under the Act, persons filing an application for plant variety protection in the United States under the provisions of paragraph (a)(3) of this section shall, upon request, furnish the Plant Variety Protection Office with a copy of the current plant variety protection laws and regulations for the country of which the applicant is a national, and an accurate English translation of such laws and regulations.

(c) Application and exhibit forms shall be issued by the Commissioner. (Copies of the forms may be obtained from the Plant Variety Protection Office, National Agricultural Library, Room 401, 10301 Baltimore Avenue, Beltsville, MD 20705–2351).

(d) Effective the date of these regulations and rules of practice, the signature of the applicant, or his or her agent or attorney on any affidavit or other statement filed pursuant to these regulations and rules constitutes a certification by the applicant. The signature certifies that all information relied on in any affidavit or statement filed in the course of the proceeding is knowingly correct and false claims have not been made to mislead.


§ 97.7 Deposit of Voucher Specimen.

(a) Voucher specimen types. As regards the deposit of voucher specimen material for purposes of plant variety protection applications under 7 U.S.C. 2321 et seq., the term voucher specimen shall include material that is capable of self-replication either directly or indirectly. Representative examples include seeds, plant tissue cells, cell lines, and plots of vegetative material of self-incompatible parental lines of hybrids. Seed samples should not be treated with chemicals or coatings.

(b) Need to make a deposit. Applications for plant variety protection require deposit of a voucher specimen of the variety. The deposit shall be acceptable if made in accordance with these regulations. Sample packages shall meet the packaging and deposit requirements of the depository. Samples and correspondence about samples shall be identified, minimally, by:

(1) The application number assigned by the Office;
(2) The crop kind, genus and species, and variety denomination; and
(3) The name and address of the depositor.

(c) Acceptable depository. A deposit shall be recognized for the purposes of these regulations if made in:

(1) The National Center for Genetic Resources Preservation, ARS, USDA, 1111 South Mason Street, Fort Collins, CO 80521–4500, or...
(2) Any other depository recognized to be suitable by the Office. Suitability will be determined by the Commissioner on the basis of the administrative and technical competence, and agreement of the depository to comply with the terms and conditions applicable to deposits for plant variety protection purposes. The Commissioner may seek the advice of impartial consultants on the suitability of a depository. The depository must:
   (i) Have a continuous existence;
   (ii) Exist independent of the control of the depositor;
   (iii) Possess the staff and facilities sufficient to examine the viability and quantity of a deposit, and store the deposit in a manner which ensures that it is kept viable and uncontaminated;
   (iv) Provide for sufficient safety measures to minimize the risk of losing biological material deposited with it;
   (v) Be impartial and objective;
   (vi) Refrain from distributing samples while the application is being examined and during the term of protection but, after control of the sample is transferred by the Office to the depository, furnish samples of the deposited material in an expeditious and proper manner;
   (vii) Have the capability to destroy samples or return samples to the Office when requested by the Office; and
   (viii) Promptly notify the Office of low viability or low quantity of the sample.
(3) A depository seeking status under paragraph (c)(2) of this section must direct a communication to the Commissioner which shall:
   (i) Indicate the name and address of the depository to which the communication relates;
   (ii) Contain detailed information as to the capacity of the depository to comply with the requirements of paragraph (c)(2) of this section, including information on its legal status, scientific standing, staff, and facilities;
   (iii) Indicate that the depository intends to be available, for the purposes of deposit, to any depositor under these same conditions;
   (iv) Where the depository intends to accept for deposit only certain kinds of biological material, specify such kinds; and
   (v) Indicate the amount of any fees that the depository will, upon acquiring the status of suitable depository under paragraph (c)(2) of this section, charge for storage, viability statements and furnishings of samples of the deposit.
(4) A depository having status under paragraph (c)(2) of this section limited to certain kinds of biological material may extend such status to additional kinds of biological material by directing a communication to the Commissioner in accordance with paragraph (c)(3) of this section. If a previous communication under paragraph (c)(3) of this section is of record, items in common with the previous communication may be incorporated by reference.
(5) Once a depository is recognized to be suitable by the Commissioner or has defaulted or discontinued its performance under this section, notice thereof will be published in the Official Journal of the Plant Variety Protection Office or by other methods typically used for dissemination of information related to the procedures of the Office.
(d) Time of making an original deposit. An original deposit of materials for seed-reproduced plants shall be made within three months of the filing date of the application or prior to issuance of the certificate, whichever occurs first. A waiver may be granted for good cause, such as delays in obtaining a phytosanitary certificate for the importation of voucher sample materials. When the original deposit is made, the applicant must promptly submit a statement from a person in a position to corroborate the fact, stating that the voucher specimen material which is deposited is the variety specifically identified in the application as filed. Such statement must be filed in the application and must contain the identifying information listed in paragraph (b) of this section and:
   (1) The name and address of the depository;
   (2) The date of deposit;
   (3) The accession number given by the depository; and
   (4) A statement that the deposit is capable of reproduction.
§97.9 Drawings and photographs.

(a) Drawings or photographs submitted with an application shall disclose the distinctive characteristics of the variety.

(b) Drawings or photographs shall be in color when color is a distinguishing characteristic of the variety, and the