



New Jersey Department of Agriculture
Organic, Sustainable, and Regenerative Agriculture Program

Division of Marketing and Development, PO Box 330, Trenton, NJ 08611
(609) 913-6505



Seeds and Planting Stock Guidance for Farmers

Below is regulatory text from the USDA's organic regulations, *7 CFR Part 205, the National Organic Program; Final Rule* (often called "The Rule"). Excerpts from the definitions section have been combined with §205.204 to help explain the requirements for seeds, seedlings, and other planting stock used for organic production. It is important to interpret the requirements properly, as trying to follow the exceptions can be confusing.

§205.2 Terms Defined

Annual seedling. A plant grown from seed that will complete its life cycle or produce a harvestable yield within the same crop year or season in which it was planted.

Planting stock. Any plant or plant tissue other than annual seedlings but including rhizomes, shoots, leaf or stem cuttings, roots, or tubers, used in plant production or propagation.

§205.204 Seeds and planting stock requirements

(a) The producer must use organically grown seeds, annual seedlings, and planting stock: Except That,

(1) Nonorganically produced, untreated seeds and planting stock may be used to produce an organic crop when an equivalent organically produced variety is not commercially available: Except, That, organically produced seed must be used for the production of edible sprouts;

(2) Nonorganically produced seeds and planting stock that have been treated with a substance included on the National List of synthetic substances allowed for use in organic crop production may be used to produce an organic crop when an equivalent organically produced or untreated variety is not commercially available;

(3) Nonorganically produced annual seedlings may be used to produce an organic crop when a temporary variance has been granted in accordance with §205.290(a)(2);

(4) Nonorganically produced planting stock to be used to produce a perennial crop may be sold, labeled, or represented as organically produced only after the planting stock has been maintained under a system of organic management for a period of no less than 1 year; and

(5) Seeds, annual seedlings, and planting stock treated with prohibited substances may be used to produce an organic crop when the application of the materials is a requirement of Federal or State phytosanitary regulations.

(b) [Reserved]

As you can see, the Rule requires certified organic seed, seedlings, and planting stock be used to produce an organic crop. There is an allowance for the use of nonorganic seed and planting stock **only if** they cannot be found in organic form. There is no allowance for nonorganic transplants or for nonorganic seeds used to produce edible sprouts (*plants with seed coats attached*).

Non-organically Produced, Untreated Seeds and Planting Stock:

An organic grower may use non-organic, untreated* seeds to produce an organic crop IF the seed or planting stock is not available in certified organic form. Planting stock includes rhizomes, shoots, leaf or stem cuttings, roots, or tubers used in plant production or propagation. Sweet potato slips are considered planting stock, as are seed potato tubers and garlic bulbs. Onion **sets** (*small bulbs up to an inch in diameter used to grow a larger bulb*) are planting stock, onion **plants** are not. Onion plants are annual transplants and must be certified organic.

Strawberry **crowns** are planting stock; however, strawberry **plugs**, plants with root mass, are not. The grower must document efforts to source certified organic seeds or planting stock. Documentation of attempts to find certified organic seed will be looked at during your initial and update inspections.

Use, even unintended use, of seed and/or planting stock treated with prohibited materials would prevent certification of production areas for 36 months after use. If already certified, use would result in the loss of certified status for the crop, and removal of production area(s) from certification for a three-year period. Be sure you are certain that any non-organic seed used in your organic production areas are not treated with prohibited materials. Be ready to report to your certifier how you know your seed is not treated. To avoid loss of certified status, claims of treatment due to Federal or State phytosanitary regulations should be double-checked with your certifier prior to planting treated seed or stock into your organic production areas.

*(*untreated = not treated with any prohibited substance; i.e. fungicides, synthetic fertilizers, etc.*)

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Perennial Planting Stock:

Perennial Planting stock must be organic unless the variety you are sourcing is not commercially available. If you use non-organic planting stock it must be organically managed for at least 12 months before a crop or part can be sold or represented as organic (*i.e. planted into organic production areas or compliant media*). Perennial planting stock would include bramble canes (blackberries, raspberries, etc.), asparagus crowns, fruit trees, and strawberry plugs that will be left in the field for longer than a year.

Annual Seedlings:

Annual Seedlings **MUST** be certified organic, period! There is no allowance for the use of non-organic annual seedlings. The USDA has authority to grant a temporary variance due to a natural disaster, research trials, or other conditions as outlined in §205.290 of the Rule, but this would be very rare and infrequent. Your certifier is required to notify you if such a variance is issued, so you will know. Use of non-organic annual transplants in your organic production areas would result in the crop being ineligible for organic designation. It may also result in the removal of production areas from certification the plant or plating media were contaminated with prohibited materials. Be sure you can document the organic status of all annual transplants sourced from off-farm.

Commercial Availability:

It is important to know what is meant by “*equivalent variety*” before beginning your organic seed search. Equivalent variety means the seed will yield a plant that has the growing habits, disease and insect resistance, days to maturity, and crop quality (*such as size of fruit, taste or color*) that you require. If you cannot find a suitable organic variety, record where you looked for them. Keep a detailed phone log, save seed catalogs, print out e-mails or correspondence with seed companies, etc. Be sure to keep a listing of varieties you are searching for and be ready to explain to your certifier what specific qualities you need.

The Rule defines commercial availability in §205.2 as “*The ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan*”.

- **Appropriate Form:** this includes qualities such as sized seed, hot water treated, graded, etc.
- **Quality:** this includes characteristics such as germination rate and weed seed contamination. You may wish to do trial new sources of organic varieties to ensure the quality is appropriate. Be sure to keep notes and records of seed varietal trials. This shows a real effort towards compliancy.
- **Quantity:** as an example, if you are searching for seed to plant an acre of crop and the organic variety is only available in 1-ounce packets, it may be acceptable to use the non-organic equivalent.

All documentation concerning your seed and planting stock must be saved and kept on file with the rest of your organic documents and records. Review of documents for claims of commercial availability will be done at each inspection, and your certifier may request seed and planting stock documentation be sent in for review. Inadequate documentation or lack of a good faith effort to source certified organic seed could lead to a Notice of Noncompliance. The Notice may include requirements to have future use of non-organic seed pre-approved by the certifier prior to use in organic production areas.

**Call the NJDA OSRA Program for more details at (609) 913-6505 or
e-mail: erich.bremer@ag.nj.gov**