

without negligence. This section does not apply to anyone who, without a claim of self-sufficiency, works under the supervision of another who stands admitted and is the responsible party; or to anyone who establishes that the person acted only on behalf of any employer by whom the person was regularly employed.

(Pub. L. 91-577, title I, § 27, Dec. 24, 1970, 84 Stat. 1545; Pub. L. 103-349, § 13(e), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103-349 substituted “the person” for “he” in two places 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.

PART C—PLANT VARIETY PROTECTION FEES

§ 2371. Plant variety protection fees

(a) In general

The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this chapter.

(b) Late payment penalty

On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31.

(c) Disposition of funds

Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this chapter. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

(d) Actions for nonpayment

The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this chapter against any person obligated for payment of such charges under this chapter in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(Pub. L. 91-577, title I, § 31, Dec. 24, 1970, 84 Stat. 1545; Pub. L. 96-574, § 10, Dec. 22, 1980, 94 Stat. 3350; Pub. L. 100-203, title I, § 1505, Dec. 22, 1987, 101 Stat. 1330-28.)

AMENDMENTS

1987—Pub. L. 100-203 amended section generally. Prior to amendment, section read as follows: “The Secretary

shall, under such regulations as he may prescribe, charge and collect reasonable fees for services performed under this chapter. Such fees shall be deposited into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this chapter.”

1980—Pub. L. 96-574 substituted provisions relating to deposit of fees and authorization of appropriations for provisions relating to recovering of fees, initial capital of the fund, and charging of fees.

§ 2372. Payment of plant variety protection fees; return of excess amounts

All fees shall be paid to the Secretary, and the Secretary may refund any sum paid by mistake or in excess of the fee required.

(Pub. L. 91-577, title I, § 32, Dec. 24, 1970, 84 Stat. 1545.)

SUBCHAPTER II—PROTECTABILITY OF PLANT VARIETIES AND CERTIFICATES OF PROTECTION

PART D—PROTECTABILITY OF PLANT VARIETIES

§ 2401. Definitions and rules of construction

(a) Definitions

As used in this chapter:

(1) Basic seed

The term “basic seed” means the seed planted to produce certified or commercial seed.

(2) Breeder

The term “breeder” means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

(3) Essentially derived variety

(A) In general

The term “essentially derived variety” means a variety that—

(i) is predominantly derived from another variety (referred to in this paragraph as the “initial variety”) or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

(ii) is clearly distinguishable from the initial variety; and

(iii) except for differences that result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

(B) Methods

An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from