

## Seeds and Planting Stock in OCal Cultivation

### 1. Purpose

This guidance delineates the criteria that must be met for a cultivator to declare OCal seeds or planting stock as commercially unavailable, describes satisfactory documentation of commercial availability in the OCal system plan (OSP), and provides examples of acceptable evidence of following commercial availability guidelines and inputs documented in the OSP. This guidance also outlines factors a certified operation should consider when procuring inputs and substances used during OCal cannabis cultivation, including seed treatments.

This guidance does not apply to cover crop seeds, which are considered agricultural inputs and addressed in § 10105(c) of the OCal regulations.

### 2. OCal Regulations, Title 3 California Code of Regulations (3 CCR)

3 CCR § 10000. Definitions.

3 CCR § 10105. Allowed and prohibited substances and methods in OCal production.

3 CCR § 10201. OCal system plans.

3 CCR § 10204. Seeds and planting stock practice standard.

3 CCR § 10205. Crop rotation practice standard.

3 CCR § 10210. Temporary variances.

3 CCR § 10503. On-site inspections.

### 3. Policy

Documentation of commercial availability of OCal seeds and planting stock is not required during the first 12 months of the OCal Program.

Producers should develop and follow procedures for procuring OCal seeds, annual seedlings, and planting stock and maintain adequate records as evidence of these practices in their OCal system plan (OSP). Producers must also provide clear documentation regarding the inputs and materials used during cannabis production (as required at § 10201(c)(2) of the OCal regulations).

Certifying agents must assess procedures and documentation of certified production and handling operations as they source seeds, annual seedlings, and planting stock on an annual basis. Each of these concepts is described in more detail below.

### 3.1. Sourcing of Seeds and Planting Stock

3.1.1. Certified operations must use OCal seed and planting stock in accordance with the requirements of the OCal regulations § 10204.

3.1.2. Seeds and planting stock must be procured according to the OCal seeds and planting stock practice standard in the OCal regulations § 10204.

3.1.3. Certified operations may use non-OCal seeds and planting stock only if equivalent varieties of OCal seeds and planting stock are not commercially available. When sourcing non-OCal seeds and planting stock, certified operations must comply with the following:

- a. Operations should contact three or more seeds or planting stock sources to ascertain the availability of OCal seeds and planting stock.
- b. Price cannot be a consideration in determining commercial availability.

An “equivalent variety” is a variety of the same “type” or with similar agronomic or marketing characteristics needed to meet site specific requirements for an operation. Characteristics considered when assessing an equivalent variety may include but are not limited to: number of days until harvest; color, flavor, moisture, chemical, or nutrient profiles of the variety of the harvested cannabis; vigor or yield of harvested cannabis; regional adaptation, and disease and pest resistance.

### 3.2. Recordkeeping for OCal Cultivators

3.2.1. The following records should be maintained by OCal cultivators:

- a. A list of all seeds and planting stock indicating any non-OCal seeds or planting stock used, and a justification for their use, including lack of equivalent variety, form, quality or quantity considerations.
  1. Records describing on-farm trials of OCal seed and planting stock can be used to demonstrate lack of equivalent varieties for site specific conditions.
- b. A list of all substances used to treat seeds or planting stock.

- c. The search and procurement methods used to source OCal seed and planting stock varieties, such as documentation of contact with three or more seed or planting stock sources to ascertain the availability of equivalent OCal seed or planting stock. Sources should include companies that offer OCal seeds and planting stock.
- d. Acceptable verifying evidence may include, but is not limited to: agricultural input packaging, letters, email correspondence, purchase receipts, receiving documents, invoices, and inventory control documents.

### 3.3. Inputs Used for Treatment of Seeds or Planting Stock

3.3.1. Substances used in the treatment of seed and planting stock should be described in the OSP. Allowed treatments:

- a. Peracetic acid is specifically allowed for use in disinfecting seed per the National List of Allowed and Prohibited Substances (National List) § 205.601(a)(6), found in title 7 of the Code of Federal Regulations.
- b. Chlorine materials may be used per the National List § 205.601(a)(2). Use of chlorine products in handling of seeds on-farm can be considered a production use that is not in direct contact with cannabis, provided the treatment is followed by immediate rinsing with potable water that does not exceed the maximum residual disinfectant limit under the California Code of Regulations § 64533.5 (see references).
- c. Other synthetic substances listed for appropriate uses on the National List at § 205.601 (e.g. for pest or disease control, or as a soil or plant amendment).
- d. Nonsynthetic substances that are not prohibited are allowed as seed or planting stock treatments.

### 3.4. Examples of Types of Treatments That Should Be Reviewed by the Certifying Agent

- a. Pesticides, including fungicides, herbicides and insecticides. All pesticides used as seed treatments must be compliant for organic production, including inert and active ingredients. Botanical or biological preparations cannot be genetically modified per prohibition for excluded methods as defined in the OCal regulations § 10105(a)(4).

- b. Pelleting: A clay coating applied to seed to increase its size and modify its shape into a more uniform ball. Pelleting allows for more even and efficient direct seeding of fields or containers either by hand or mechanically with the use of seeding equipment calibrated to the specific sizes and shapes of the pelleted seed. Ingredients used in pelleting must be nonsynthetic or included on the National List at 7 CFR § 205.601 for an appropriate use.
- c. Inoculants: bacteria that fix nitrogen from the air and soil that are commercially prepared for use with legumes during seeding. The materials used in Rhizobium or other microbial preparations cannot be genetically modified per the prohibition of excluded methods as defined in the OCal regulations § 10105(a)(4).

3.4.1. Substances used by a seed or planting stock purveyor prior to the harvest of their non-OCal seeds or non-OCal planting stock for sale and use in OCal cultivation are not considered “treatment”. Substances that are used by a seed or planting stock purveyor for seed cleaning and preparation (e.g. trisodium phosphate and chlorine solutions) after they harvest their non-OCal seeds for sale in OCal production are also not considered “treatment”, since they do not remain on the seed when it is planted. These substances do not need to be described in the OSP by the certified operation and do not require review by the certifying agent.

#### **4. Role of the Certifying Agent**

4.1. Certifying agents should annually review OSP documentation of commercial availability, agricultural inputs, and substances used to treat seeds and planting stock and assess compliance with OCal regulation § 10201(c)(2).

4.2. Certifying agents assess an operation’s progress in obtaining OCal seeds and planting stock by comparing current information to previous years.

4.3. Certifying agents should use on-site evidence, such as the examples provided in 3.3.1 (c) and (d), to verify OSP documentation.

#### **5. References**

##### **California Code of Regulations (CCR)**

22 CCR § 64533.5. Maximum Residual Disinfectant Levels.

**Code of Federal Regulations (CFR)**

7 CFR § 205.601. Synthetic Substances Allowed For Use in Organic Crop Production.

40 CFR § 141.2. Definitions. “Maximum residual disinfectant level” means the highest level of a disinfectant allowed in drinking water.

40 CFR § 141.65. Maximum residual disinfectant levels.

40 CFR Part 142. National Primary Drinking Water Regulations Implementation.

**United States Code (USC)**

42 USC § 300f (4) (B) (III). Safe Drinking Water Act. Authorizes national primary drinking water regulations.

**National Organic Standards Board (NOSB) Recommendations - Background**

August 2005 and November 2008 NOSB recommendations on determining commercial availability of organic seeds and planting stock and the responsibilities of the NOP, certifying agents, and operations for promoting and sourcing organic seeds and planting stock.

**OCal Program Handbook**

OCal 5026 The Use of Chlorine Materials in OCal Production.