

August 26, 2014

Re: Sale of Mixtures of Non-Certified Seed with Certified University of Minnesota
PVP Protected Seed

To whom it may concern:

The following varieties (the "Protected Variety" or the "Protected Varieties") are protected under Title V of the U.S. Plant Variety Protection Act:

Lacey Barley (U.S. Protected Variety (94), must be sold as a class of certified seed)
Rasmusson Barley (U.S. Protected Variety (94), must be sold as a class of certified seed)
Quest Barley (U.S. Protected Variety (94), must be sold as a class of certified seed)
Deon Oats (U.S. Variety Protection (94) Applied For)

Regents of the University of Minnesota are the owners of the registrations or applications for each the Protected Varieties.

Under its rights as owner, Regents of the University of Minnesota hereby grants permission to use the Protected Varieties in seed mixtures subject to the following conditions:

- The Protected Varieties used in a mixture must be identified on the label as a component of the mixture.
- Seed of the Protected Variety used in mixtures must be from a certified seed lot.
- The label for the mixture must indicate the protected status of the Protected Variety as specified in the U.S. Variety Protection Act.
- Sellers of mixtures containing a Protected Variety will maintain records for each mixture containing:
 - Appropriate information regarding the identity and quality information for each of the mixture components. For certified seed that was used in the mixture, this information would include proof of certification (certification labels or bulk sales certificate) of the lot that was used in the mixture.
 - A copy of this letter.
- Mixtures will be labeled in accordance with the label on page 2 of the attached labelling guidance dated May 22, 2014.

Questions regarding the requirements set forth in this letter may be addressed to Ben Lang of the Minnesota Crop Improvement Association at (612) 625-7766 or by e-mail at ben.lang@mncia.org. Questions may also be addressed to umotc@umn.edu.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bowerman", with a long horizontal flourish extending to the right.

Reggie Bowerman
Associate Director
Office for Technology Commercialization
University of Minnesota

Enc. (Minnesota Seed Law Labeling Guidance When Using PVP Title V Varieties in Mixtures, Minnesota Department of Agriculture May 22, 2014)

May 22, 2014

Minnesota Seed Law Labeling Guidance When Using PVP Title V Varieties in Mixtures

Recently there has been increased interest in selling seed mixtures for forage, hay, cover crop, and other purposes. It is important to understand that restrictions apply when seed varieties protected under the Plant Variety Protection Act, particularly Title V varieties, are used in mixtures.

The *U.S. Plant Variety Protection Act (PVPA)* gives variety owners (certificate holders) the right to determine the terms under which their variety can be sold. Varieties protected under *PVP, Title V* (this includes many small grain varieties) must be sold as a class of certified seed.

Section 21.86, subdivision 1, part (i) of the *Minnesota Seed Law* states that it is unlawful to offer seed for sale if:

it contains any labeling, advertising, or other representation subject to sections 21.82 and 21.83 representing the seed to be certified unless:

- (1) it has been determined by a seed certifying agency that the seed conformed to standards of purity and identity as to kind, species, subspecies, or variety, and also that tree seed was found to be of the origin and elevation claimed, in compliance with the rules pertaining to the seed; and*
- (2) the seed bears an official label issued for it by a seed certifying agency stating that the seed is of a certified class and a specified kind, species, subspecies, or variety;*

However, when certified seed is mixed with non-certified seed, the resulting mixture is no longer certified and cannot be represented as certified seed on containers or labels. This often raises the question - can a PVP Title V variety be used as a component of a non-certified seed mixture?

The answer is - Yes - if the labeler of the mixture meets the following conditions:

1. **Obtains permission from the Variety Owner** - In order for a *PVP - Title V* variety to be used in a mixture, the owner (PVP certificate holder) must grant permission for that use.
2. **Uses Certified Seed** - 21.86, subdivision 1, Part (j) of the *Minnesota Seed Law* states that it is unlawful to offer seed for sale if: *"it is labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which a United States certificate of plant variety protection has been granted under United States Code, title 7, sections 2481 to 2486, specifying sale by variety name only as a class of certified seed. Seed from a certified lot may be labeled as to variety name when used in a blend or mixture by or with approval of the owner of the variety."*
3. **Retains proper records** - The complete record for the mixture must include:
 - a. The appropriate information regarding the identity and quality information about the mixture components. For certified seed that was used in the mixture, this would include proof of certification (certification labels or bulk sales certificate) of the lot that was used.
 - b. Written permission from the variety owner (PVP certificate holder) to use the variety in a mixture.

Requests for permission to use a PVP variety in a mixture should be directed to the variety owner (PVP certificate holders). Variety owners may grant broad permission for the use of their varieties or require

users to obtain permission for specific varieties individually. Requests to use University of Minnesota varieties can be initiated by contacting Minnesota Crop Improvement Association.

Seed Mixture Label Example:

A mixture of certified Lacey barley (a PVP - Title V variety) and non-certified Trapper peas would be labeled as shown below. Note the barley is referred to by variety name but the certification status of the lot it was derived from is not mentioned. The label does include a statement regarding the PVP protected status of Lacey barley which may be required by the variety owner.

MIXTURE NAME: <i>Little House Barley/ Pea Mixture</i>			
VARIETY/KIND:	ORIGIN:	PURE SEED	GERMINATION
Lacey Barley*	MN	49%	90 %
Trapper Pea	ND	49%	85 %
0.1% Weed Seed	0.1% Other Crop Seed	1.8% inert matter	Net Weight: 50 lbs.
NOXIOUS WEED SEEDS: None			
GERM. TEST DATE: (MONTH/YEAR) 01/14			
*US Protected Variety – Unauthorized Propagation Prohibited			
Ingalls Seed 101 Charles Road Prairie town, MN 55555			



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