

Agricultural Marketing Service, USDA

§ 97.20

amendment to reverse such a specification will be permitted unless the variety has not been sold and labeled or publication made in any manner that the variety is to be sold by variety name, only as a class of certified seed.

§ 97.17 Papers of completed application to be retained.

The papers submitted with a completed application shall be retained by the Office except as provided in § 97.23(c). After issuance of a certificate of protection the Office will furnish copies of the application and related papers to any person upon payment of the specified fee.

§ 97.18 Applications handled in confidence.

(a) Pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing of an application, the pendency of any particular application, or the subject matter of any particular application. Also, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority of the applicant, or his or her assignee or attorney or agent. Exceptions to the above may be made by the Commissioner in accordance with 5 U.S.C. 552 and § 1.4 of this title, and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress, or as provided in sections 56 or 57 of the Act and § 97.19.

(b) Abandoned applications shall not be open to public inspection. However, if an abandoned application is directly referred to in an issued certificate and is available, it may be inspected or copies obtained by any person on written request, and with written authority received from the applicant. Abandoned applications shall not be returned.

(c) Decisions of the Commissioner on abandoned applications not otherwise open to public inspection (see paragraph (b) of this section) may be published or made available for publication at the Commissioner's discretion. When it is proposed to release such a decision, the applicant shall be notified

directly or through the attorney or agent of record, and a time, not less than 30 days, shall be set for presenting objections.

§ 97.19 Publication of pending applications.

Information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal shall show:

(a) Application number and date of filing;

(b) The name of the variety or temporary designation;

(c) The name of the kind of seed; and

(d) Whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations that it can be certified.

Additional information, such as the name and address of the applicant or a brief description of the distinctive features of the variety, may be published only upon request or approval received from the applicant, at the time the application is filed or at any time before the notice of allowance of a certificate is issued.

[58 FR 42435, Aug. 9, 1993, as amended at 60 FR 17189, Apr. 4, 1995; 61 FR 248, Jan. 4, 1996]

§ 97.20 Abandonment for failure to respond within the time limit.

(a) Except as otherwise provided in § 97.104, if an applicant fails to advance actively his or her application within 30 days after the date when the last request for action was mailed to the applicant by the Office, or within such longer time as may be fixed by the Commissioner, the application shall be deemed abandoned. The application fee in such cases will not be refunded.

(b) The submission of an amendment to the application, not responsive to the last request by the Office for action, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When the applicant makes a bona fide attempt to advance the application, and is in substantial compliance