

SEED PROTECTION: RIGHTS AND RESPONSIBILITIES

DEFINITIONS:

1970 Plant Variety Protection Act (PVPA) - Legislation enacted to promote the development of new varieties by allowing the variety owner to determine who may sell seed of the variety. Farmers may save seed for their own planting needs and sell that amount to a neighbor, if plans for that variety change. All seed sales must comply with state seed laws. Applies to all varieties protected prior to April 4, 1995.

1994 Amended PVPA - Amendment to the Plant Variety Protection Act that prohibits the sale of any farmer saved seed without the permission of the variety owner. It also extends protection to tuber reproduced plants, varieties essentially derived from the variety, and harvested material of the variety. Seed protected under the 1994 PVPA must be sold by variety name (except for turf, forage, alfalfa & clover). Length of protection was increased to 20 years for most kinds, 25 years for trees, shrubs and vines. Applies to all varieties protected after April 4, 1995.

Title V - an option for protected varieties that allows for the sale of the seed by variety name only as a class of certified seed. Non-certified sales are prohibited. Seed may be called "Certified" only after meeting all requirements and standards of an Official Seed Certifying Agency.

Utility Patents - A means of protection for certain varieties, especially those developed through genetic engineering or biotechnology. Farmers may not save, clean/condition, or sell any seed protected under a utility patent.

	'70 PVPA	'94 PVPA	TITLE V	PATENT
FARMER:				
ALLOWED TO SAVE SEED	*YES	*YES	*YES	NO
ALLOWED TO SELL SEED (No Advertizing) TO NEIGHBOR if in compliance with state laws.	*YES	NO	'70 PVPA ONLY	NO
CONDITIONER:				
Condition varieties for Farmers	*YES	*YES	*YES	NO
Store Seed for Farmers	*YES	*YES	*YES	NO
Clean or Stock as step in Marketing Variety	NO	NO	NO	NO
Deliver or Load Seed to a Third Party	NO	NO	NO	NO
Advertise Farmer Saved Seed	NO	NO	NO	NO
Sell or act as Broker for Farmer Saved Seed	NO	NO	NO	NO

*Limited to the amount of seed needed to plant a farmers own holdings (land owned, leased or rented).

For further information, check out, <http://www.ams.usda.gov/AMSV1.0/PlantVarietyProtectionOffice>, <http://www.uspto.gov/> or call the Plant Board Seed Division at (501) 225-1598.

QUESTIONS and ANSWERS ON PLANT VARIETY PROTECTION

Q. What are the benefits of Plant Variety Protection for farmers?

A. The Plant Variety Protection Act was designed to promote the development of new varieties. Allowing Plant Breeders to determine who can sell seed of the varieties developed gives them the ability to recoup the monies expended in the process and re-invest in future variety development programs.

Q. What changes were made when the Plant Variety Protection Act was amended in 1994?

A. The major provisions of the 1994 PVPA:

- ◆ Prohibits the sale of any farmer saved seed without the permission of the variety owner.
- ◆ Requires that protected varieties be sold by variety name.
- ◆ Extends protection to tuber reproduced plants, varieties essentially derived from the variety, and harvested material of the variety.
- ◆ Increased length of protection to 20 years for most kinds, 25 years for trees, shrubs and vines.

Q. How can I tell if the seed I buy is protected under the 1970 or 1994 PVP?

A. The label on the bag of seed will identify if the seed is protected and distinguish which Act it is protected under.

Q. Can a farmer save seed of a protected variety?

A. A farmer can save seed protected under both the 1970 and 1994 PVPA for planting on his own holdings (land owned, leased or rented).

Q. Can a farmer sell seed of a protected variety?

A. Under the 1970 PVPA - Yes, but only the amount needed to plant his own holdings and if in compliance with state laws & regulations.
Under the 1994 PVPA - No, unless permission is given by the variety owner.

Q. Can I clean seed for a farmer?

A. Any actions taken as a step in marketing farmer-saved seed are infringements of the rights of the owner. This can include cleaning excess seed or delivering seed to a third party. Under the 1994 PVPA, cleaning or storing farmer saved seed for sale are infringements. Anyone who cleans or conditions farmer saved seed should keep written documentation from the farmer stating that the seed being cleaned is not in violation of PVP laws or Patents.

Q. What does PVP Title V protection mean?

A. If this option is selected by the variety owner, it means the variety must be sold by variety name as a class of certified seed. Title V of the Federal Seed Act makes sales of non-certified seed of these varieties illegal.