



Plant Variety Protection Office (PVPO)



Certificate + Post-Issuance

Certificate Issuance and Post-Issuance Information

Plant variety protection is used by plant breeders as an important marketing tool that protects their innovation. The AMS Plant Variety Protection Office (PVPO) provides intellectual property rights protection to breeders of varieties of seed propagated and asexually reproduced plants that are new, distinct, uniform, and stable. Based on the Plant Variety Protection Act and in compliance with the International Union for the Protection of New Varieties of Plants (UPOV), we examine new variety characteristics in order to grant certificates that protect varieties for 20 years (25 years for woody vines and trees).

Protections

Without explicit consent from the owner, **a person is prohibited from: selling, marketing, offering, delivering, consigning, exchanging, or exposing the variety for sale**

In addition, a person is prohibited from soliciting an offer to buy the variety or transfer or possess it in any way. It is also illegal to import or export the variety, sexually multiply it, propagate it by tuber, use the variety in producing (as distinguished from developing) a hybrid, or condition the variety for the purpose of propagation.

Enforcement and Infringement

The owner of a protected variety may bring civil action against persons infringing on his or her rights. The owner may ask a court to issue an injunction to prevent others from further violations. It is the owner of the protected variety who must bring suit in such cases. USDA will not take that action.

Duration of Rights

Plant Variety Protection rights are granted for a period of up to 25 years for a variety of a tree or woody vine (including their rootstocks), and 20 years for all other varieties of plants (excluding algae, bacteria and fungi), effective from the date of issue of the Plant Variety Protection Certificate.

Expiration

At the end of certificate protection, the germplasm deposits will become public, as will the variety. The variety will become available for everyone to use, store, keep, and utilize as parents in breeding programs.

Recordation

It is the responsibility of the applicant/owner to keep the PVPO informed of any changes of address or change of ownership or assignment of owner's representative during the process of application and the lifetime of the certificate.

Germplasm Replenishment

The applicant is required to send fresh germplasm samples to NLGRP if their germination rate falls below 80%. Owners of asexually reproduced varieties are required to have germplasm available upon request at any time.

Restrictions to the Holder's Rights

The rights of the holder do not apply to any act performed for:

- Private and non-commercial purposes - Protected varieties may be propagated when the propagated material is to be used for private and non-commercial purposes
- Experimental purposes - Protected varieties may be used in research
- Plant Breeding - Protected varieties may be used for breeding and developing new plant varieties
- Farmers' Privilege - Farmers may save harvested seed of protected varieties that are grown by them and plant the saved seed on their own land on an acre for acre basis

Withdrawal of a Certificate of Protection

At any time during the period of grant of rights, the holder may surrender their rights. An original application which has been voluntarily withdrawn shall be returned to the applicant and may be reconsidered only by refiling and payment of new filing and examination fees.

Abandonment of a Certificate of Protection

A certificate may be voluntarily abandoned by the applicant, or the attorney or agent of record, or the assignee of record, by notifying the Commissioner in writing. Upon receipt of an abandonment notice, the variety becomes open for use by the public. If the variety was previously specified to be sold by variety name as "certified seed only," that restriction no longer applies.

Contact Information

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