

What is Plant Variety Protection (PVP)?

Congress established the U.S. Plant Variety Protection Act in 1970. The purpose of the Act was to give plant breeders in public and private institutions an incentive to develop superior plant varieties. The PVPA also aimed to give the owner of a plant variety the exclusive right to produce and market that variety. Better varieties help farmers bolster family income and remain competitive in the market place.

The Plant Variety Protection Act gives owners of a variety the right to control production, distribution, and marketing. The PVPA serves the same purpose as a patent. It allows the owner to be compensated for the cost of developing the variety.



Who can apply for Plant Variety Protection (PVP)?

Anyone can apply for PVP as long as their variety meet the following conditions:

1. It must be a new variety.
2. It must be distinct from other varieties.
3. It must be uniform with variations describable, predictable, and commercially acceptable.
4. It must be stable, remaining unchanged from one generation to the next.

Certified Seed Only:

Certified seed must be bought new each year; farmer saved seed cannot be used for planting the following year. CSO differs from PVP in that the farmer may not keep seed for use on the farm, all seed must be delivered.

PVP Information:

The label on the bag or bulk certificate will clearly identify seed protected under the PVPA. The Plant Variety Protection website provides additional information:

<https://www.ars-grin.gov/cgi-bin/npgs/pvp/pvplist.pl>

Who to contact (with questions or for a copy of the PVP Act):

USDA, AMS, S&T, Plant Variety Protection Office
1400 Independence Ave., S.W.
Rm. 4512-South Bldg., Mail Stop 0274
Washington, DC 20250-0002

The Montana Crop Producer and the Plant Variety Protection Act

(PVPA)



Provided by:



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1994 Amendments to the PVPA:

Amendments apply to all varieties protected after April 4, 1995.

1. Requires protected varieties be sold by variety name. 'VNS' cannot be used in selling seed.
2. An 'Essentially Derived Varieties' category was established related to plant breeding using protected varieties.
3. Unauthorized sale of protected varieties is prohibited. Owners must provide permission to sell seed.
4. First generation hybrids are protected.
5. Potatoes and tubers can be protected for 25 years.
6. Crop varieties are protected for 20 years, trees and vines are protected for 25 years.
7. Growers can demand prompt payment for contract growing protected varieties of alfalfa, clover, lawn turf or forage grass seed, if the owner of variety fails to honor contract.
8. Farmers exemption was taken out of the act.

Difference Between PVP and PVP Title V:

1. PVP– the owner retains exclusive control of the production and distribution of their variety.
2. PVP Title V– same as PVP only the variety must be sold as a class of certified seed. Sales of non-certified seed are illegal under Title V of the Federal Seed Act.

Note: The 1994 amendments provided that a conditioning plant could be liable for conditioning seed that might be offered for sale illegally. The use of a waiver of liability for the conditioning plant signed by the seed producer/client is strongly recommended.

Additionally, the certified holder has the right to file for damages against the harvested material produced from illegally acquired seed.

Farmer Saved Seed:

A farmer can save seed only for planting his/her holdings (this includes land that is owned, leased, or rented). This seed, however, can never be sold or traded to another producer for seeding purposes. This does not apply to private varieties listed as certified seed only (CSO).

Penalties:

An owner shall have remedy by civil action for infringement on a protected variety.

A court of law may order violations to pay up to three times the amount of damages plus cost of bringing the civil action.



Protected Variety Notice:

Owner must affix to the seed container, "Unauthorized Propagation Prohibited" or "Unauthorized Seed Multiplication Prohibited" or in addition to the above, "U.S. Protected Variety".

Infringements:

Infringements are considered to be any of the following if they are done without the permission of the certificate owner/holder.

1. Sale of market protected variety.
2. Import or export into or from the U.S.
3. Sexually multiply as a step in marketing the variety.
4. Use in producing a hybrid.
5. Use seed marked "Unauthorized Propagation Prohibited" or "Unauthorized Seed Multiplication Prohibited" or its progeny to propagate the variety.
6. Dispense the variety to another without notice that it is a protected variety.
7. Condition the variety for purposes of propagation except for the farmer's own saved seed.

