

title] may be cited as the 'Plant Variety Protection Act Amendments of 1994.'

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-560, §1, Oct. 28, 1992, 106 Stat. 4230, provided that: "This Act [enacting section 2570 of this title and section 296 of Title 35, Patents, amending section 2541 of this title and section 271 of Title 35, and enacting provisions set out as a note under section 2541 of this title] may be cited as the 'Patent and Plant Variety Protection Remedy Clarification Act'."

SHORT TITLE

Section 145 of Pub. L. 91-577 provided that: "This Act [enacting this chapter, section 1611 of this title, and sections 1545 and 2353 of Title 28, Judiciary and Judicial Procedure, amending section 1562 of this title and sections 1338 and 1498 of Title 28, and enacting provisions set out as notes under this section] may be cited as the 'Plant Variety Protection Act'."

§ 2322. Seal

The Plant Variety Protection Office shall have a seal with which documents and certificates evidencing plant variety protection shall be authenticated.

(Pub. L. 91-577, title I, §2, Dec. 24, 1970, 84 Stat. 1542.)

§ 2323. Organization

The organization of the Plant Variety Protection Office shall, except as provided herein, be determined by the Secretary of Agriculture (hereinafter called the Secretary). The office shall devote itself substantially exclusively to the administration of this chapter.

(Pub. L. 91-577, title I, §3, Dec. 24, 1970, 84 Stat. 1542.)

§ 2324. Restrictions on employees as to interest in plant variety protection

Employees of the Plant Variety Protection Office shall be ineligible during the periods of their employment, to apply for plant variety protection and to acquire directly or indirectly, except by inheritance or bequest, any right or interest in any matters before that office. This section shall not apply to members of the Plant Variety Protection Board who are not otherwise employees of the Plant Variety Protection Office.

(Pub. L. 91-577, title I, §4, Dec. 24, 1970, 84 Stat. 1542.)

§ 2325. Repealed. Pub. L. 96-574, § 2, Dec. 22, 1980, 94 Stat. 3350

Section, Pub. L. 91-577, title I, §5, Dec. 24, 1970, 84 Stat. 1542, required employees designated by Secretary to give bond before entering upon their duties.

§ 2326. Regulations

The Secretary may establish regulations, not inconsistent with law, for the conduct of proceedings in the Plant Variety Protection Office after consultations with the Plant Variety Protection Board.

(Pub. L. 91-577, title I, §6, Dec. 24, 1970, 84 Stat. 1542.)

§ 2327. Plant Variety Protection Board

(a) Appointment

The Secretary shall appoint a Plant Variety Protection Board. The Board shall consist of individuals who are experts in various areas of varietal development covered by this chapter. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private or seed industry sector and from the sector of government or the public. The Secretary or the designee of the Secretary shall act as chairperson of the Board without voting rights except in the case of ties.

(b) Functions of Board

The functions of the Plant Variety Protection Board shall include:

(1) Advising the Secretary concerning the adoption of Rules and Regulations to facilitate the proper administration of this chapter;

(2) Making advisory decisions on all appeals from the examiner. The Board shall determine whether to act as a full Board or by panels it selects; and whether to review advisory decisions made by a panel. For service on such appeals, the Board may select, as temporary members, experts in the area to which the particular appeal relates; and

(3) Advising the Secretary on all questions under section 2404 of this title.

(c) Compensation of Board

The members of the Plant Variety Protection Board shall serve without compensation except for standard government reimbursable expenses.

(Pub. L. 91-577, title I, §7, Dec. 24, 1970, 84 Stat. 1543; Pub. L. 103-349, §13(a), Oct. 6, 1994, 108 Stat. 3142.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-349 substituted "the designee of the Secretary shall act as chairperson" for "his designee shall act as chairman" in last sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103-349, set out as a note under section 2401 of this title.

§ 2328. Library

The Secretary shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Plant Variety Protection Office to aid the examiners in the discharge of their duties.

(Pub. L. 91-577, title I, §8, Dec. 24, 1970, 84 Stat. 1543; Pub. L. 96-574, §3, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96-574 substituted "examiners" for "officers".

§ 2329. Register of protected plant varieties

The Secretary shall maintain a register of descriptions of United States protected plant varieties.

(Pub. L. 91-577, title I, §9, Dec. 24, 1970, 84 Stat. 1543; Pub. L. 96-574, §4, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96-574 substituted “descriptions” for “published specifications”, and struck out provisions requiring maintenance of a file for other information.

§ 2330. Publications

(a) The Secretary may publish, or cause to be published, in such format as the Secretary shall determine to be suitable, the following:

(1) The descriptions of plant varieties protected including drawings and photographs.

(2) The Official Journal of the Plant Variety Protection Office, including annual indices.

(3) Pamphlet copies of the plant variety protection laws and rules of practice and circulars or other publications relating to the business of the Office.

(b) The Secretary may (1) establish public facilities for the searching of plant variety protection records and materials, and (2) from time to time, as through an information service, disseminate to the public those portions of the technological and other public information available to or within the Plant Variety Protection Office to encourage innovation and promote the progress of plant breeding.

(c) The Secretary may exchange any of the publications specified for publications desirable for the use of the Plant Variety Protection Office. The Secretary may exchange copies of descriptions, drawings, and photographs of United States protected plant varieties for copies of descriptions, drawings, and photographs of applications and protected plant varieties of foreign countries.

(Pub. L. 91-577, title I, § 10, Dec. 24, 1970, 84 Stat. 1543; Pub. L. 96-574, §§ 5-8, Dec. 22, 1980, 94 Stat. 3350; Pub. L. 103-349, § 13(b), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-349 substituted “the Secretary” for “he” before “shall” in introductory provisions.

1980—Subsec. (a)(1). Pub. L. 96-574, § 5, substituted provisions respecting descriptions for provisions respecting specifications.

Subsec. (b). Pub. L. 96-574, §§ 6, 7, struck out subsec. (b) which related to photolithography and lithography, redesignated subsec. (c) as (b) and substituted “plant breeding” for “the useful arts”.

Subsecs. (c), (d). Pub. L. 96-574, §§ 7, 8, redesignated subsec. (d) as (c) and substituted “descriptions” for “specifications” in two places. Former subsec. (c) redesignated (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103-349, set out as a note under section 2401 of this title.

§ 2331. Copies for public libraries

The Secretary may supply printed copies of descriptions, drawings, and photographs of protected plant varieties to public libraries in the United States which shall maintain such copies for the use of the public.

(Pub. L. 91-577, title I, § 11, Dec. 24, 1970, 84 Stat. 1544; Pub. L. 96-574, § 9, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96-574 substituted “descriptions” for “specifications”.

PART B—LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

§ 2351. Day for taking action falling on Saturday, Sunday, or holiday

When the day, or the last day, for taking any action or paying any fee in the United States Plant Variety Protection Office falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Plant Variety Protection Office is closed for the receipt of papers, the action may be taken or the fee paid, on the next succeeding business day.

(Pub. L. 91-577, title I, § 21, Dec. 24, 1970, 84 Stat. 1544.)

§ 2352. Form of papers filed

The Secretary may by regulations prescribe the form of papers to be filed in the Plant Variety Protection Office.

(Pub. L. 91-577, title I, § 22, Dec. 24, 1970, 84 Stat. 1544.)

§ 2353. Testimony in Plant Variety Protection Office cases

The Secretary may establish regulations for taking affidavits, depositions, and other evidence required in cases before the Plant Variety Protection Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides, may take such affidavits and depositions, and swear the witnesses. If any person acts as a hearing officer by authority of the Secretary, the person shall have like power.

(Pub. L. 91-577, title I, § 23, Dec. 24, 1970, 84 Stat. 1544; Pub. L. 103-349, § 13(c), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103-349 substituted “the officer” for “he” in second sentence and “the person” for “he” in third sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103-349, set out as a note under section 2401 of this title.

§ 2354. Subpoenas; witnesses

(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Secretary for use in any contested case in the Plant Variety Protection Office shall, upon the application of any party thereof, issue a subpoena for any witness residing or being within such district or within one hundred miles of the stated place in such district, commanding the witness to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and the production of documents and things shall apply to contested cases in the Plant Variety Protection Office insofar as consistent with such regulations.

(b) Every witness subpoenaed or testifying shall be allowed the fees and traveling expenses