



PLANT BREEDERS' RIGHTS APPLICATION FORM FOR FILING PURPOSES

(see pages 3-4 for instructions)

This form is to be completed and submitted to the Plant Breeders' Rights Office (PBRO) in order to receive a filing date for a new application. Information presented at the time of application remains confidential until publication in the *Plant Varieties Journal*.

| | | | |
|-----------|---|---|--|
| 1. | Applicant Information | | |
| | Name (as it is to appear on the certificate for grant of rights) | | |
| | Address | | |
| | Phone Number | Fax Number | E-mail |
| 2. | Agent Information (for Plant Breeders' Rights purposes only. Please note that an Agent is required for foreign applicants and is optional for Canadian applicants) | | |
| | Name | | |
| | Address | | |
| | Phone Number | Fax Number | E-mail |
| 3. | Botanical Classification of the Variety | | |
| | Botanical Family | Genus and Species | Crop Kind (common name) |
| 4. | Denomination Information (Note: the denomination or any part of the denomination must not be a trademark or similar indication in Canada) | | |
| | Proposed Denomination | Other Designation(s) (include country of use) | |
| | Is this an experimental designation? | | |
| 5. | Breeder Information (only complete this section if different from applicant) | | |
| | Name | | |
| | Address | | |
| | Phone Number | Fax Number | E-mail |
| | Is the Breeder an employee of the Applicant? | | |
| 6. | Information on other Applications | | |
| a) | Has an application for protection been filed outside of Canada? | | If yes, list names of countries and dates filed, include application number if available |
| b) | Has the variety been granted rights in other countries? | | If yes, list names of countries and dates filed, include application number if available |

Information may be accessible or protected as required under the provisions of the *Access to Information Act*.

| | | | |
|------------|--|---|--|
| 7. | Claiming Priority | | |
| | Is priority claimed in Canada with respect to an application made outside of Canada? | | If yes, list names of countries and dates filed, include application number if available |
| 8. | Information on Sales of the Variety | | |
| | a) Has the variety been sold outside of Canada? | | If yes, give names of countries and dates |
| | b) Has the variety been sold in Canada? | | If yes, give dates |
| 9. | Compulsory Licensing | | |
| | Is an exemption from compulsory licensing requested? | | If yes, give reasons |
| 10. | Additional Information (Note: items 10A to 10E inclusive must be submitted with a completed application form to secure a filing date. Items 10F to 10H must also be submitted when applicable. Please attach additional pages for these items). | | |
| | <input type="checkbox"/> | A. Origin and breeding history of the variety | |
| | <input type="checkbox"/> | B. Statement of uniformity and stability | |
| | <input type="checkbox"/> | C. Distinctness statement | |
| | <input type="checkbox"/> | D. Methods for maintaining the variety | |
| | <input type="checkbox"/> | E. Fee(s) (complete a fee payment form) | |
| | <input type="checkbox"/> | F. Sample of propagating material (where applicable) | |
| | <input type="checkbox"/> | G. Authorization of an Agent (where applicable, submit an Authorization of Agent form) | |
| | <input type="checkbox"/> | H. Evidence establishing the applicant as the legal representative (where applicable, submit a legal representative statement/assignment before the issue of Plant Breeders' Rights form) | |
| 11. | Protective Direction (to be completed by an Applicant/Agent requesting a protective direction, a protective direction fee of \$50 must be submitted to validate this signature) | | |
| | <p>I/We request that a protective direction be given in respect of the plant variety covered by this application. I/We undertake while the protective direction is in force, that no propagating material of the plant variety will be sold in Canada by me/us, or with my/our consent, except as provided in subsection 19(2) of the <i>Plant Breeders' Rights Act</i>, in the period between the making of this application and the time when the Plant Breeders' Right is granted, or refused.</p> | | |
| | Name | Capacity or Title | Signature |
| | | | Date |
| 12. | <p>To be completed by all Applicants or Agents (where an agent has been appointed by the Applicant) I/We am(are) the owner(s) or acting on behalf of the owner(s) of this novel plant variety, and believe that the variety is distinct, uniform and stable as required in subsection 4(2) of the <i>Plant Breeder's Rights Act</i>. I/We understand that test results must be carried out using acceptable scientific procedures. I/We certify that the sample of propagating material supplied (where applicable) is representative of the variety. I/We declare that no Canadian Trademark or similar indication has been, nor will be, applied for or received for the denomination or any part of the denomination.</p> <p>Making a false representation is an offence and may result in a loss of the Plant Breeders' Right and prosecution.</p> | | |
| | | Name | Capacity or Title |
| | | | Date |

INSTRUCTIONS FOR FILING A PLANT BREEDERS' RIGHTS APPLICATION**GENERAL:**

The effective date of an application for Plant Breeders' Rights (PBR) is when all items listed in the Filing Requirements are received in the PBR Office (PBRO). Facsimiles of the application form and other documents are acceptable provided original signed copies are submitted to the PBRO within 60 days of the filing date.

Please mail applications and other documents to:

Plant Breeders' Rights Office
Canadian Food Inspection Agency
59 Camelot Drive
Ottawa, Ontario, K1A 0Y9, CANADA
Fax: (613) 773-7261
Website: www.inspection.gc.ca/english/plaveg/pbrpov/pbrpove.shtml

Filing Requirements:

- A. Completed application form
- B. Submissions requested in item 10 of the application form:
 - origin and breeding history of the variety;
 - statement of uniformity and stability;
 - distinctness statement;
 - methods for maintaining the variety;
 - sample of propagating material (where applicable);
 - authorization of agent (where applicable);
 - evidence establishing the applicant to be the legal representative (where applicable).
- C. Fees
 - Filing fee (\$250)
 - Protective direction fee (\$50, where applicable)
 - Fee for claiming priority (\$50, where applicable)

ITEMS FROM APPLICATION FORM:

1. **APPLICANT INFORMATION:** State the name as it will appear on the PBR Certificate. The applicant must be either the breeder or his/her employer, or a legal representative assigned by the breeder. Applicants resident outside of Canada must appoint an agent in Canada. See 10H for additional information on legal representative.
2. **AGENT INFORMATION:** The agent for Plant Breeders' Rights must be a Canadian resident and is required for all foreign applicants. An agent is optional for Canadian applicants. Please note that authorizing an agent makes the agent the main contact person for the office and authorizes them to change the status of the application. For example, the agent has the ability to withdraw the application for PBR.
4. **DENOMINATION INFORMATION (Variety name):** Provide a variety denomination at the time of application. It may be a temporary designation or experimental number. A final denomination should be submitted prior to publication of the variety description in the *Plant Varieties Journal*. If a variety has been protected, or if an application for protection has been filed, in another country, the variety denomination in Canada must be the same as the denomination in the other country(ies). If the variety is not protected in another country but is being marketed or is known by a particular denomination in that territory, that same denomination must be used if the variety is protected in Canada. The denomination or any part of the denomination must not be a trademark or similar indication in Canada. For more information on denominations go to:
<http://www.inspection.gc.ca/english/plaveg/pbrpov/denome.shtml>
OTHER DESIGNATIONS: List trade names, synonyms and any other name used to identify the variety.
5. **BREEDER:** Indicate the breeder of the candidate variety. If the breeder is not the applicant and is not an employee of the applicant, then the application must be supported by an assignment (evidence of legal representation) from the breeder to the applicant (see item 10H).
7. **CLAIMING PRIORITY:** Priority may be claimed only when the application has been accepted for filing in Canada within 12 months of the filing date of the first application made in another UPOV member country. A fee (\$50) for claiming priority must be submitted at the time of application.
9. **EXEMPTION FROM COMPULSORY LICENSING:** Exemptions from compulsory licensing will only be granted to allow the applicant sufficient time to multiply and distribute propagating material of the variety. They may be granted for up to two years from the date of grant of rights.

- 10A. **ORIGIN AND BREEDING HISTORY OF THE VARIETY:** The information submitted under this item establishes the origin of the variety and provides a history of how the variety was derived. Where applicable, the following points should be included in the description of the origin and breeding history of the variety:
1. Pedigree or genealogy, including varieties, lines, or clones used;
 2. Method of origination, breeding technique, selection criteria used and stage of selection and multiplication, and the propagation method for crops asexually reproduced;
 3. Location where breeding was conducted, when and where the initial cross and final cross(es) were conducted/or the variety discovered.
- 10B. **STATEMENT OF UNIFORMITY AND STABILITY:** Provide a statement that the variety is uniform and stable. Include description and frequency of any off-types, variants or mutations. Variation may be regarded as part of the variety if it is predictable, capable of being described and commercially acceptable.
- 10C. **DISTINCTNESS STATEMENT:** Provide a brief summary of the characteristics which distinguish the candidate variety from all varieties of common knowledge. For more details on choosing reference varieties please see the document, Guidelines for Conducting PBR Comparative Tests and Trials. Test results substantiating the distinctness statement are not required at the time of filing. The following items should be included in the distinctness statement:
1. Names of reference variety(ies) that the candidate variety is most similar to;
 2. Comparison between the candidate and reference variety(ies) using the major distinguishing characteristics.
- 10D. **METHODS FOR MAINTAINING THE VARIETY:** The holder of the right is responsible for ensuring that propagating material representative of the variety is maintained for the duration of the right. Provide a brief statement which includes the following:
1. How the propagating material will be maintained throughout the duration of the right;
 2. Complete address where the variety will be maintained.
- 10E. **FEES:** All fees must be paid in Canadian funds. A fee payment form is available for your convenience.
- 10F. **SAMPLE OF PROPAGATING MATERIAL:** Supply a seed sample of crops propagated by seed to the PBRO at the time of filing an application. For seed sample sizes see the sample requirements at: <http://www.inspection.gc.ca/english/plaveg/pbrpov/seedgrainee.shtml>. Vegetatively propagated crops are exempt from this requirement.
- 10G. **AUTHORIZATION OF AN AGENT:** Please submit a separate form for each variety. A generic form may be used for this purpose (available at: www.inspection.gc.ca/english/plaveg/pbrpov/agenmane.pdf).
- 10H. **LEGAL REPRESENTATIVE:** Include documentation (letters of administration or confirmation) to support the claim that the applicant is the legal representative of the breeder. The documentation should include: the name and address of the breeder of the variety; the crop kind and denomination of the plant variety; a letter of assignment signed by both the breeder and the assignee, each in the presence of a witness and the effective date of the assignment. A generic form (available at: www.inspection.gc.ca/english/plaveg/pbrpov/repe.pdf) may be used for this purpose. Please submit a separate form for each variety.
11. **PROTECTIVE DIRECTION:** This must be applied for at the time of filing the application. Sign and date the designated area on the application form and include an additional \$50.00 with your payment. The protective direction serves as a means to protect the candidate variety for a time period extending from when the applicant files for protection and the date when rights are granted. With a protective direction, the applicant is permitted to initiate legal action against any infringements which may occur while the application is pending. Please note, the variety can not be sold commercially while the protective direction is in force, unless it is for scientific research, for multiplying stock for sale back to the applicant, or for part of a transaction involving the sale of a right (see section 19(2) of the *PBR Act*). The protective direction can be removed at any time by contacting the office.
12. **SIGNATURE:** The application must be signed and dated by the applicant or agent. In the case of a corporation the capacity of the signing officer must be included (e.g. director).