

shall be sold by variety name only as a class of certified seed and, if specified, shall also conform to the number of generations designated by the owner.

“(3) Any rights, or all rights except those elected under the preceding sentence, may be waived; and the certificate shall conform to such waiver.”

Subsec. (a)(4). Pub. L. 103-349, §13(m)(1)(B), substituted “the discretion of the Secretary” for “his discretion”.

Subsec. (b). Pub. L. 103-349, §7(2), in first sentence substituted “20 years” for “eighteen years” and inserted before period at end “, except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate”.

Subsec. (c). Pub. L. 103-349, §§7(3), 13(m)(2), substituted “repository, or requiring the submission of a different name for the variety, except that” for “repository: *Provided, however, That*” and “the last owner” for “he” before “fails”.

1980—Subsec. (b). Pub. L. 96-574 substituted “eighteen” for “seventeen”.

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.

§ 2484. Correction of Plant Variety Protection Office mistake

Whenever a mistake in a certificate of plant variety protection incurred through the fault of the Plant Variety Protection Office is clearly disclosed by the records of the Office, the Secretary may issue, without charge, a corrected certificate of plant variety protection, stating the fact and nature of such mistake. Such certificate of plant variety protection shall have the same effect and operation in law as if the same had been originally issued in such corrected form.

(Pub. L. 91-577, title II, §84, Dec. 24, 1970, 84 Stat. 1552; Pub. L. 96-574, §15, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96-574 substituted provisions relating to correction of Plant Variety Protection Office mistake for provisions relating to certificate of correction of Plant Variety Protection Office mistake.

§ 2485. Correction of applicant's mistake

Whenever a mistake of a clerical or typographical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of the required fee, issue a corrected certificate if the correction could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law as if the same had been originally issued in such corrected form.

(Pub. L. 91-577, title II, §85, Dec. 24, 1970, 84 Stat. 1552; Pub. L. 96-574, §16, Dec. 22, 1980, 94 Stat. 3351.)

AMENDMENTS

1980—Pub. L. 96-574 struck out applicability of section 2484 of this title to manner and form of certificate,

and reference to trials of actions thereafter arising with respect to effect and operation in law of certificate.

§ 2486. Correction of named breeder

An error as to the naming of a breeder in the application, without deceptive intent, shall not affect validity of plant variety protection and may be corrected at any time by the Secretary in accordance with regulations established by the Secretary or upon order of a federal court before which the matter is called in question. Upon such correction the Secretary shall issue a certificate accordingly. Such correction shall not deprive any person of any rights the person otherwise would have had.

(Pub. L. 91-577, title II, §86, Dec. 24, 1970, 84 Stat. 1552; Pub. L. 103-349, §13(n), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103-349 substituted “the Secretary” for “him” in first 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.

PART I—REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

§ 2501. Reexamination after issue

(a) Any person may, within five years after the issuance of a certificate of plant variety protection, notify the Secretary in writing of facts which may have a bearing on the protectability of the variety, and the Secretary may cause such plant variety protection to be reexamined in the light thereof.

(b) Reexamination of plant variety protection under this section and appeals shall be pursuant to the same procedures and with the same rights as for original examinations. Abandonment of the procedure while subject to a ruling against the retention of the certificate shall result in cancellation of the plant variety certificate thereon and notice thereof shall be endorsed on copies of the description of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(c) If a person acting under subsection (a) makes a prima facie showing of facts needing proof, the Secretary may direct that the reexamination include such interparty proceedings as the Secretary shall establish.

(Pub. L. 91-577, title II, §91, Dec. 24, 1970, 84 Stat. 1552; Pub. L. 96-574, §17, Dec. 22, 1980, 94 Stat. 3351; Pub. L. 103-349, §13(o), Oct. 6, 1994, 108 Stat. 3144.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-349 substituted “the Secretary” for “he”.

1980—Subsec. (b). Pub. L. 96-574 substituted “description” for “specification”.

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.