



U.S. Department of Agriculture
Agricultural Marketing Service
Science & Technology Program

Plant Variety Protection Office
1400 Independence Avenue, SW
Room 4512-South Building, Stop 0274
Washington, DC 20250
(202) 260-8983

Application for Plant Variety Protection Certificate



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Instructions for Applications and Exhibits

To be effectively filed with the Plant Variety Protection Office (PVPO), **ALL** of the following items must be **received** in the PVPO: (1) Completed application form signed by the owner; (2) completed exhibits A, B, C, and E; (3) for a tuber reproduced variety, verification that a viable (*in the sense that it will reproduce an entire plant*) tissue culture will be deposited and maintained in an approved public repository; and (4) payment by [credit card](#) or check drawn on a U.S. bank for \$4,382 (\$518 filing fee and \$3,864 examination fee), payable to "Treasurer of the United States" (*See Section 97.6 of the Regulations and Rules of Practice*). **NEW:** For a seed reproduced variety, the applicant must provide at least 3,000 viable untreated seeds of the variety *per se*, and for a hybrid variety at least 3,000 untreated seeds of each line necessary to **reproduce** the variety. Partial applications will be held in the PVPO for not more than 90 days; then returned to the applicant as un-filed. **NO SEEDS SHOULD BE SENT TO PVPO.** With the exception of tubers, instructions for direct deposit will be sent with the filing letter. Mail application and other requirements to USDA, AMS, S&T, Plant Variety Protection Office at 1400 Independence Avenue, SW, Room 4512-South Building, Stop 0274, Washington, DC 20250. Retain one copy for your files. All items on the face of the application are self-explanatory except for the items below.

Items listed on the ST 470 Application Form

- ❖ Item 18 - A biotechnology event is defined as a single insertion of a nucleic acid construct into a specific site in a plant's chromosome that is regulated under the U.S. Coordinated Framework for the Regulation of Biotechnology. More information can be found at: <http://www.aphis.usda.gov/biotechnology>.
- ❖ Item 20. If "Yes" is specified (*seed of this variety be sold by variety name only, as a class of certified seed*), the applicant MAY NOT reverse this affirmative decision after the variety has been sold and so labeled, the decision published, or the certificate issued. However, if "No" has been specified, the applicant may change the choice. (*See Regulations and Rules of Practice, Section 97.103*).
- ❖ Item 23. *See Sections 41, 42, and 43 of the Act and Section 97.5 of the regulations for eligibility requirements.*
- ❖ Item 24. *See Section 55 of the Act for instructions on claiming the benefit of an earlier filing date.* Corrections on the application form and exhibits must be initialed and dated. **DO NOT** use masking materials to make corrections. If a certificate is allowed, you will be requested to send a payment by credit card or check payable to "Treasurer of the United States" in the amount of \$768 for issuance of the certificate. Certificates will be issued to owner, not licensee or agent.

Instructions Regarding Name Clearance

To avoid conflict with other variety names in use, the applicant must check the appropriate recognized authority and provide evidence that the permanent name of the application variety (even if it is a parental, inbred line) has been cleared by the appropriate recognized authority before the Certificate of Protection is issued. For example, for agricultural and vegetable crops, contact: U.S. Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Programs, Seed Regulatory and Testing Branch, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054-2193 Telephone: (704) 810-8870. <http://www.ams.usda.gov/lsg/seed.htm>.

Important Notice about Changes in Ownership or Assignments

It is the responsibility of the applicant/owner to keep the PVPO informed of any changes of address or change of ownership or assignment or owner's representative during the life of the application/certificate. The fees for filing a change of address; owner's representative; ownership or assignment; or any modification of owner's name is specified in Section 97.175 of the regulations. (*See Section 101 of the Act, and Sections 97.130, 97.131, 97.175(h) of the Regulations and Rules of Practice.*)

How to send seed samples

Domestic (U.S.) sources: Seed samples from within the U.S. should be sent directly to NCGRP at the following address via commercial carriers (i.e. FedEx, UPS, etc.) rather than the U.S. Postal Service. USDA-ARS-NCGRP, Attn: PVP Coordinator, 1111 South Mason St., Fort Collins, CO 80521-4500, Telephone: 970-492-7500.

Non-US sources:

1. Please email NCGRP at PVPCoordinator@ars.usda.gov to request documentation necessary to import seed into the United States. This documentation includes an Import Permit Address label specific for this shipment as well as a copy of the Import Permit.
2. Please note that the import label is valid only for the shipment assigned and is not re-usable. Seed shipped without proper documentation (Import Permit and Import Address labels) from non-US sources may be destroyed.
3. It is requested that a copy of the Import Permit be enclosed with the seed.
4. A Phytosanitary Certificate issued by the country of origin must accompany all samples received from non-US sources, per USDA Animal Plant Health Inspection Service (APHIS) regulations.
5. Inside the shipping box, please include your 1) seed deposit forms and 2) a letter to indicate where the seed is to be shipped after it is inspected by the Plant Protection and Quarantine Office (to USDA-ARS-NCGRP), and 3) a Phytosanitary Certificate.

Instructions for Completing Exhibit A - Origin and Breeding History

Updated Instructions - March 19, 2019 - The applicant is required to provide:

1. A full disclosure of the known genealogy, including the breeding method;
2. The details of subsequent stages of selection and multiplication used to develop the variety, including information about the selection criteria;
3. If not obvious or stated elsewhere in the application, the characteristics by which the application variety can be distinguished from its parents;
4. A statement of uniformity reporting the level of variability in any characteristics of the variety. (Commercially acceptable variability is allowed, but a frequency greater than 5% may cause the uniformity and stability to be questioned);
5. A statement of genetic stability showing the number of cycles of seed reproduction for which the variety has remained unchanged in all distinguishing characteristics;
6. A description of the type and frequency of genetic variants to be expected during normal maintenance, reproduction and multiplication of the variety.

Obtaining intellectual property rights requires disclosure. As part of this disclosure the applicant is to provide the public with information about his/her invention in exchange for protection of the variety. For Plant Variety Protection, this includes a full disclosure of the parentage and breeding methodology in the Exhibit A, Origin and Breeding History.

Also, as part of the breeding history and methodology, the Exhibit A includes the details of subsequent stages of selection and multiplication, including the selection criteria.

Completion of the Exhibit A standard form provided should satisfy most of these requirements, but additional documents may be included or used in substitution.

Instructions for Completing Exhibit B – Statement of Distinctness

To produce a Statement of Distinctness the applicant can follow the steps below. **If additional space is required, feel free to attach your supporting data on a separate sheet of paper and attach it to the Exhibit B form below.

1. State the most similar previously existing variety, varieties, or identifiable group of varieties; or,
2. State all the previously existing varieties known for a crop. Generally, this can only be one for a newly identified crop. State the character or characters that clearly distinguish the applicant's variety from the varieties stated in step 1 (i.e., the most similar variety or varieties). The ideal most similar variety is one that has been previously issued a certificate of plant variety protection or plant breeder's rights.
3. State the qualities or quantities of the character(s) referenced in step 2. Note the character state must be provided for the application variety and the most similar variety or varieties.

General Requirements for a Distinguishing Character:

1. Differences in quantitative characters such as plant size, seed size, and maturity that are not obvious and detectable without a direct comparison must be supported by evidence provided by the applicant. The evidence must be given as numerical data obtained from at least 2 trials.
2. Distinction based on differences in color needs to be referenced with a standard such as the Royal Horticultural Society Colour Chart or the Munsell Book of Color, unless dramatic (i.e., red vs. green). Color chart measurements must be conducted in two or more localities or growing seasons.
3. Distinction based on a difference in disease reaction needs to be supported with data or results from at least 2 trials that were conducted in two or more localities or growing seasons, unless dramatic (i.e., immune vs. highly susceptible); or the presence or absence of a gene known to produce the reaction must be stated. When the causal agent has been demonstrated or identified, the name/identity of that agent must be provided. Also, the disease reaction needs to be referenced to the race, strain, or pathotype of the causal agent or organism where appropriate. If the causal agent has not been demonstrated or identified, the nature of the source of the disease or inoculant used must be provided.
4. Differences in yield cannot be used as a basis for distinction because yield is a highly complex character. Sub-characters that contribute to differences in yield can be used as a basis for distinction.
5. Improvements in uniformity (by reducing the standard variation) are not sufficient to establish distinction.

Guidelines for Presenting Evidence in Support of Variety Distinctness:

Differences in quantitative characters such as plant size, seed size, maturity and any difference not obvious must be given as numerical data obtained from similar comparisons with a statistical analysis showing the degree of significance. The comparison must be conducted in at least two locations or two growing periods.

The following information is required as part of the statistical analysis:

1. Provide data or results from at least 2 trials for comparison of a differentiating characteristic, conducted in two or more localities or growing seasons with the results analyzed separately that clearly demonstrate repeatability (do not pool your data);
2. The location of each trial; planting, harvesting, and comparison dates for each trial; number of plants in each trial; sample size or number of plants (or plant parts) for each comparison;
3. Mean or average value of the differentiating characteristic for each variety in the comparison.
4. Some measure of the range of observed values for each variety in the comparison, such as the standard deviation, 95% confidence intervals, the actual range of observed values from the minimum to the maximum, or a histogram or box plot, which are helpful in determining the validity of any comparisons;

5. Name of the specific statistical analysis used (e.g., T-test, specific "LSD" procedure, ANOVA, 95% confidence interval, binomial distribution or the like);
6. Citation of the actual statistic and the probability value (if a T-test was used, provide the actual T-value, as well as the probability value corresponding to it);
7. Evidence that the analysis is appropriate in this case (e.g. if the distribution was not a normal distribution, that the analysis was non-parametric, e.g. Mann-Whitney U-test, or that the data were appropriately transformed), include any factors that prevented the normal distribution and/or confidence of the data.

Guidelines for selecting the most similar variety:

4. The most similar variety, or varieties, should ideally be a variety that has been protected by the PVPO (i.e. an existing PVP variety). If such a variety is not available, then the most similar variety should be described well enough for the PVPO to make a clear distinction between the new variety and the most similar variety. This can be accomplished best by submitting a complete Exhibit C form for the most similar variety in addition to the new variety, or by providing a complete description from another UPOV country or CPVO protected variety. This additional information can be included as an Exhibit D.

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE SCIENCE AND TECHNOLOGY - PLANT VARIETY PROTECTION OFFICE APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE <i>(Instructions and information collection burden statement on reverse)</i>		The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995. Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).	
1. NAME OF OWNER		2. TEMPORARY DESIGNATION OR EXPERIMENTAL NAME	3. VARIETY NAME
4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP Code, and Country)		5. TELEPHONE (include area code)	FOR OFFICIAL USE ONLY
		6. FAX (include area code)	
7. IF THE OWNER NAMED IS NOT A "PERSON", GIVE FORM OF ORGANIZATION (corporation, partnership, association, etc.)		8. IF INCORPORATED, GIVE STATE OF INCORPORATION	9. DATE OF INCORPORATION
10. NAME AND ADDRESS OF OWNER REPRESENTATIVE(S) TO SERVE IN THIS APPLICATION. (First person listed will receive all papers)		11. TELEPHONE (Include area code)	F E E S R E C D
		12. FAX (Include area code)	
13. E-MAIL		FILING AND EXAMINATION FEES: \$ DATE CERTIFICATION FEE: \$ DATE	
14. CROP KIND (Common Name)	15. GENUS AND SPECIES NAME OF CROP	16. FAMILY NAME (Botanical)	
17. IS THE VARIETY A FIRST GENERATION HYBRID? <input type="checkbox"/> YES <input type="checkbox"/> NO	18. DOES THE VARIETY CONTAIN ANY BIOTECHNOLOGY EVENTS? <input type="checkbox"/> YES <input type="checkbox"/> NO A biotechnology event is defined as a single insertion of a nucleic acid construct into a specific site in a plant's chromosome that is regulated under the U.S. Coordinated Framework for the Regulation of Biotechnology.	20. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE SOLD ONLY AS A CLASS OF CERTIFIED SEED? (See Section 83(a) of the Plant Variety Protection Act) <input type="checkbox"/> YES (If "yes", answer items 21 and 22 below) <input type="checkbox"/> NO (If "no", go to item 23) <input type="checkbox"/> UNDECIDED	
19. CHECK APPROPRIATE BOX FOR EACH ATTACHMENT SUBMITTED (Follow instructions) a. <input type="checkbox"/> Exhibit A. Origin and Breeding History of the Variety b. <input type="checkbox"/> Exhibit B. Statement of Distinctness c. <input type="checkbox"/> Exhibit C. Objective Description of Variety d. <input type="checkbox"/> Exhibit D. Additional Description of the Variety (Optional) e. <input type="checkbox"/> Exhibit E. Statement of the Basis of the Owner's Ownership f. <input type="checkbox"/> Filing and Examination Fee (\$4,382), <input checked="" type="checkbox"/> Make checks and money orders payable to "Treasurer of the United States" (Mail to the Plant Variety Protection Office) <input checked="" type="checkbox"/> Credit Card Payments (See instructions on Page 2 of 11)		21. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF CLASSES? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, WHICH CLASSES? <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED 22. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF GENERATIONS? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, SPECIFY THE NUMBER 1,2,3, etc. FOR EACH CLASS. ___ FOUNDATION ___ REGISTERED ___ CERTIFIED (If additional explanation is necessary, please use the space indicated on next page.)	
23. HAS THE VARIETY (INCLUDING ANY HARVESTED MATERIAL) OR A HYBRID PRODUCED FROM THIS VARIETY BEEN SOLD, DISPOSED OF, TRANSFERRED, OR USED IN THE U. S. OR OTHER COUNTRIES? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, YOU MUST PROVIDE THE DATE OF FIRST SALE, DISPOSITION, TRANSFER, OR USE FOR EACH COUNTRY AND THE CIRCUMSTANCES. (Please use space indicated on next page.)		24. IS THE VARIETY OR ANY COMPONENT OF THE VARIETY PROTECTED BY INTELLECTUAL PROPERTY RIGHT (PLANT BREEDER'S RIGHT OR PATENT)? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, PLEASE GIVE COUNTRY, DATE OF FILING OR ISSUANCE AND ASSIGNED REFERENCE NUMBER. (Please use space indicated on next page.)	
25. The owners declare that a viable sample of basic seed will be furnished directly to an acceptable depository in support of the variety within three months of filing. Seed will be replenished upon request in accordance with such regulations as may be applicable. For a tuber propagated variety or vegetative propagated parent of the variety, a tissue culture or vegetative sample will be deposited in a public repository within three months of the date of the certificate fee request letter. These will be maintained for the duration of the certificate.			
The undersigned owner(s) is(are) the owner of this sexually reproduced or tuber propagated plant variety, and believe(s) that the variety is new, distinct, uniform, and stable as required in Section 42, and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act. Owner(s) is (are) informed that false representation herein can jeopardize protection and result in penalties.			
SIGNATURE OF OWNER		SIGNATURE OF OWNER	
NAME (Please print or type)		NAME (Please print or type)	
CAPACITY OR TITLE	DATE	CAPACITY OR TITLE	DATE

22. CONTINUED FROM FRONT *(Please provide a statement as to the limitation and sequence of generations that may be certified.)*

23. CONTINUED FROM FRONT *(Please provide the date of first sale, disposition, transfer, or use for each country and the circumstances, if the variety (including any harvested material) or a hybrid produced from this variety has been sold, disposed of, transferred, or used in the U.S. or other countries.)*

24. CONTINUED FROM FRONT *(Please give the country, date of filing or issuance, and assigned reference number, if the variety or any component of the variety is protected by intellectual property right (Plant Breeder's Right or Patent).)*

U.S. DEPARTMENT OF AGRICULTURE
 AGRICULTURAL MARKETING SERVICE
 SCIENCE AND TECHNOLOGY - PLANT VARIETY PROTECTION OFFICE
 APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

EXHIBIT A – ORIGIN AND BREEDING HISTORY

** Use additional pages as needed.

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PVPO NUMBER

1. Name of Owner	2. Temporary Designation or Experimental Name	3. Variety Name
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4. Describe the genealogy (back to and including public and commercial varieties, lines, or clones used) and the breeding method(s). **

5. Give the details of subsequent stages of selection and multiplication. **

Year	Detail of Stage	Selection Criteria

6. Is the variety uniform? Yes No

How did you test for uniformity?

7. Is the variety stable? Yes No

How did you test for stability? Over how many generations?

8. Are genetic variants observed or expected during reproduction and multiplication? Yes No

If yes, state how these variants may be identified, their type and frequency.

U.S. DEPARTMENT OF AGRICULTURE
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PVPO NUMBER

EXHIBIT E - STATEMENT OF THE BASIS OF OWNERSHIP

1. Name of Owner	2. Temporary Designation or Experimental Name	3. Variety Name
4. Does the applicant own all rights to the variety? Mark an "X" in the appropriate block. If no, please explain.		
		YES NO
5. Is the applicant a U.S. national or a U.S. based entity? If no, give name of country.		
		YES NO
6. Is the applicant the original owner?		
YES	NO	If no, please answer <u>one</u> of the following:
a. If the original rights to variety were owned by individual(s), is (are) the original owner(s) a U.S. National(s)?		
YES	NO	If no, give name of country
b. If the original rights to variety were owned by a company(ies), is (are) the original owner(s) a U.S. based company?		
YES	NO	If no, give name of country
7. Additional explanation on ownership (<i>Trace ownership from original breeder to current owner</i>).		

PLEASE NOTE:

Plant variety protection can only be afforded to the owners (not licensees) who meet the following criteria:

1. If the rights to the variety are owned by the original breeder, that person must be a U.S. national, national of a UPOV member country, or national of a country which affords similar protection to nationals of the U.S. for the same genus and species.
2. If the rights to the variety are owned by the company which employed the original breeder(s), the company must be U.S. based, owned by nationals of a UPOV member country, or owned by nationals of a country which affords similar protection to nationals of the U.S. for the same genus and species.
3. If the applicant is an owner who is not the original owner, both the original owner and the applicant must meet one of the above criteria.

The original breeder/owner may be the individual or company who directed the final breeding. See Section 41(a)(2) of the Plant Variety Protection Act for definitions.