

## PLANT VARIETY PROTECTION FOR POTATO IN THE U.S.

The Plant Variety Protection Act (PVPA) was amended effective April 4, 1995 and the regulations related to the Act have been revised. As a part of these amendments, the potato was added to the list of crops to be protected. The PVPA provides patent-like protection (20-year period) for seed-reproduced and tuber-reproduced crops. To qualify for protection the variety must be distinct of all other varieties, uniform, and stable. If the variety has either been 1) sold or used for commercial purposes, or 2) disposed of to other persons with the consent of the breeder in the United States for more than one year or in a foreign country for longer than four years, then the variety is ineligible for protection. An amendment to the PVPA in the spring of 1996 allows for a 1-year period of grandfathering in potato varieties that have been protected outside the U.S. PVPA protection can be requested for these varieties and the period of protection will be equivalent to the time of protection remaining in the original country of protection. For example, if a variety has had 11 of its 20 years of protection in the Netherlands at this time, it can be protected up to 9 more years in the U.S. if PVP is awarded.

Since 1970, 3,613 PVP certificates have been issued. Average processing time for a PVP application has been 24 months, and the goal of the office is to continually reduce this processing time frame. However, incomplete applications or ones that require additional information to determine distinctness, uniformity and stability may increase the processing time.

A complete application for PVP has five parts. These are listed below:

|           |   |
|-----------|---|
| Exhibit A | Origin and Breeding                         |
| Exhibit B | Statement of Distinctness                   |
| Exhibit C | Objective Description                       |
| Exhibit E | Statement of Basis of Applicant's Ownership |
| Exhibit F | Voucher Sample                              |

The PVP application must be submitted with the application fee. The current charge for the PVP application is \$2,450. There is a \$300 charge for the issuance of the certificate and a \$250-500 repository charge for tuber reproduced crops.

Dr. Marsha Stanton is the commissioner of the PVP office (301-504-5518). The potato examiner is Robert W. Schlegel. He can be reached by phone at 301-504-5697, by FAX at 301-504-5291 or E-mail at Robert\_W\_Schlegel@USDA.gov for an application, questions or advice regarding a potato PVP application. The status of a PVP application can be checked on the World Wide Web on the PVP office Homepage <http://www.USDA.gov/ams/pyptitle.htm>.

Submitted by the Ad Hoc Committee for potato variety descriptors:

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|--------------|-------------|--------------|
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