

# HUMBOLDT COUNTY GROWERS ALLIANCE

## **HCGA Summary of Proposed CDFCA Appellation Regulations**

February 25, 2020

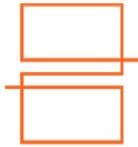
In Fall of 2015, with the passage of the MMRSA, California made history by becoming the first and only state to include a cannabis appellations program in state law. Last week, over four years later, CDFCA finally released its long-awaited proposed regulations for the creation of cannabis appellations, available [here](#). The proposed regulations kick off a sixty-day public comment period to provide feedback on regulations before they're amended and finalized by January 2021.

Comments can be submitted to CDFCA until Monday, April 6, by emailing [CalCannabis\\_Appellations@cdfa.ca.gov](mailto:CalCannabis_Appellations@cdfa.ca.gov). CDFCA will also hold an in-person hearing to allow verbal public comments on Tuesday, April 14, 2020, from 1pm to 3pm, in the CDFCA Auditorium at 1220 N Street, Sacramento, CA 95814.

The stakes for cannabis appellations are high. As interstate and international cannabis markets open up, appellations have the potential to be a powerful tool enabling small farmers and legacy cultivating regions to promote high-quality, environmentally sustainable craft cannabis. As the only state so far to initiate a cannabis appellations program, California's appellations rules will set a model for other states, the federal government, and the rest of the world. For appellations to reach their potential – to ensure that they support small farms, legacy cultivation regions, and production at the highest environmental standards – it's essential that CDFCA gets these regulations right.

Over the past several years, a top priority for HCGA and our allies in other legacy cultivation regions has been to ensure that appellations are fully reflective of the terroir of each producing region. Because the geographical features of each area are unique, the cannabis produced in an appellation region should also be unique. In other agricultural sectors, such as wine, appellations are granted to products that are planted in the ground, under full sun and in full exposure to the natural climate. Although the proposed regulations including some language related to the natural geography of an area, they appear to leave the door open for appellations that are not fully reflective of terroir, potentially even including indoor appellations. This does not come as a surprise: CDFCA has communicated that they don't feel they have the statutory authority to develop a true "terroir" baseline for the program, and only through a statutory mandate would that be the case. HCGA will continue to advocate for a true terroir standard through whatever policy changes are necessary, including changes to statute.

In addition HCGA will be working in collaboration with other legacy cultivation regions and organizations to review the proposed appellation regulations, advocate with policymakers, and submit formal public comment to CDFCA. We encourage HCGA members to review these regulations, submit comments, and provide input to help us develop our public comments and advocacy strategy.



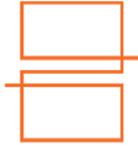
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A summary of CDFA's proposed appellation regulations are below.

## **Writing and Submitting an Appellation Petition**

The process for creating a new appellation begins when a group of cultivators submits a petition to CDFA with information on the proposed appellation. CDFA is proposing the following rules for submitting an appellation petition:

- Petitions must be filed by an organization composed of three or more unique businesses within a geographic region.
- Petition application fees are \$20,880. Petition amendment fees are \$10,440.
- Petitions must include the following information:
  - Evidence that the proposed appellation name has been in general use in the region prior to the filing of the petition
  - Description of the appellation's geographical boundaries
  - Description of distinctive geographical features affecting cultivation within the appellation region, and
  - Identification of standards, practices, and cultivars that will be required within the appellation.
- The proposed boundaries of an appellation cannot be the same as the boundaries of a county.
- Nested appellations, in which one appellation overlaps with another – or in which a smaller appellation exists within another, larger appellation – are allowed.
- CDFA will provide feedback on whether the application is complete, and allow the petition to be amended if it's not.
- Once CDFA rules the petition is complete, it opens a 30 day public comment period for feedback on the proposed petition.
- CDFA has the power to establish a Petition Review Panel to review and provide non-binding recommendations on appellation petitions. The Petition Review Panel is composed of seven members and two alternates from backgrounds including cultivation, intellectual property, sustainable agriculture, and community-based research. Petition Review Panel members are appointed by CDFA and serve at the sole discretion of CDFA.
- CDFA has final power to approve or deny a petition. However, it isn't clear in these regulations how CDFA will determine whether a petition should be approved or rejected.



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## **Defining An Appellation Region**

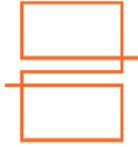
In theory, appellations are intended to demonstrate a causal link between the geography of a region, including both natural and cultural features, and the qualities of the final agricultural product that's produced in that region. CDFA has proposed several rules that speak to the relationship between the geography of an appellation region and the quality of the final product produced. Although these rules speak to a variety of geographical features, they appear to fall short of an appellations system that is truly based on terroir, and leave the door open for potential mixed-light and indoor appellations.

- The appellation petition must describe geographical features affecting cultivation in the region, including all of - but not limited to - 1) climate 2) geology 3) physical features (topology/watersheds) 4) cultural features and 5) elevation.
- The petition must show that these geographical features are distinctive compared with outside areas.
- The petition must show how the "quality, characteristic, or reputation" of the cannabis derives from these geographical features.
- The petition must identify at least one standard, practice, or cultivar that maintains the relevance of the distinctive geographical features.
- The appellation petition can specify that certain license types (e.g. indoor, ML 1) are excluded from the appellation. *This suggests that CDFA believes a non-outdoor license would potentially be able to qualify for an appellation.*

## **Establishing Standards, Practices, and Cultivars**

State law requires appellations to include standards, practices, and cultivars requirements which help to assure the uniqueness and integrity of cannabis produced in the appellation region. CDFA is proposing several rules related to these requirements:

- Each appellation petition is required to include rules for allowable standards, practices, and cultivars are required for each appellation petition.
- "Standards" must be either 1) quantifiable/measurable or 2) established by a formal certification. Examples that seem to qualify include "organic certified" or "tested at over 20% THC."
- "Practice" is defined as "an allowed or prohibited method of cultivation."
- "Cultivar" requirements can be met through a list of allowed or excluded cultivars. According to the ISOR accompanying the regulations, CDFA will accept "all cultivars" as a statement of which cultivars will be used, considering the difficulty of defining cultivars until more research is done. If specific cultivars are identified, the petition can state requirements for genetic testing, seed or plant specimen preservation, or other cultivar identity certification.



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- Standards, practices, and cultivars must be stated in a way that is understandable by the general public.

## **Accountability and Enforcement for Appellations Standards**

Some form of accountability and enforcement are needed to ensure that cultivators using an appellation name are following the requirements of the appellation. CDFA is proposing recordkeeping requirements as the primary way that appellation requirements are enforcement.

- Recordkeeping requirements are designed to ensure the cultivator is in compliance with standards, practices, and cultivar rules for the appellation.
- In the petition, all proposed standards, practices, and cultivars must be accompanied with a recordkeeping requirement that effectively ensures enforcement.
- Violation of appellation advertising or recordkeeping requirements is only a "minor" violation.

## **Baseline Appellation Qualifications and Labeling Requirements**

To qualify for an appellation designation, CDFA is proposing that products must meet the following requirements:

- To be labelled with an appellation, cultivation and processing of cannabis must occur 100% within the appellation region.
- Immature plants can be sourced from a nursery outside the appellation so long as the plant is within the appellation region once it grows to 18 inches of height or width.
- The labelled appellation must meet geographic region and standard, practice, and cultivar requirements outlined in the petition.
- Conjunctive labeling – labeling of the county name alongside the appellation name – isn't required.
- Existing trademarks that conflict with an appellation can be used for three years following an appellation petition, so long as the county of origin and appellation of origin are labeled.
- It's unclear whether manufactured products are included or excluded.