

PART E—APPLICATIONS; FORM; WHO MAY FILE;
RELATING BACK; CONFIDENTIALITY

§ 2421. Application for recognition of plant variety rights

(a) An application for a certificate of Plant Variety Protection may be filed by the owner of the variety sought to be protected. The application shall be made in writing to the Secretary, shall be signed by or on behalf of the applicant, and shall be accompanied by the prescribed fee.

(b) An error as to the naming of the breeder, without deceptive intent, may be corrected at any time, in accordance with regulations established by the Secretary.

(Pub. L. 91-577, title II, §51, Dec. 24, 1970, 84 Stat. 1548.)

§ 2422. Content of application

An application for a certificate recognizing plant variety rights shall contain:

(1) The name of the variety except that a temporary designation will suffice until the certificate is to be issued. The variety shall be named in accordance with regulations issued by the Secretary.

(2) A description of the variety setting forth its distinctiveness, uniformity, and stability and a description of the genealogy and breeding procedure, when known. The Secretary may require amplification, including the submission of adequate photographs or drawings or plant specimens, if the description is not adequate or as complete as is reasonably possible, and submission of records or proof of ownership or of allegations made in the application. An applicant may add to or correct the description at any time, before the certificate is issued, upon a showing acceptable to the Secretary that the revised description is retroactively accurate. Courts shall protect others from any injustice which would result. The Secretary may accept records of the breeder and of any official seed certifying agency in this country as evidence of stability where applicable.

(3) A statement of the basis of the claim of the applicant that the variety is new.

(4) A declaration that a viable sample of basic seed (including any propagating material) necessary for propagation of the variety will be deposited and replenished periodically in a public repository in accordance with regulations to be established hereunder.

(5) A statement of the basis of applicant's ownership.

(Pub. L. 91-577, title II, §52, Dec. 24, 1970, 84 Stat. 1548; Pub. L. 96-574, §11, Dec. 22, 1980, 94 Stat. 3350; Pub. L. 103-349, §4, Oct. 6, 1994, 108 Stat. 3139.)

Editorial Notes

AMENDMENTS

1994—Par. (1). Pub. L. 103-349, §4(1), inserted at end “The variety shall be named in accordance with regulations issued by the Secretary.”

Par. (2). Pub. L. 103-349, §4(2), in first sentence substituted “distinctiveness, uniformity, and stability” for “novelty”.

Par. (3). Pub. L. 103-349, §4(4), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 103-349, §4(3), (5), redesignated par. (3) as (4) and inserted “(including any propagating material)” after “basic seed”. Former par. (4) redesignated (5).

Par. (5). Pub. L. 103-349, §4(3), redesignated par. (4) as (5).

1980—Par. (3). Pub. L. 96-574 struck out provisions relating to adding of declaration by amendment.

Statutory Notes and Related Subsidiaries

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.

§ 2423. Joint breeders

(a) When two or more persons are the breeders, one person (or the successor of the person) may apply, naming the others.

(b) The Secretary, after such notice as the Secretary may prescribe, may issue a certificate of plant variety protection to the applicant and such of the other breeders (or their successors in interest) as may have subsequently joined in the application.

(Pub. L. 91-577, title II, §53, Dec. 24, 1970, 84 Stat. 1548; Pub. L. 103-349, §13(g), Oct. 6, 1994, 108 Stat. 3143.)

Editorial Notes

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-349, §13(g)(1), substituted “one person (or the successor of the person)” for “one (or his successor)”.

Subsec. (b). Pub. L. 103-349, §13(g)(2), substituted “the Secretary” for “he” before “may”.

Statutory Notes and Related Subsidiaries

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.

§ 2424. Death or incapacity of breeder

Legal representatives of deceased breeders and of those under legal incapacity may make application for plant variety protection upon compliance with the requirements and on the same terms and conditions applicable to the breeder or the successor in interest of the breeder.

(Pub. L. 91-577, title II, §54, Dec. 24, 1970, 84 Stat. 1548; Pub. L. 103-349, §13(h), Oct. 6, 1994, 108 Stat. 3143.)

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-349 substituted “the successor in interest of the breeder” for “his successor in interest”.

Statutory Notes and Related Subsidiaries

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.

§ 2425. Benefit of earlier filing date

(a)(1) An application for a certificate of plant variety protection filed in this country based on