



PVPO Program Requirements

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PVPO administers the Plant Variety Protection Act of 1970 (as amended in 2018) which provides the authority for PVPO to provide intellectual property protection for new varieties of plants. It is a fee-for-service program. Upon receiving applications, the PVPO examines them to establish that they fulfill the five criteria of plant variety protection - (1) the variety must be new, (2) Distinct, (3) Uniform, and (4) Stable (DUS), and (5) appropriately named. PVPO then issues certificates of protection for the varieties which give the owners 20 years (25 for trees and vines) of exclusive rights. The following are the requirements to file an application for a Plant Variety Protection Certificate:

1. Complete All Application Forms and Provide Documentation:

1. The forms required include the ST-470 application, Exhibit A, Exhibit B, Exhibit C, Exhibit D, and Exhibit E Forms. Together, these forms gather information to demonstrate that the variety satisfies the five criteria. To complete these forms, grow-out trials should have already been completed by the breeder or representative of the breeder. For a more complete description of the requirements of grow-out trials or the submission of DUS reports from other countries see [Guidelines for Demonstrating DUS](#).
2. The ST-470 Application form contains information about the owner, representative, crop kind, variety name, the newness of variety, seed certification, and other intellectual property rights of the variety, if applicable. This form collects information that fulfills two of the five criteria.

- First, the variety has to be new (i.e., it has not been sold within one year domestically and four years internationally). The sale of a variety prior to applying for PVP is restricted and eligibility is dependent on when the PVP application is filed.

Sale of the Variety in the US: The variety may be sold in the US for up to 1 year prior to the date the PVP application has been accepted for filing with PVPO.

Sale of the Variety outside the US: The variety, except for trees and vines, may be sold outside of the US for up to 4 years prior to the date the PVP application has been accepted for filing with PVPO. Varieties of trees and vines (including rootstocks) may be sold outside the US for up to 6 years prior to the filing date with PVPO.

- Secondly, the owner must establish and provide a [variety name](#) that does not conflict with an existing name for that crop and provide a variety name clearance document with the application. Please see [Variety Naming](#) for more guidance.

3. Exhibit A is the Origin and Breeding History form that contains information about the variety propagation method, breeding history, uniformity, stability, and variants observed during reproduction and multiplication.
4. Exhibit B is the Statement of Distinctness form that collects information about the most similar varieties compared to the new variety including qualitative and quantitative trait differences.
5. Exhibit C is the Objective Description of the Variety form that collects morphological, physiological, and other characteristics, and documents variety distinctness. This form is equivalent to the Table of Characteristics in the UPOV Test Guidelines.
6. Exhibit D is for additional attachments including supporting data, color photographs, evidence of other intellectual property protection, and published articles. Note: one color photograph of the subject variety is required.
7. Exhibit E is the Statement of the Basis of Ownership form to confirm the name and country of the owner.

2. **Pay the Application Fees:** A fee of \$5,150 must be paid with the application, which includes the filing, examination, and certificate fees.

3. **Make a Germplasm Deposit:**

1. A seed deposit or plant tissue deposit (i.e., for sexually and tuber propagated varieties) is required. Information on the requirements for deposits can be found on the [ARS website](#) .
2. The deposit of propagating material for asexually reproduced plant varieties is not required. The applicant is required to sign a declaration that the propagating material will be maintained at a specific location, subject to PVPO inspection, and if requested by PVPO, the applicant has three months to provide the propagating material or risk losing protection.

Additional Germplasm Information

1. Do I need to send a germplasm deposit (voucher sample)?

Yes, an applicant needs to provide a voucher sample. [View Instructions for depositing seed and potato plantlets](#) . Seed samples must be deposited within three months after the filing date and must consist of 3,000 untreated seeds that germinate at 85 percent or greater. Tissue culture samples for tubers will be requested by the PVPO before the issuance of the Certificate with the procedures and costs explained at that time.

2. What are germplasm deposits (voucher samples) used for?

Voucher samples are used by PVPO if a question arises about the validity of the variety description. Seed and potato plantlets are sent to the National Laboratory for Genetic Resources Preservation (NLGRP) in Fort Collins, Colorado. The memorandum of understanding between PVPO and NLGRP states that these samples will be kept separate from the USDA Genebank collection during the term of plant variety protection. When received by NLGRP, their staff counts the number of seeds in the sample and tests it for germination rate. If the seed sample is less than 3,000 seeds or has a low germination rate of less than 85%, then this is reported to PVPO for seed replenishment from the applicant. Seed samples are placed in long-term cold storage according to practices established by NLGRP. Potato plantlets are stored in tissue culture as micro tubers. Shoot meristems are also cryopreserved in long-term storage.

3. Can others get PVP germplasm deposits (voucher samples)?

Seed and potato samples are unavailable to the public until plant variety protection expires or is terminated, at which time the samples are transferred to the USDA Genebank and can be requested by the public.

4. How can I request samples of expired PVP varieties?

Requests of expired PVP varieties can be made at the [Germplasm Resources Information Network \(GRIN\)](#) . Search on the PVP number or variety name. The USDA Genebank, also known as the U.S. National Plant Germplasm System (NPGS), distributes germplasm to scientists, educators, producers, and other bona fide research and education entities. The NPGS Curator and/or Research Leader will, following current NPGS policies and procedures, determine the legitimacy of a request when necessary.

5. Why am I required to make a deposit?

Germplasm samples serve as a voucher specimen for use by the PVPO to verify the validity of a variety description, if needed. The germplasm types are the following:

- **Sexually Reproduced (Seed) Samples** - Samples are stored at NLGRP. The seed samples are kept separate from the general collection during the term of protection. An applicant is required to provide an original deposit of materials for seed-reproduced plants which shall be made within three months of the filing date. The deposit consists of 3,000 viable untreated seeds of the variety; additionally, for first-generation hybrids, 3,000 seeds of each parent needed to reproduce the variety in addition to the variety seed sample. Seed samples from within the U.S. should be shipped to NLGRP via commercial carriers such as Federal Express, United Parcel Service, and others but not the U.S. Postal Service. The address for NLGRP is the following:

USDA, ARS, NLGRP
Attn: PVP Coordinator
1111 South Mason St.
Fort Collins, CO 80521-4500
Telephone: (970) 492-3200

- **Tuber Propagated (Potato) Samples** - Samples are stored at the NLGRP. Live plantlets of the variety and payment of tissue culture fees are required after the notice of certificate issuance is received. A deposit of ten (10) separate in-vitro plants (1 plant per tube), no more than two weeks old, firmly rooted in one percent agar is required for deposit at NLGRP, which prepares tissue cultures for preservation. It is recommended that plantlets be sent by an overnight delivery service to minimize the risk of damage. A fee of \$2,400 is required for long-term storage.
- **Asexually Reproduced (Vegetative) Samples** - Samples are to be maintained by the applicants themselves.

6. What if I Want to Import Germplasm from Outside the United States?

For Sexually Reproduced (Seed) and Tuber Propagated (Potato Plantlets) Varieties, please [email](#) NLGRP to request an NLGRP Plant Material Import Instruction letter and importation documents (if required).

Please do not send any plant material until complete instructions are received from NLGRP. Seed and potato plantlets shipped without proper documentation from non-US sources may be destroyed.

Additional Resources

- [PVP Act](#)
- [PVP Regulations](#)

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