

## **Montana State Variety Release**

**Subject:** Release of Plant Varieties Developed at Montana State University

**Policy:** Variety Release Policy

**Revised:** October 2022

**Effective Date:** October 21, 2022

**Review Date:** October 15, 2022

**Responsible Party:** Director, Montana Agricultural Experiment Station (MAES)

**Montana Agricultural Experiment Station (MAES) experimental lines are considered for release when the following conditions are met:**

### **A. TESTING**

1. The minimum number of testing locations and calendar years required for release are:
  - a) Cereal grains and pulses not intended for forage use require a minimum of 16 location-years collected in two cropping seasons for agronomic performance.
  - b) Perennial and annual forage crops require data from at least 12 location years, not including the year of seeding, with at least one location providing an estimate of winter hardiness and/or drought tolerance.
  - c) Horticulture and specialty crops require a minimum of one location and three cropping seasons.
  - d) Native plants require AOSCA standards for source identified or selected class germplasm.
2. Test results are adequate to determine the experimental lines' potential and limitations. It is recommended that at least 4 location years of pest evaluation data is available to properly assess pest susceptibility.

### **B. APPLICATION FOR RELEASE**

1. Applications should include the following information:
  - a) Agronomic and pest (e.g. disease resistance) data.
  - b) Quality data.
  - c) Variety description and number of increase generations permitted for seed certification program.
  - d) Status of Breeder and Foundation Seed.

2. Variety release applications must be submitted in writing and electronically to Head, Department of Plant Sciences and Plant Pathology (PSPP).

### C. VARIETY RELEASE COMMITTEES

1. The purpose of the Variety Release Committees is to decide whether a proposed variety is suitable for release and make a recommendation to the Director of MAES.
2. Variety Release Committees include:
  - a) Wheat
  - b) Barley
  - c) Pulses
  - d) Forage Crop (other than wheat, barley, or pulses)
  - e) Specialty Crop
  - f) Horticulture and Native Plants
3. The Variety Release Committees will consist of:

| <b>Variety Release Committees:</b>   |                           |                                 |
|--|---------------------------|---------------------------------|
| <b>Wheat, Barley, Pulse, Forage Crop, Specialty Crop, Horticulture &amp; Native Plants</b> |                           |                                 |
| <b>Members</b>   | <b>Affiliation</b>        | <b>Appointing Administrator</b> |
| Chair (non-voting)   | PSPP Head                 | Director MAES                   |
| <i>Voting Members (16)</i>   |                           |                                 |
| 1. TBD annually  | Breeder                   | PSPP Head                       |
| 2. TBD annually  | Quality, Cereal or Forage | PSPP Head                       |
| 3. TBD annually  | Plant Pathologist         | PSPP Head                       |
| 4. TBD annually  | Representative            | MT Foundation Seed Program      |
| 5. TBD annually  | Representative            | MT Seed Growers Association     |
| 6. TBD annually  | Weed Scientist            | LRES Head                       |
| 7. TBD annually  | Cropping systems          | LRES Head                       |
| 8. TBD annually  | Entomologist              | LRES Head                       |
| 9. TBD annually  |                           | NARC Superintendent             |
| 10. TBD annually   |                           | CARC Superintendent             |
| 11. TBD annually   |                           | WTARC Superintendent            |

|  |                     |  |
|--|---------------------|--|
| 12. TBD annually   |                     | NWARC Superintendent                     |
| 13. TBD annually   |                     | EARC Superintendent                      |
| 14. TBD annually   |                     | SARC Superintendent                      |
| 15. TBD annually   | Representative      | MAES State Advisory Council              |
| 16. MSU Foundation Seed Program Manager  | MSU Foundation Seed | PSPP Head                                |
| <i>One member from below added to each of the Five Variety Release Committees:</i> |                     |  |
| 17. Wheat  | Representative      | MT Wheat & Barley Committee              |
| 17. Barley - Feed  | Representative      | MT Wheat & Barley Committee              |
| 17. Barley - Malt  | Representative      | American Malting Barley Association      |
| 17. Pulse  | Representative      | MT Pulse Crop Committee                  |
| 17. Specialty Crop   | Representative      | Research Center Head                     |
| 17. Hort-Native Plant  | NRCS Scientist      | Bridger Plant Materials Ctr. Manager     |
| 17. Other Forage Crop  | NRCS Scientist      | Bridger Plant Materials Ctr. Manager     |
| <i>Ex-officio</i>  |                     |  |
|  | Representative      | V.P. for Research & Economic Development |

4. Chair will serve as a non-voting member for all variety release committees and will assign a secretary.
5. Committee recommendations shall be based on a majority rule basis. Written dissenting or concurring minority reports may be submitted.
6. Committee members, if not present, must submit a written vote or request a proxy to the Chair.
7. Non-voting members are encouraged to attend meetings and participate in the discussions.

#### **D. VARIETY RELEASE PROCEDURE**

1. Variety Release Committees will usually meet in mid to late January to allow adequate time for breeding and Foundation Seed programs to implement decisions.
2. Chair will solicit applications, assign membership, and forward applications to appropriate committee members.

3. The breeder of the experimental line will present data and discuss its attributes, limitations, and recommended release option (E8a, b, or c).
4. Variety Release Committee will consider whether the experimental line is equal or superior in overall merit to the check varieties or has unique characteristics or special-use considerations.
5. Chair will submit the Committee recommendations for approval to the Director of MAES.
6. Administrative action taken will be transmitted to the Chair within 30 days from the Director of MAES. Chair will in turn notify Committee members about the administrative review result.
7. Variety Release Committees may waive the requirements of a specific rule(s) above based on the recommendation of three-fourths (75%) of the Committee voting membership.
8. The Director of MAES has veto power over Committee action. The Director of MAES will make the final decision on whether a variety passes Variety Release or not. Written approval by the Director of MAES is necessary for variety release.

#### **E. VARIETY PROTECTION AND LICENSING COMMITTEE**

1. The Director of MAES will charge a Protection and License Release Committee with providing a recommendation on the release process.
2. Variety Protection and Licensing Committees include:
  - a) Wheat
  - b) Barley
  - c) Pulses
  - d) Forage Crop (other than wheat, barley, or pulses)
  - e) Specialty Crop
  - f) Horticulture and Native Plants

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## 3. The Variety Protection and Licensing Committees will consist of:

| <b>Protection and License Release Committee</b> |                    |  |
|---|--------------------|--|
| <b>Member</b>                                   | <b>Affiliation</b> | <b>Appointing Administrator</b>            |
| Chair (non-voting)                              | Head, PSPP         | Director MAES                              |
| <i>Voting Members (5)</i>                       |                    |  |
| 1.  | Representative     | MAES State Advisory Council                |
| 2a. Wheat or Barley OR                          | Board Member       | Montana Wheat & Barley Committee           |
| 2b. Pulse OR                                    | Board Member       | Montana Pulse Crop Committee               |
| 2c. Other                                       | Representative     | PSPP Head                                  |
| 3.  | Representative     | Montana Seed Trade Association             |
| 4.  | Representative     | PSPP Head                                  |
| <i>Ex-officio</i>                               |                    |  |
|   | Representative     | Montana Dept of Agriculture, Seed Division |
|   | Representative     | V.P. for Research & Economic Development   |

4. Chair will serve as a non-voting member for all variety release committees and will assign a secretary.
5. Committee recommendations shall be based on a majority rule basis. Written dissenting or concurring minority reports may be submitted.
6. Committee members, if not present, must submit a written vote or request a proxy to the Chair.
7. Non-voting members are encouraged to attend meetings and participate in the discussions.
8. Variety Release Options:
  - a) Protected MSU Public Release: New release is protected with PVP under Title V., and with an MSU Research Fee on Registered and Certified Seed sold.
  - b) License Release: New release is protected with PVP under Title V. Variety is licensed under an exclusive (one business) or non-exclusive (more than one business) licenses by the MSU Technology Transfer Office (TTO). MSU royalty fees are collected under license releases and MAES Research Fees are not collected.

## F. VARIETY PROTECTION AND LICENSING PROCEDURE

1. There are two routes for matters to be submitted to the Protection and Licensing Committee for consideration.
  - a) If approved for release by the Variety Release Committee, the breeder shall submit an application to the Chair of the Variety Protection and Licensing Committee, with a recommended release option.
  - b) Alternatively, the MSU TTO may request the Protection and Licensing Committee to consider License Release of an MSU variety outside the state of Montana; without first gaining approval of the Variety Release Committee. Similarly, TTO may request approval to License Release other licensable material. Other licensable materials include MSU germplasm, experimental plant lines, and plant varieties which meet any of the following criteria:
    1. Variety is not superior in overall merit to the check varieties currently available in Montana.
    2. The licensable material was previously released as a Protected Public Release.
    3. The licensable material is no longer under active development at MSU.
    4. The licensable material was developed under a Sponsored Research Agreement or other such agreement that grants a license option to the sponsor.

The criteria of Section A (TESTING) and the procedure for Section B (APPLICATION FOR RELEASE) are not required of other licensable materials; however, MSU TTO shall place requirements on licensees sufficient to reasonably ensure the delivery of a quality licensed product to the market.

1. The Chair will assign membership and forward applications to appropriate committee members.
2. The Committee may conduct business in person or via teleconference or e-mail.
3. Committee members, if not present, must submit a written vote or request a proxy to the Chair.
4. The Chair will serve as a non-voting member and will assign a secretary.
5. The breeder of the experimental line or MSU TTO will present data and discuss its attributes, limitations, and eligibility for a license release.
6. Committee recommendations shall be based on a majority rule basis. Written dissenting or concurring minority reports may be submitted.
7. Chair will submit the Committee recommendations for approval to the Director of MAES.
8. Committees may waive the requirements of a specific rule(s) above based on the recommendation of three-fourths (75%) of the Committee voting membership.

9. The Director of MAES has veto power over Committee action. The Director of MAES will make the final decision on Variety Release options (ES a, b, or c).
10. Administrative action taken will be transmitted to the Chair within 30 days from the Director of MAES. Chair will in turn notify committee members about the administrative review result.

**G. PUBLIC RELEASE VARIETIES (options E.8.a. and E.8.b.)**

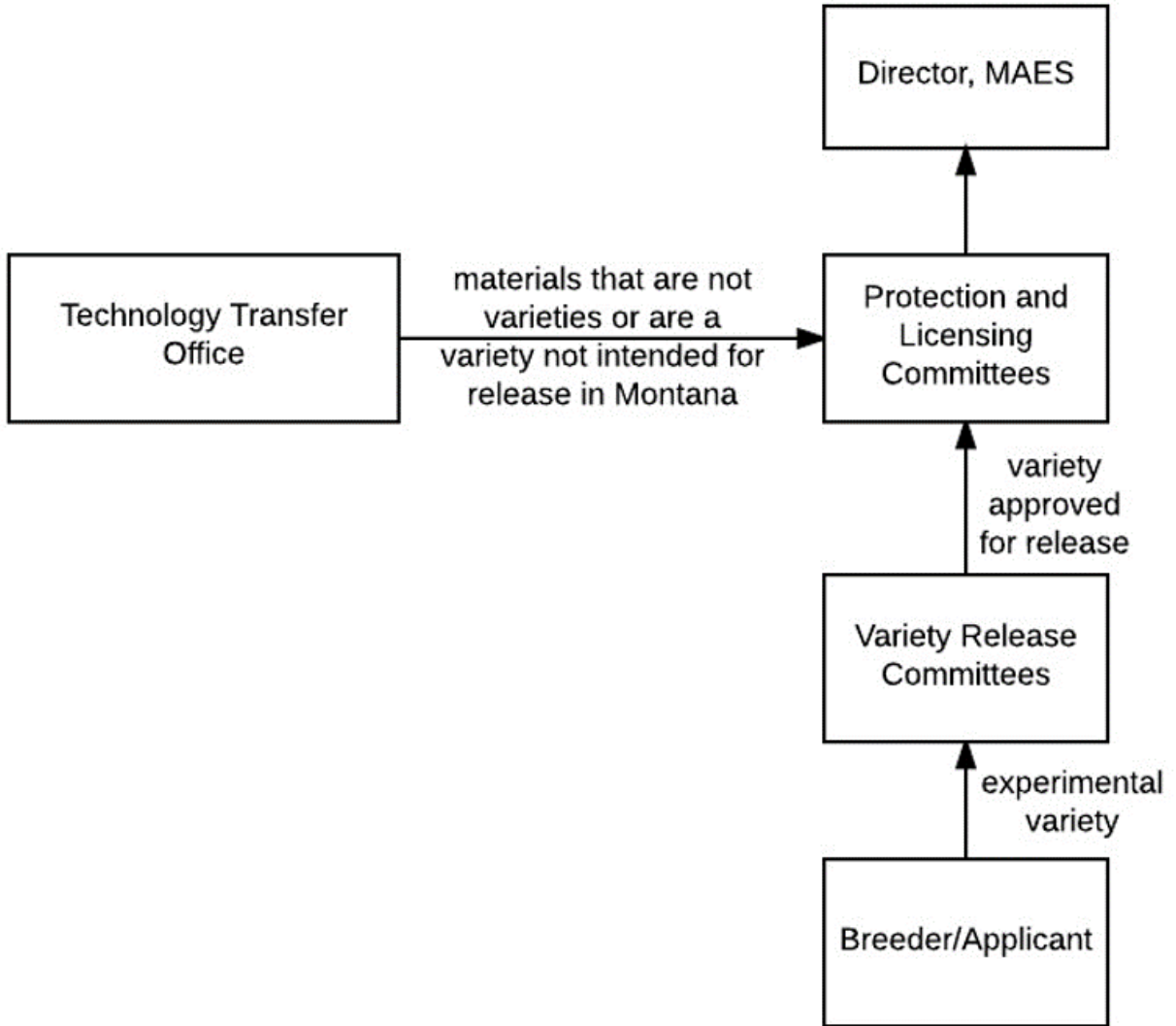
1. A Research Fee will be collected on all Registered Class and Certified Class seed sold of Protected Public Release varieties (option E.8.b.). The purpose of the fee is to provide direct support to the MSU breeding and other MSU plant improvement programs. The MAES Director will establish a MSU designated fund for protection of Plant Variety Protection (PVP) title V varieties. This will be distributed as follows: 1) pay for costs associated with PVP title V and fees (administrative and MAES), 2) 50% of net to breeding program that developed the variety generating the research fees and, 3) 50% of net to fund high priority programs for variety improvement, cereal quality, and focused outreach.
2. A Research Fee Agreement developed by MAES between the company/private entity and MSU will be executed prior to distributing Foundation Seed of a Protected Public Release (option E.8.b.) to the company/private entity.
3. Montana Foundation Seed Program is responsible for the increase of Foundation class seed. Permission must be obtained from the PSPP Head and the Director of MAES to increase Foundation seed outside of these programs.
4. The name of all public released varieties, except for horticultural crops, shall be pre-fixed with an MT to denote they are a product of a Montana State University breeding program. The remainder of the name must be approved by the USDA as a unique name not previously used for the same plant species.
5. All approved MSU public variety releases, except for horticultural crops, must go through both the PVP (plant variety protection) and the AOSCA (Association of Official Seed Certifying Agencies) seed certification review process.

**H. LICENSED VARIETIES (option E.8.c.)**

1. The Vice President for Research and Economic Development will make the final decision if and how to proceed with materials approved by the Variety Protection and Licensing Committee for Licensed Release.
2. Each license release requires a license agreement with the MSU TTO, which will be responsible for marketing and negotiating appropriate license agreements. Such license agreement may be exclusive (one company), non-exclusive (multiple companies), at the discretion of MSU TTO.
3. MSU royalty fees are collected with a License Release and MAES Research Fees are not collected.

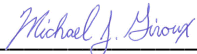
- 4. Montana Foundation Seed Program is responsible for the increase of Foundation class seed. Permission must be obtained from the PSPP Head and the Director of MAES to increase Foundation seed outside of these programs.

**Appendix A - Variety Release, Variety Protection, and Licensing process**





**APPROVED:**

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Michael Giroux, Plant Sciences and Plant Pathology Dept. Head


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Date

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Douglas Hohen, Montana State University Foundation Seed Program Manager

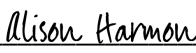
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Sreekala Bajwa, VP of Agriculture and Dean of the Montana Agricultural Experiment Station

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Alison Harmon, Vice President of Research and Economic Development

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