the Secretary shall notify the applicant thereof, stating the reasons therefor, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application; and if after receiving such notice the applicant requests reconsideration, with or without amendment, the application shall be reconsidered.

(b) For taking appropriate action after the mailing to an applicant of an action other than allowance, the applicant shall be allowed at least 30 days, and not more than 180 days, or such other time as the Secretary shall set in the refusal, or such time as the Secretary may allow as an extension. Without such extension, action may be taken up to three months late by paying an additional fee to be prescribed by the Secretary.

(Pub. L. 91–577, title II, § 62, Dec. 24, 1970, 84 Stat. 1549; Pub. L. 103–349, §§ 6, 13(j), Oct. 6, 1994, 108 Stat. 3140, 3143.)

**Editorial Notes**

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–349 in first sentence substituted ''mailing to an applicant'' for ''mailing to him'', ''the applicant shall'' for ''an applicant shall'', ''at least 30 days, and not more than 180 days'' for ''six months'', ''the Secretary shall'' for ''the Secretary in exceptional circumstances shall'', and ''as the Secretary may'' for ''as he 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.

### § 2443. Initial appeal

When an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. The Secretary shall seek the advice of the Plant Variety Protection Board on all appeals, before deciding the appeal.

(Pub. L. 91–577, title II, § 63, Dec. 24, 1970, 84 Stat. 1550.)

## PART G—APPEALS TO COURTS AND OTHER REVIEW

### § 2461. Appeals

From the decisions made under sections 2404, 2443, 2501, and 2568 of this title appeal may, within sixty days or such further times as the Secretary allows, be taken under the Federal Rules of Appellate Procedure. The United States Court of Appeals for the Federal Circuit shall have jurisdiction of any such appeal.

(Pub. L. 91–577, title II, § 71, Dec. 24, 1970, 84 Stat. 1550; Pub. L. 97–164, title I, § 145, Apr. 2, 1982, 96 Stat. 45; Pub. L. 103–349, § 8(d)(1), Oct. 6, 1994, 108 Stat. 3141.)

**Editorial Notes**

AMENDMENTS

1994—Pub. L. 103–349 struck out ''2502,'' after ''2501,''.

1982—Pub. L. 97–164 substituted ''The United States Court of Appeals for the Federal Circuit shall have jurisdiction of any such appeal'' for ''The Court of Customs and Patent Appeals and United States Courts of Appeals shall have jurisdiction, with venue in the case of the latter as stated in section 2343 of title 28''.

**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.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

### § 2462. Civil action against Secretary

An applicant dissatisfied with a decision under section 2443 or 2501 of this title, may, as an alternative to appeal, have remedy by civil action against the Secretary in the United States District Court for the District of Columbia. Such action shall be commenced within sixty days after such decision or within such further time as the Secretary allows. The court may, in the case of review of a decision by the Secretary refusing plant variety protection, adjudge that such applicant is entitled to receive a certificate of plant variety protection for the variety as specified in the application as the facts of the case may appear, on compliance with the requirements of this chapter.

(Pub. L. 91–577, title II, § 72, Dec. 24, 1970, 84 Stat. 1550; Pub. L. 103–349, § 13(k), Oct. 6, 1994, 108 Stat. 3143.)

**Editorial Notes**

AMENDMENTS

1994—Pub. L. 103–349, which directed that the second sentence be amended by substituting ''the variety as specified in the application'' for ''his variety as specified in his application'', was executed by making the substitution in the third sentence, to reflect the probable intent of Congress.

**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.

### § 2463. Repealed. Pub. L. 103–349, § 8(c)(2), Oct. 6, 1994, 108 Stat. 3141

Section, Pub. L. 91–577, title II, § 73, Dec. 24, 1970, 84 Stat. 1550; Pub. L. 103–349, § 8(c)(1), Oct. 6, 1994, 108 Stat. 3140, related to appeal or civil action in contested cases. Prior to repeal, subsec. (b) of this section was transferred to section 2504 of this title by Pub. L. 103–349, § 8(c)(1), Oct. 6, 1994, 108 Stat. 3140.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF REPEAL

Repeal effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as an Effective Date of 1994 Amendment note under section 2401 of this title.