

## Plant Variety Protection Office (PVPO) E-News

We are pleased to provide you the latest PVPO E-News. The newsletter provides news about the PVPO team, helpful Plant Variety Protection (PVP) tips, and other valuable information that we are certain you will find useful. This issue will focus on what determines when a variety is “new” and we will provide possible scenarios to illustrate the general rule.



In order to obtain PVP, a variety must be new, distinct, uniform, and stable (DUS) and have a name (denomination). A new variety is one that hasn't been sold for more than 1 year in the United States (U.S.) or more than 4 years outside the U.S. The exception is trees or vines, which can't be sold for more than 6 years outside the U.S.



For the purpose of PVP, the “sale clock” starts ticking when propagating material (seeds, tubers, cuttings, etc.) or harvested material (grain, flowers, lettuce leaves, etc.) have been sold with the owner's permission. Also, if a hybrid variety has been sold, the parents that produced the hybrid are also considered sold.

There are two exceptions to this general rule:

- 1) if the variety was transferred/sold to determine its unique features. For example a potato variety was sold to evaluate chipping quality or a tomato variety sold for determining sauce processing properties or
- 2) if the variety was transferred/sold to increase supply. For example, the variety is provided to a grower for stock seed production.

Neither of these would be considered “sold” for the purpose of PVP.

To better illustrate, here are some possible scenarios:

- If 1,000 pounds of soybean variety 'X' was sold to a grower on November 10, 2015 – this variety would be “new” as long as the PVP application is filed on or before November 10, 2016. (Rule: hasn't been sold for more than 1 year in the U.S.)
- If 10 pounds of lettuce variety 'Y' was sold to a French farmer on April 15, 2013 – this variety would be “new” as long as the PVP application is filed on or before April 15, 2017 in the U.S. (Rule: hasn't been sold more than 4 years outside the U.S.)



- If 10,000 pounds of a potato variety was sold to farmer Smith in 2013, 2014, 2015 so that the variety owner could evaluate three years of fry processing quality - this variety would still be a new variety in 2016. (Rule exception: the variety was transferred/sold to determine its unique features)
- If 2 pounds of tomato seed was sold to a seed producer on March 20, 2014 and then 20 pounds of the seed from the seed producer were sold to farm Stevens on April 15, 2015 - this variety would be “new” as long as the PVP application was filed on or before April 15, 2016. (Rule exception: the variety was transferred/sold on March 20, 2014 to increase supply).
- If the hybrid tobacco variety ‘BC’ was sold on October 15, 2013 - neither of its parents ‘B’ or ‘C’ would be “new” on or after October 16, 2014. (Rule: if a hybrid variety has been sold, the parents that produced the hybrid are also considered sold.)



We suggest that PVP applicants submit their complete PVP applications well before these 1, 4, or 6 year time restrictions. For a more detailed explanation, please refer to sections 41(b) (1-3) and 42(a) (1) of the Plant Variety Protection Act at [Plant Variety Protection Act](#) .

We welcome your suggestions on topics for future newsletters as well as ideas on how we can improve our service. Please feel free to contact the PVPO if you have any questions, comments, or suggestions.

The USDA is an equal opportunity provider, employer, and lender.

The PVPO Listserv informs subscribers of updates or important program announcements posted to the website. You can login to modify your email profile or unsubscribe at <http://info.ams.usda.gov/PVPO/login.php>. You can also modify your email profile or unsubscribe.

Anyone interested in subscribing may do so by visiting: [www.ams.usda.gov/PVPO](http://www.ams.usda.gov/PVPO). Click on the “PVPO Listserv” link in the Resources box on the right-hand side.

For more information, please contact:  
Plant Variety Protection Office  
Science & Technology Program

Agricultural Marketing Service  
United States Department of Agriculture  
Office: (202) 720-1128  
[PVPOmail@ams.usda.gov](mailto:PVPOmail@ams.usda.gov)