

[Extracted Copy of ZENITH Guidance & Working Instruction]

Derogation-Use of seed or vegetative propagating material, ingredients/ Sub-ingredients not obtained by the organic production method

EU Requirement:

Note: Prior approval is mandatory for use of non organic seed or vegetative propagating material, ingredients/ Sub-ingredients not obtained by the organic production method. Operator must submit derogation request to ZENITH

In case an operator wishes to use non-organic starting material (seed or vegetative propagation material), the following applies:

1. Where it is necessary in order to ensure access to, seed and vegetative propagating material and other farm inputs, where such inputs are not available on the market in organic form
 - a) Seed and vegetative propagating material from a production unit in conversion to organic farming may be used,
 - b) Where point (a) is not applicable, ZENITH may authorize the use of non-organic seed or vegetative propagating material if not available from organic production. However, for the use of non-organic seed and seed potatoes the following paragraphs (2) to (7) apply.
2. Non-organic seed and seed potatoes may be used, provided that the seed or seed potatoes are not treated with plant protection products, other than those authorized for treatment of seed in accordance with EU regulation.
3. Species for which it is established that organically produced seed or seed potatoes are available in sufficient quantities, qualities and for a significant number of varieties in all parts of the Community where the operator shall market his products are set out in regulation.
4. ZENITH is responsible for granting the authorization referred to in paragraph 1(b).
5. Authorization to use seed or seed potatoes not obtained by the organic production method may only be granted in the following cases:
 - a) where no supplier, meaning an operator who markets organic seed or seed potatoes to other operators. The user should be able to demonstrate or declare (Non Organic seed) that none of the organic alternatives is available in sufficient quality, quantity or form of the same species are available in their locality or region and that the authorization therefore is significant for production
 - b) where no supplier, meaning an operator who is able to deliver the seed or seed potatoes before sowing or planting in situations where the user has ordered the seed or seed potatoes in reasonable time;
6. **Operator must take authorization before the sowing of the crop.** Failure to implement this will lead to critical non compliance and disapproval of crop/ land parcel as applicable
7. The authorization shall be granted on a case per case basis for each operator for one season at a time.

Provisional authorization for the use of non-organic agricultural ingredients for processed organic food :

- a) Operator need to ensure access to certain agricultural ingredients, and where such ingredients are not available in organic form, in sufficient quantity, a provisional authorization may be granted by ZENITH for the use of non-organic agricultural ingredients for the production of processed organic food on its territory for a period of maximum six months.

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- b) Operator need to fill Commercial Availability Search section in ZENITH OMP-Handling Form (For Crop: Seed list includes seed search info– OMP Addendum) of at least 03 organic searches (supplier that sale organic agricultural ingredients) and need to record evidence of Same (May be in terms of email conversation, call contact conversation etc, to prove the authenticity of the search of organic ingredient).

ZENITH will review the request with accompanied documents and upon satisfactory evaluation may grant authorization of the said request for a period of maximum 6 month. Request may be denied in the event of unsuccessful justification and unable to demonstrate required documentations during any stage of review including review of Inspection result). Accuracy of information pertaining to non organic seed/ ingredient request will be verified during audit.

Recordkeeping for Organic Producers (All Programmes)

The following records should be maintained by organic producers:

1. A list of all seed and planting stock, indicating any non-organic seeds or stock used, and the justification for their use including lack of equivalent variety, form, quality or quantity considerations. Records describing on-farm trials of organic seed and planting stock can be used to demonstrate lack of equivalent varieties for site specific conditions.
2. The search and procurement methods used to source organic seed and planting stock varieties, including:
 - o Evidence of efforts made to source organic seed, including documentation of contact with three or more seed or planting stock sources to ascertain the availability of equivalent organic seed or planting stock. Sources should include companies that offer organic seeds and planting stock.
 - o Records may include, but are not limited to: letters, faxes, email correspondence, and phone logs from seed suppliers and companies; seed catalogs; searches of organic seed databases; receipts; receiving documents, invoices, and inventory control documents.

NOP Programme: (Resource: NOP Handbook)

Producers should develop and follow procedures for procuring organic seeds, annual seedlings, and planting stock and maintain adequate records as evidence of these practices in their organic system plan (OSP). Producers must also provide clear documentation regarding the inputs and materials used during crop production (as required at § 205.201(a)(2)). ZENITH will assess procedures and documentation of certified production and handling operations as they source seeds, annual seedlings, and planting stock on an annual basis. Conceptual detail & Requirements as listed below:

Sourcing of Seeds, Annual Seedlings, and Planting Stock

1. Certified operations must use organic seed, annual seedlings, and planting stock in accordance with the requirements at § 205.204.
2. Certified operations may use non-organic seed and planting stock only if equivalent organically produced varieties of organic seeds and planting stock are not commercially available **(Applicable to COR as well)**.
 - o Commercial availability is defined at § 205.2 and refers to the ability to obtain a production input, in this case seed or planting stock, in an appropriate form, quality, or quantity to fulfill an essential function in organic production. For the purposes of this exception, an “equivalent variety” is a variety of the same “type” (e.g. head lettuce types versus leaf lettuce types) or has similar agronomic or marketing characteristics needed to meet site specific requirements for an operation. These characteristics 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 crop; vigor or yield of harvested crop; regional adaptation, disease and pest resistance, or the plant’s utility in a crop rotation.
 - o Price cannot be a consideration for determination of commercial availability.
3. The following considerations could be acceptable to justify use of non-organic seeds and

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planting stock as not commercially available. These considerations must be described by the operation in their organic system plan (OSP), pursuant to § 205.201(a)(2), and approved by the certifying agent.

- Form Considerations: Examples of forms may include, but are not limited to, treated or non-treated seeds or planting stock, use of pelleted seed, or use of bare root nursery stock or container plants.
 - Quality Considerations: Examples may include, but are not limited to, germination rate of the seed; presence of weed seeds in the seed mix; shelf life and stability of the seeds; and disease and pest resistance.
 - Quantity Considerations: Producers may provide evidence that quantities are not available in sufficiently large or small amounts given the scale of the operation.
4. For certified operations producing edible sprouts, there is no exception to the requirement to use organic seed, as stated at § 205.204(a)(1).
 5. Certified operations may use non-organic annual seedlings to produce an organic crop only when a temporary variance has been granted by the AMS Administrator in accordance with § 205.290(a)(2) due to an extreme weather event or business disruption beyond the control of the producer (§ 205.204(a)(3)).
 6. Use of non-organic planting stock to produce organic crops is subject to commercial availability as per § 205.204(a)(1). If planting stock is from a non-organic source and is used to produce perennial crops, then that *planting stock* may be sold, labeled or represented as organic planting stock after 12 months of organic management (§ 205.204(a)(4)).

Inputs Used for Treatment of Seeds or Planting Stock (NOP)

1. Substances used in the treatment of seed and planting stock need to be described in the OSP. Allowed treatments include:
 - Peracetic acid is specifically allowed for use in disinfecting seed per § 205.601(a)(6).
 - Hydrogen chloride is specifically allowed for delinting cotton seed for planting per § 205.601(n).
 - Chlorine materials may be used per § 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 the crop, provided the treatment is followed by immediate rinsing with potable water that does not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.²
 - Other synthetic substances listed for appropriate uses in § 205.601 (e.g. for pest or disease control, or as a soil or plant amendment).
 - Nonsynthetic substances that are not prohibited are allowed as seed or planting stock treatments.
2. Examples of types of treatments that should be reviewed by your certifying agent:
 - **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 by § 205.105(e) and § 205.2.
 - **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 § 205.601 for an appropriate use.
 - **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 by § 205.105(e) and § 205.2.