintiffs contend, in short, that CAMP is "out of control" and has turned its areas of operations into 'war zones.'

In finding for the plaintiffs, the court found that official CAMP policy provided by the attorney general's office and supported by Ruzzamenti's testimony explicitly "endorses warrantless entries, searches, and seizures on private property," lending "considerable credence to the allegations of warrantless searches and seizures and the oppressive character of the resulting encounters with innocent residents."²

In 1990, the federal government deployed over 200 U.S. Army soldiers and National Guard to Humboldt County in Operation Green Sweep, the first use of active-duty military personnel for a domestic drug enforcement operation. Specifically, the federal government deployed the Army's Seventh Infantry Division, which had just returned from an invasion of Panama in the previous year. Although Green Sweep had tremendous impacts on the Humboldt cannabis producers and the community as a whole, the operation did not result in any arrests:

“In the first use of active-duty troops to fight marijuana growing in the United States, a contingent of about 200 Army soldiers, National Guardsmen and Federal agents have spent the past two weeks raiding clandestine marijuana gardens in the rugged terrain of the King Range National Conservation Area.

The residents of southern Humboldt Country have responded with protests, complaining that the military convoys through their towns, the Blackhawk helicopters over their homes and the camouflaged and armed guardsmen prowling the woods have made the war on drugs too much like real war.

In the operation, which ended today, the guardsmen and agents from the Bureau of Land Management and the Drug Enforcement Administration destroyed 1,200 plants producing potent sinsemilla marijuana and seized five tons of equipment used to

² <https://humboldt.gov.org/DocumentCenter/View/78948/Humboldt-County-Cannabis-Equity-Assessment>

maintain the remote 'guerrilla gardens.' No arrests of suspected marijuana growers were reported.³

Other CAMP and COMMET practices including the use of helicopters, holding individuals at gunpoint, and raids and property destruction may have fallen short of conviction or arrest, but nevertheless functioned as part of an intentional strategy to disrupt community networks and inflict terror on cannabis producing communities.

Documentation Requirements Are Often Challenging or Not Possible to Fulfill

Our members have frequently encountered challenges in obtaining documentation to substantiate a personal or familial arrest or conviction. Many departments do not retain records for more than seven years, and even records which still exist can be difficult to locate. This is especially true for under-resourced, minimally staffed agencies in rural jurisdictions. Additionally, navigating bureaucracy to obtain arrest/conviction records, whether personally for an immediate family member, can be retraumatizing and deter individuals from engaging in the process.

We appreciate allowances in proposed and existing regulations that enable individuals who qualify under local equity programs to attest that they meet equity criteria without providing substantiating documentation. However, this approach puts operators in a vulnerable position in attesting to impacts which cannot necessarily be documented.

Census Data Inaccurately Captures Hard-To-Count Rural Areas

As an alternative to an arrest or conviction, proposed equity criteria would enable qualification based on residence in a region with disproportionately high arrest rates, as well as residence in a census tract in the top 25% in both unemployment and poverty.

The latter requirement for a high-poverty and high-unemployment census tract excludes many regions which were most heavily impacted by the War on Drugs, including the entirety of southern Humboldt and many other highly-impacted regions.

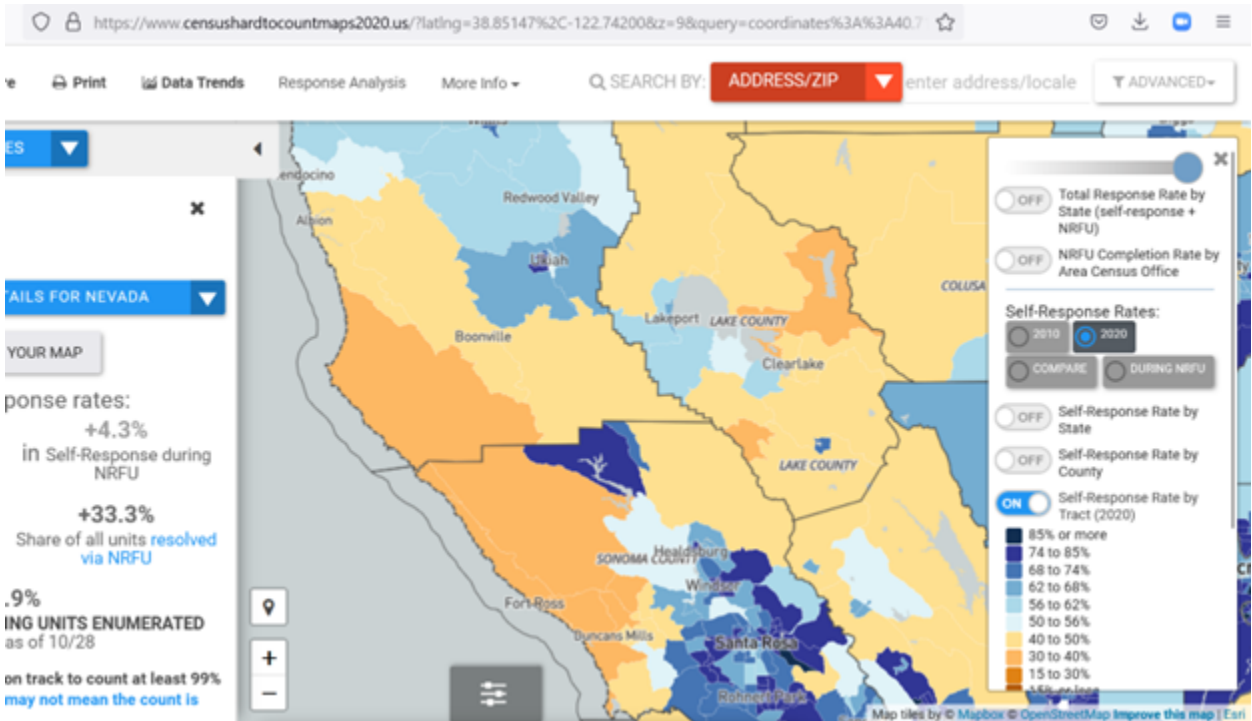
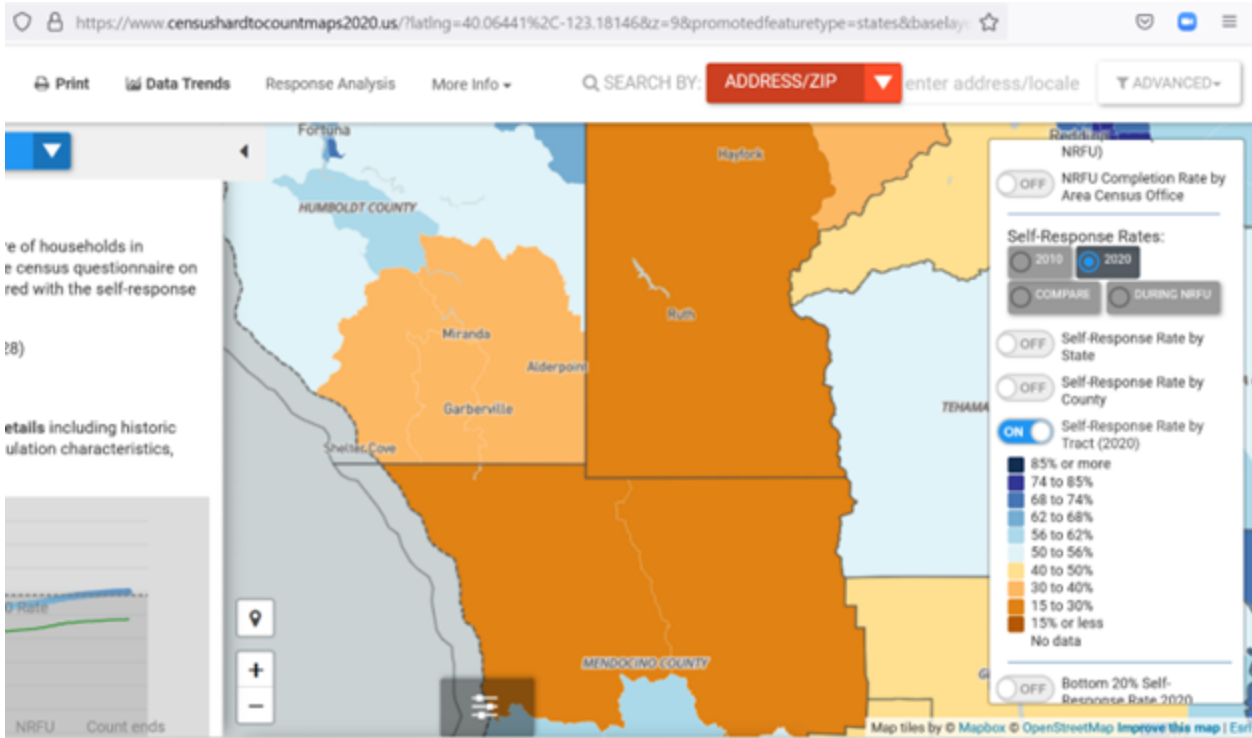
The quality of census data applicable to these regions, however, is very low. A substantial portion of rural communities we represent are located in HTC (Hard to Count) designated areas, rated from 47 to 127 on the CA - HTC Index of the California census.⁴

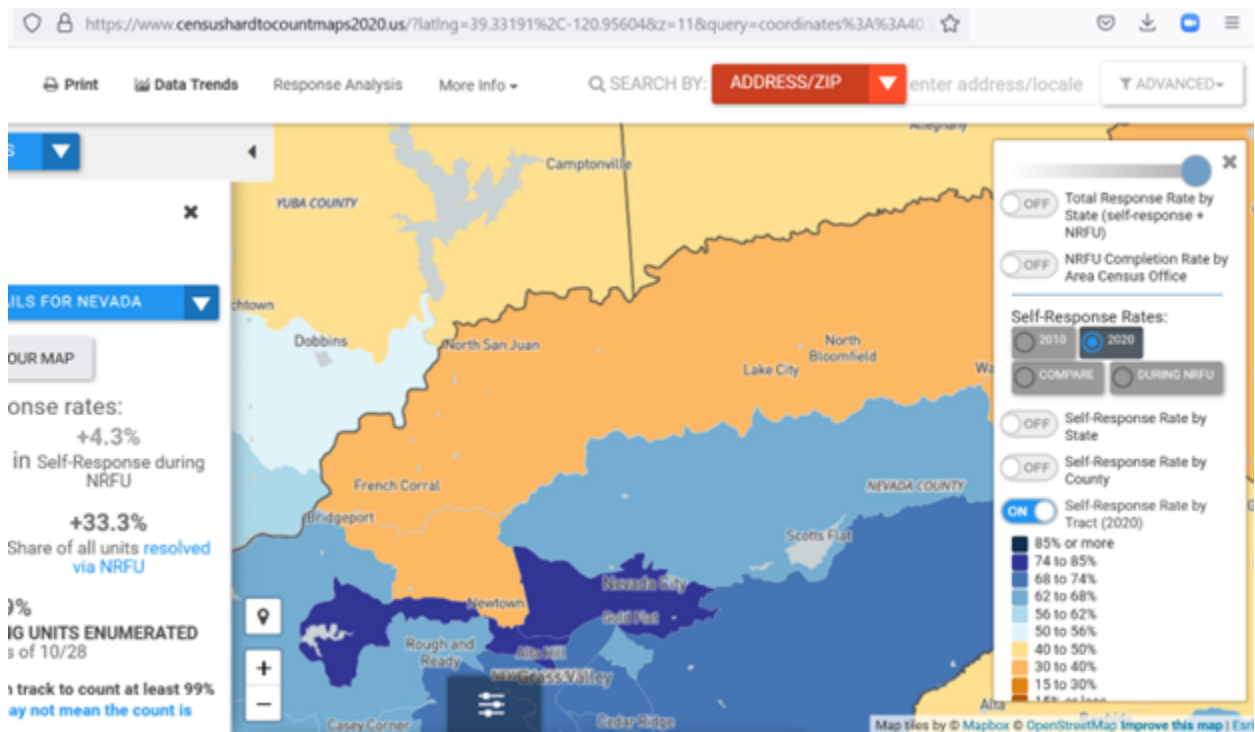
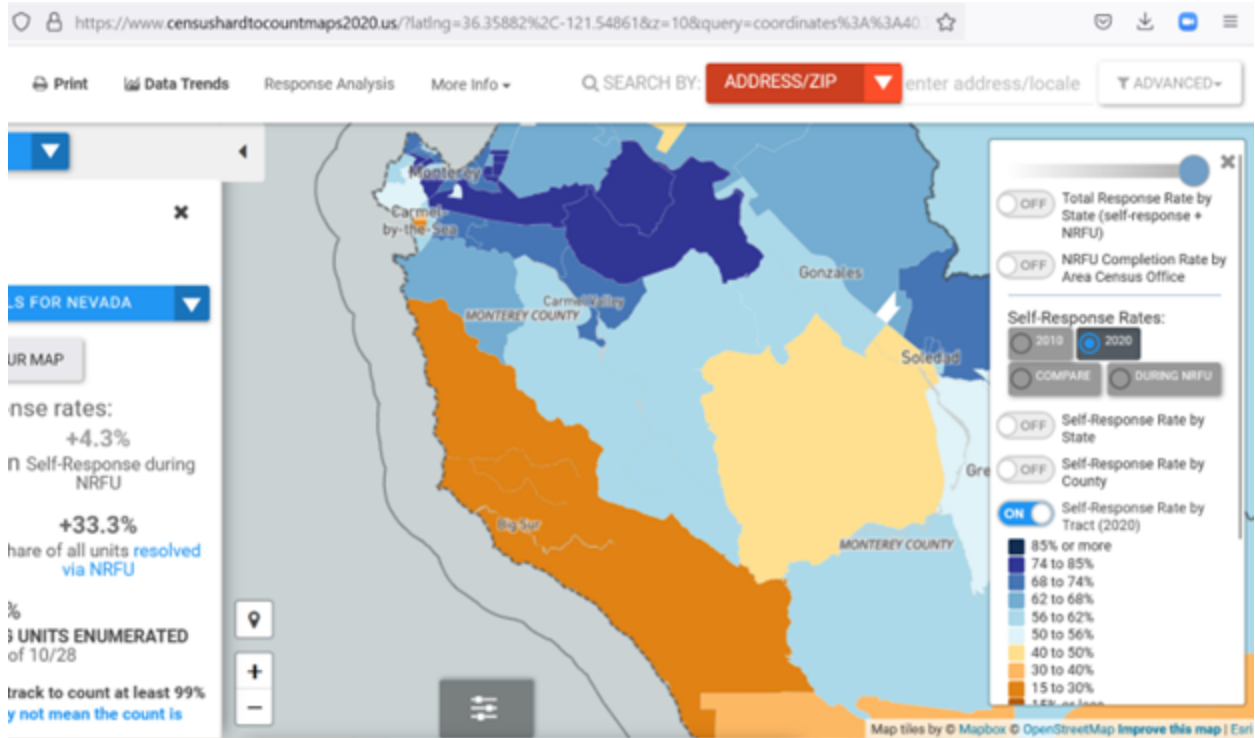
Specifically, many of these regions are located in census tracts where response to census inquiries are less than 50%, or even 30% in many cases.

³

<https://www.nytimes.com/1990/08/10/us/military-takes-part-in-drug-sweep-and-reaps-criticism-and-a-lawsuit.html>

⁴<https://cacensus.maps.arcgis.com/apps/webappviewer/index.html?id=48be59de0ba94a3dacff1c9116df8b37>





Exacerbating the hard-to-count difficulty in rural areas is the difficulty for applicants to obtain documentation that ties them to the physical address at or near where the impact can be demonstrated. Specifically, most rural residents do not have United States mail delivery, but rather, must rely on postal boxes at Post Offices that are not always near to the location of the residence.

Recommendations for Equity Qualifying Criteria

For the above reasons, we reiterate our recommendations in prior comments to 1) allow operators to qualify for equity fee waivers under their local equity program guidelines, and 2) modify state equity eligibility criteria to reflect the impacts of the War on Drugs in rural areas, including expanding eligibility to encompass individuals and family members who were targeted by raids and detentions.

Other Recommended Modifications to Equity Regulations

In addition to the above recommendations on changes to equity criteria, we recommend several other amendments to equity regulations:

- **Timeline for refunds** - proposed equity regulations enable operators to apply for a licensing fee refund if they have already paid their license fees. We recommend that a 30 day timeline be established to process these refunds.
- **Gross receipts cap** - we support an increase in the gross receipts cap to \$10 million to account for operators throughout the supply chain, particularly retailers, who tend to have higher levels of gross receipts. Individuals who would otherwise qualify under equity criteria should not be excluded based on a \$5 million gross receipts cap.
- **Majority ownership** - equity qualification criteria are currently set at 50% ownership by an equity operator, rather than majority ownership. To ensure that equity businesses are functionally controlled by equity operators, we recommend that this threshold be increased to majority control (50%+1) by an equity operator or operators.
- **Automatic reminders** - we believe there are a significant number of individuals who have not historically applied for equity fee waivers due to a lack of knowledge about the program. We recommend that the DCC provide automatic reminders prior to license renewal on the potential to apply for equity fee relief.
- **Application deadline** - we request that the licensee be able to submit a request for equity fee relief up to 30 calendar days prior to renewal, as opposed to 60 days as proposed.

Thank you for your consideration.

Sincerely,



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