

## **Plant Variety Protection (PVP)**

It is becoming increasingly important that seed producers understand and adhere to the federal Plant Variety Protection Act (PVPA)

The PVPA was signed into law on December 24, 1970. The law provides that the developer of a new distinct variety may obtain property rights protection for that variety provided the variety meets the requirements of the PVPA. A Certificate of Protection is valid for 18 years and excludes others from selling, offering for sale, reproducing, importing, exporting, or using the protected variety in the production of a hybrid or different variety during this time without the permission of the owner. The owner is responsible for enforcing these rights.

Two options for plant variety protection are available to the developer of a variety. Under the first option (PVP only), the developer of the variety may sell either certified or uncertified seed of the variety. A grower cannot produce or sell seed of a protected variety without the permission of the developer. If the developer of the variety has reason to believe that anyone is infringing on the protected rights, the developer may resort to civil action.

The second option (“certification option”), utilizes the provision of Title V of the Federal Seed Act. This option requires that any seed produced of a Title V variety must be grown under a certification program. A variety protected in this manner may be sold by variety name only as a class of certified seed. Violators of this option face prosecution by both federal and state governments, as well as any civil action brought by the variety owner.

It is the responsibility of the seller to inform the buyer if the variety is protected. Each container of seed sold should be labeled with a tag indicating the type of protection which the owner has. Under the first option, the label will state: “U.S. Protected Variety- Unauthorized Propagation Prohibited.” Under the second option, the label will state: “U.S. Protected Variety- Unauthorized Propagation Prohibited- To Be Sold by Variety Name Only as a Class of Certified Seed.”

A complete listing of all government protected varieties may be obtained from the agency’s website:

<http://www.ars-grin.gov/cgi-bin/npgs/html/pvplist.pl>

The Plant Variety Protection homepage is located at:

<http://www.ams.usda.gov/AMSV1.0/>