

## Plant Variety Protection Office (PVPO)



# Application Process

## Applying for a Plant Variety Certificate

**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).

## Application Sections

The application for a plant variety protection certificate (ST-470) includes:

- **General Applicant Information** establishes the name of the owner, name of the representative, the variety name, and the date of first sale if one exists.
- **Exhibit A: Origin and Breeding History** provides information about parentage, breeding methodology, and is used to determine if development is sufficient to consider the variety new. Also includes statements on the variety's uniformity and stability.
- **Exhibit B: Statement of Distinctness** contains the claims that support the difference of the new variety from all known varieties by stating specifically what characteristics are different from the most similar variety known to the applicant (based on side-by-side variety trials).

### Application Sections (continued)

- **Exhibit C: Variety Descriptive Information** provides specific observable qualitative and quantitative characteristics of the new variety to be compared against the most similar variety and other known comparison varieties.
- **Exhibit D: Optional Additional Information** is used to allow applicants to provide additional data tables, charts, photographs, and other information related to the new variety.
- **Exhibit E: Statement of the Basis of Ownership** confirms the owner's name, the variety name, and country where the owner is located. If the current owner is not the original owner or breeder, the transfer should be explained.

### Electronic Plant Variety Protection System (ePVP)

The US Plant Variety Protection Application can be submitted online using the ePVP system or via PDF emailed directly to our office. The ePVP System is the best way to apply and can be accessed anywhere in the world.

#### The ePVP system provides an easy way to:

- Upload multiple applications
- Check the status of your applications
- File new/amend existing applications
- Pay fees
- Correspond with PVPO staff

#### eAuthentication

To ensure system security, all users of the ePVP System must have electronic authentication through the USDA e-Authentication system:

<https://www.eauth.usda.gov/mainPages/index.aspx>

- **Domestic Users** must apply for and obtain a Level 2 Authentication to access the system.
- **International Users** must apply for and obtain a Level 1 eAuthentication and send an e-mail to [pvpomail@usda.gov](mailto:pvpomail@usda.gov) to request access to the system.

#### Provisional Protection

Serves as a means to protect a candidate variety from the date when the PVP application is filed until the date when the rights are granted. Under provisional protection:

- The applicant is permitted to initiate legal action, once rights are granted
- There are no restrictions on the sale of a variety
- The applicant has the same rights as they would if the variety were granted rights
- The applicant must notify, in writing, any person potentially infringing on their rights.
- Addition of the phrase “Unauthorized Propagation Prohibited – U.S. Variety Protection Applied For” to the product label is suggested.

Provisional protection will be automatically granted; no request or additional fee is required for this interim protection.

## Checklist for Applicants

- **eAuthentication**
  - Identity Verification
  - Account Registration
- **Application**
  - ePVP system account creation
  - Application creation
  - Request [USDA Seed Regulatory and Testing Division Variety Name Clearance](#)
- **Upload Data**
  - Application Submission
  - Provide Evidence for Newness/Distinctness/Uniformity/Stability
- **Payment**
  - Using ePVP or [Pay.gov](#)
- **Examination Process**
  - Answer Examiner Requests for Information
- **Germplasm Submission**
  - Submission of Germplasm to approved Repository
    - Seed: Directly after payment
    - Asexual: Upon recommendation for protection
- **Certificate Issuance**
  - Confirm Variety Name and Owner via Certificate Request Letter
- **Post-Issuance**
  - Recordation Updates
  - Germplasm Replenishment

## Contact Information

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