

vided a properly executed document is submitted within such time as may be prescribed.

(Pub. L. 91-577, title I, § 25, Dec. 24, 1970, 84 Stat. 1545.)

§ 2356. Regulations for practice before the Office

The Secretary shall prescribe regulations governing the admission to practice and conduct of persons representing applicants or other parties before the Plant Variety Protection Office. The Secretary may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Office of Plant Variety Protection any person shown to be incompetent or disreputable or guilty of gross misconduct.

(Pub. L. 91-577, title I, § 26, Dec. 24, 1970, 84 Stat. 1545.)

§ 2357. Unauthorized practice

Anyone who in the United States engages in direct or indirect practice before the Office of Plant Variety Protection while suspended or excluded under section 2356 of this title, or without being admitted to practice before the Office, shall be liable in a civil action for the return of all money received, and for compensation for damage done by such person and also may be enjoined from such practice. However, there shall be no liability for damage if such person establishes that the work was done competently and 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) Asexually reproduced

The term “asexually reproduced” means produced by a method of plant propagation using vegetative material (other than seed) from a single parent, including cuttings, grafting, tissue culture, and propagation by root division.

(2) Basic seed

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