

Bilingual Chinese-English Translation¹ of Comparison Table Draft PVP Regulations vs 2014 PVP Regulations

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Regulation on Protection of New plant varieties (2014 Revision) 植物新品种保护条例(2014 修订)	Draft Revision of Regulation on Protection of New plant varieties (November 21, 2022) 植物新品种保护条例(2022 草案)
Chapter I General Provisions 第一章 总 则	Chapter I General Provisions 第一章 总 则
Article 1 These Regulations are formulated for the purposes of protecting rights in new plant varieties, encouraging the breeding and use of varieties of plants, and promoting the development of agriculture and forestry. 第一条 为了保护植物新品种权, 鼓励培育和使用植物新品种, 促进农业、林业的发展, 制定本条例。	Article 1 These Regulations are formulated for the purposes of protecting rights in new plant varieties, encouraging the breeding, promotion and application of varieties of plants, and promoting the development of agriculture, forestry and grassland . 第一条 为了保护植物新品种权, 鼓励植物新品种 培育和推广应用 , 促进农业、林业 草原 的发展, 制定本条例。
Article 2 New plant varieties referred to in these Regulations mean artificially cultivated plant varieties, or ones	Article 2 New plant varieties referred to in these Regulations mean artificially cultivated plant varieties, or ones

¹ THE USPTO IS PROVIDING THIS TRANSLATION SOLELY AS A CONVENIENCE TO THE ENGLISH-READING PUBLIC. WE HAVE ATTEMPTED TO PROVIDE AN ACCURATE ENGLISH TRANSLATION OF THE CHINESE DOCUMENT, BUT DUE TO THE NUANCES IN TRANSLATING FROM CHINESE TO ENGLISH, SLIGHT DIFFERENCES MAY EXIST. WE WILL MAKE EVERY EFFORT TO CORRECT ERRORS BROUGHT TO OUR ATTENTION.

UNITED STATES
PATENT AND TRADEMARK OFFICE



<p>developed from discovered wild plants, which possess novelty, distinctness, uniformity and stability, and which are duly named.</p> <p>第二条 本条例所称植物新品种，是指经过人工培育的或者对发现的野生植物加以开发，具备新颖性、特异性、一致性和稳定性并有适当命名的植物品种。</p>	<p>improved from discovered wild plants, which possess novelty, distinctness, uniformity and stability, and which are duly named.</p> <p>第二条 本条例所称植物新品种，是指经过人工培育的或者对发现的野生植物加以改良，具备新颖性、特异性、一致性和稳定性并有适当命名的植物品种。</p>
<p>Article 3 The administrative departments of agriculture and forestry of the State Council (both hereinafter referred to as the examining and approving organs) are jointly responsible, according to the division of their functions and duties, for the receipt and examination of applications for rights in new plant varieties, and for granting rights in new plant varieties (hereinafter referred to as variety rights) for those new plant varieties that conform to the provisions of these Regulations.</p> <p>第三条 国务院农业、林业行政部门（以下统称审批机关）按照职责分工共同负责植物新品种权申请的受理和审查并对符合本条例规定的植物新品种授予植物新品种权（以下称品种权）。</p>	<p>Article 3 The competent department of agriculture, rural, forestry and grassland of the State Council (hereinafter referred to as the examining and approving organs) are responsible, according to the division of their functions and duties, for protection and management of new plant varieties nationwide; carrying out for the receipt and examination of applications for rights in new plant varieties, and for granting rights in new plant varieties (hereinafter referred to as variety rights) for those new plant varieties that conform to the provisions of these Regulations.</p> <p>The competent departments of agriculture and rural affairs, forests and grasslands of people's governments at or above the county level shall, according to their respective duties, be responsible for protection and management of new varieties of agricultural and forestry plants within their respective administrative regions.</p> <p>第三条 国务院农业农村、林业草原主管部门（以下称审批机关），按照职责分工负责全国植物新品种保护管理工作；开展植物新品种权申请的受理和审查，并对符合本条例规定的植物新品种授予植物新</p>

	<p>品种权（以下称品种权）。</p> <p>县级以上人民政府农业农村、林业草原主管部门依照各自职责，负责本行政区域内的农业、林业植物新品种保护管理工作。</p>
<p>Article 4 The people's governments at or above the county level or other relevant departments shall give awards to units or individuals that have accomplished the breeding of new plant varieties that have a bearing on State or the public interests, and are of great utility value.</p> <p>第四条 完成关系国家利益或者公共利益并有重大应用价值的植物新品种育种的单位或者个人，由县级以上人民政府或者有关部门给予奖励。</p>	<p>Article 4 The people's governments at or above the county level or other relevant departments shall give commendations and awards in accordance with relevant state regulations to units or individuals that have accomplished the breeding of new plant varieties that have a bearing on State or the public interests, and are of great utility value.</p> <p>第四条 完成关系国家利益或者公共利益并有重大应用价值或生态效益的植物新品种育种的单位或者个人，由县级以上人民政府或者有关部门按照国家有关规定给予表彰奖励。</p>
	<p>Article 5 The State shall encourage the establishment of professional teams for variety rights agency, legal services, information services, commercial use services, consulting services and training services, so as to provide services centering on the creation, protection, management and application of variety rights.</p> <p>第五条 国家鼓励建立品种权代理、法律服务、信息服务、商用化服务、咨询服务和培训服务专业队伍，围绕品种权创造、保护、管理和运用开展服务。</p>
<p>Article 5 The production, market and popularization of a new plant variety for which a variety right has been granted(hereinafter referred to as the</p>	<p>Article 6 The production, market and popularization of a new plant variety for which a variety right has been granted(hereinafter referred to as the</p>

<p>granted variety) are subject to review and approval in accordance with the provisions of relevant State laws and regulations on seeds.</p> <p>第五条 生产、销售和推广被授予品种权的植物新品种（以下称授权品种），应当按照国家有关种子的法律、法规的规定审定。</p>	<p>granted variety) should comply with the provisions of relevant State laws and regulations on seeds.</p> <p>第六条 生产、销售和推广被授予品种权的植物新品种（以下称授权品种），应当符合国家有关法律、法规的规定。</p>
<p>Chapter II Content and Ownership of Variety Rights</p> <p>第二章 品种权的内容和归属</p>	<p>Chapter II Content and Ownership of Variety Rights</p> <p>第二章 品种权的内容和归属</p>
<p>Article 6 A unit or an individual that has bred a granted variety enjoys exclusive rights in it. No unit or individual, without permission from the owner of the variety rights (hereinafter referred to as the variety rights owner), shall produce or market for commercial purposes the propagation material of the granted variety, or repeatedly use for commercial purposes the propagation material of the granted variety in the production of the propagation material of another variety, unless as otherwise provided in these Regulations.—</p> <p>第六条 完成育种的单位或者个人对其授权品种，享有排他的独占权。任何单位或者个人未经品种权所有人（以下称品种权人）许可，不得为商业目的生产或者销售该授权品种的繁殖材料，不得为商业目的将该授权品种的繁殖材料重复使用于生产另一品种的繁殖材料，但是，本条例另有规定的除外。</p>	<p>Article 7 The owner of the variety rights (hereinafter referred to as the variety rights owner) enjoys an exclusive right in its granted variety in accordance with laws and regulations. Except as otherwise provided by relevant laws and these Regulations, no unit or person shall, without the permission of the variety right owner, engage in the following acts on the propagation materials of the granted variety:</p> <p>(1) Production, propagation and treatment for propagation;</p> <p>(2) Offering for sales or sales;</p> <p>(3) Import and export;</p> <p>(4) Providing storage for the purpose of implementing the acts under subparagraphs (1) to (3) of this paragraph.</p> <p>Where the implementation of the acts provided for in the preceding paragraph involves harvest materials obtained from the unauthorized use of propagation materials of granted variety, permission shall be obtained from the variety rights owner, except where the variety rights owner has had a reasonable opportunity to exercise its rights in respect of the propagation materials.</p>

	<p>Where the acts provided for in paragraphs 1 and 2 are implemented on the following items, permission shall be obtained from the variety rights owner of the granted variety:</p> <p>(1) Essentially derived varieties of the granted variety, whereas the granted variety is not an essentially derived variety;</p> <p>(2) Varieties that are not distinctly different from granted variety;</p> <p>(3) Varieties that reuse the granted variety for production or propagation for commercial purposes.</p> <p>第七条 品种权所有人（以下称品种权人）对其授权品种，依照法律、法规享有排他的独占权。除有关法律和本条例另有规定外，任何单位或者个人未经品种权人许可，不得对该授权品种的繁殖材料，从事下列行为：</p> <p>（一）生产、繁殖和为繁殖而进行处理；</p> <p>（二）许诺销售、销售；</p> <p>（三）进口、出口；</p> <p>（四）为实施本款第（一）至（三）项行为提供存储。</p> <p>实施前款规定的行为，涉及由未经许可使用授权品种的繁殖材料而获得的收获材料的，应当得到品种权人的许可；但是，品种权人对繁殖材料已有合理机会行使其权利的除外。</p> <p>对下列各项实施第一款、第二款规定行为的，应当得到授权品种的品种权人的许可：</p> <p>（一）授权品种的实质性派生品种，但该授权品种不是实质性派生品种；</p> <p>（二）与授权品种没有明显区别的品种；</p>
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	<p>(三) 为商业目的重复利用授权品种进行生产或繁殖的品种。</p>
	<p>Article 8 The scope of implementation of essentially derived varieties shall be determined by the competent department under the State Council and published in the form of list.</p> <p>The competent department under the State Council shall issue the guidelines for the determination of essentially derived varieties, clarify the conditions and capabilities of appraisal institutions, and establish an expert committee to provide professional consultation.</p> <p>第八条 实质性派生品种的实施范围由国务院主管部门确定并以名录形式公布。</p> <p>国务院主管部门应当发布实质性派生品种判定指南，明确鉴定机构条件和能力，成立专家委员会提供专业咨询。</p>
<p>Article 7 For employment related breeding that is accomplished in execution of tasks of a unit to which he belongs, or by primarily using material resources of a unit, the application right for a new plant variety belongs to the unit; for non-employment related breeding, the application right for a new plant variety belongs to the individual who has accomplished the breeding. After the application is approved, the variety rights shall belong to the applicant.</p> <p>For a commissioned breeding or jointly-conducted breeding, the ownership of variety rights shall be agreed upon by the parties in a contract; in the absence of</p>	<p>Article 9 For employment related breeding that is accomplished in execution of tasks of a unit to which he belongs, or by primarily using material resources of a unit, the application right for a new plant variety right belongs to the unit.</p> <p>If there is a contractual agreement between the unit and the individual who has accomplished the breeding, the agreement shall prevail.</p> <p>For non-employment related breeding, the application right for a new plant variety right belongs to the individual who has accomplished the breeding.</p> <p>For a commissioned breeding or</p>

<p>a contractual agreement thereon, the variety rights shall belong to the units or individuals commissioned to accomplish or jointly accomplishing the breeding.</p> <p>第七条 执行本单位的任务或者主要是利用本单位的物质条件所完成的职务育种，植物新品种的申请权属于该单位；非职务育种，植物新品种的申请权属于完成育种的个人。申请被批准后，品种权属于申请人。</p> <p>委托育种或者合作育种，品种权的归属由当事人在合同中约定；没有合同约定的，品种权属于受委托完成或者共同完成育种的单位或者个人。</p>	<p>jointly-conducted breeding, the ownership of variety rights may be agreed upon by the parties in a contract; in the absence of a contractual agreement thereon, the application right for the variety rights shall belong to the units or individuals commissioned to accomplish or jointly accomplishing the breeding.</p> <p>After the application is approved, the variety rights shall belong to the applicant.</p> <p>第九条 执行本单位的任务或者主要是利用本单位的物质条件所完成的职务育种，品种权的申请权属于该单位。单位与完成育种的个人有合同约定的，从其约定。</p> <p>非职务育种，品种权的申请权属于完成育种的个人。</p> <p>委托育种或者合作育种，当事人可以在合同中约定品种权的申请权归属；没有合同约定的，品种权的申请权属于受委托完成或者共同完成育种的单位或者个人。</p> <p>申请被批准后，品种权属于申请人。</p>
<p>Article 8 One new plant variety shall be granted only one set of variety rights. If two or more applicants apply separately for variety rights on the same new plant variety, the variety rights shall be granted to the person who applied first; if applying simultaneously, the variety rights shall be granted to the person who first bred the new plant variety.</p>	<p>Article 10 One new plant variety shall be granted only one set of variety rights. If two or more applicants apply separately for variety rights on the same new plant variety, the variety rights shall be granted to the person who applied first; if applying simultaneously, the variety rights shall be granted to the person who first bred the new plant variety.</p>

<p>第八条 一个植物新品种只能授予一项品种权。两个以上的申请人分别就同一个植物新品种申请品种权的，品种权授予最先申请的人；同时申请的，品种权授予最先完成该植物新品种育种的人。</p>	<p>第十条 一个植物新品种只能授予一项品种权。两个以上的申请人分别就同一个植物新品种申请品种权的，品种权授予最先申请的人；同时申请的，品种权授予最先完成该植物新品种育种的人。</p>
<p>Article 9 The application right for a new plant variety and the variety rights may be assigned according to law.</p> <p>If a Chinese unit or individual is to assign to a foreigner the application right or the variety rights with respect to a new plant variety bred by it or him in China, it shall be approved by the examining and approving organs.</p> <p>If a State-owned unit is to assign the application right or the variety rights at home, it shall, in accordance with the relevant provisions of the State, be submitted to the relevant competent administrative departments for approval.</p> <p>If the application right or variety right is assigned, the parties shall conclude a written contract, and register it with the examining and approving organs which shall make a public announcement.</p> <p>第九条 植物新品种的申请权和品种权可以依法转让。</p> <p>中国的单位或者个人就其在国内培育的植物新品种向外国人转让申请权或者品种权的，应当经审批机关批准。</p>	<p>Article 11 The application right for a variety right and the variety rights may be assigned according to law.</p> <p>If a unit or individual within the territory of China is to assign to overseas institutions or individuals the application right or the variety rights with respect to a new plant variety bred by it or him within the territory of China, it shall be approved by the examining and approving organs.</p> <p>If the application right or variety right is assigned, the parties shall conclude a written contract, and register it with the examining and approving organs which shall make a public announcement. The assignment shall take effect from the date of registration.</p> <p>Where the pledge is made with variety rights, the pledgor and the pledgee shall jointly register the pledge with the examining and approving organs, and the examining and approving organs shall publish the pledge. The pledge shall take effect from the date of registration.</p> <p>第十一条 品种权的申请权和品种权可以依法转让。</p> <p>中国境内的单位或者个人就其在境内培育的植物新品种向境外机构或个人转让</p>

<p>国有单位在国内转让申请权或者品种权的，应当按照国家有关规定报经有关行政主管部门批准。</p> <p>转让申请权或者品种权的，当事人应当订立书面合同，并向审批机关登记，由审批机关予以公告。</p>	<p>申请权或者品种权的，应当经审批机关批准。</p> <p>转让申请权或者品种权的，当事人应当订立书面合同，并向审批机关登记，由审批机关予以公告。转让自登记之日起生效。</p> <p>以品种权出质的，由出质人和质权人共同向审批机关办理出质登记，由审批机关予以公告。质权自登记之日起生效。</p>
<p>Article 11 Where the national interest or public interest so requires, the examining and approving organs may make a decision on a compulsory license to exploit new plant varieties, which shall be registered and publicly announced.</p> <p>Any unit or individual that is granted a compulsory license for exploitation shall pay the variety rights owner a reasonable exploitation fee and the amount thereof shall be decided through consultation of both parties. Where the parties fail to reach an agreement, the examining and approving organs shall make a ruling.</p> <p>A variety rights owner not satisfied with the decision on a compulsory license nor with the ruling regarding the exploitation fee, may, within three months from the date of receiving notification, file a suit with a people's court.</p> <p>第十一条 为了国家利益或者公共利益，审批机关可以作出实施植物新品种强</p>	<p>Article 12 Where the national interest or public interest so requires, the examining and approving organs may make a decision on a compulsory license to exploit new plant varieties, which shall be registered and publicly announced.</p> <p>Any unit or individual that is granted a compulsory license for exploitation shall pay the variety rights owner a reasonable exploitation fee and the amount thereof shall be decided through consultation of both parties. Where the parties fail to reach an agreement, the examining and approving organs shall make a ruling.</p> <p>A variety rights owner not satisfied with the decision on a compulsory license nor with the ruling regarding the exploitation fee, may, within three months from the date of receiving notification, file a suit with a people's court.</p> <p>The entity or the person that is granted a compulsory license for implementation shall not enjoy the exclusive right of implementation and shall have no right to allow others to implement.</p>

<p>制许可的决定，并予以登记和公告。</p> <p>取得实施强制许可的单位或者个人应当付给品种权人合理的使用费，其数额由双方商定；双方不能达成协议的，由审批机关裁决。</p> <p>品种权人对强制许可决定或者强制许可使用费的裁决不服的，可以自收到通知之日起 3 个月内向人民法院提起诉讼。</p>	<p>第十二条 为了国家利益或者公共利益，审批机关可以作出实施品种权强制许可的决定，并予以登记和公告。</p> <p>取得实施强制许可的单位或者个人应当付给品种权人合理的使用费，其数额由双方商定；双方不能达成协议的，由审批机关裁决。</p> <p>品种权人对强制许可决定或者强制许可使用费的裁决不服的，可以自收到通知之日起 3 个月内向人民法院提起诉讼。</p> <p>取得实施强制许可的单位或者个人不享有独占的实施权，并且无权允许他人实施。</p>
<p>Article 10 Use of a protested variety under the following circumstances is allowed with no need for permission from or remuneration to the variety rights owner. However, the other rights enjoyed by the variety rights owner under these Regulations shall by no means be prejudiced:</p> <p>(1) use of the granted variety for breeding and other scientific research activities;</p> <p>(2) self-use or self-propagation by farmers of propagation materials of the granted variety.</p> <p>第十条 在下列情况下使用授权品种的，可以不经品种权人许可，不向其支付使用费，但是不得侵犯品种权人依照本条例享有的其他权利：</p> <p>（一）利用授权品种进行育种及其他科研活动；</p>	<p>Article 13 Use of a protested variety under the following circumstances is allowed with no need for permission from or remuneration to the variety rights owner. However, the other rights enjoyed by the variety rights owner under these Regulations shall by no means be prejudiced:</p> <p>(1) use of the granted variety for breeding and other scientific research activities;</p> <p>(2) self-use or self-propagation by farmers of propagation materials of the granted variety.</p> <p>第十三条 在下列情况下使用授权品种的，可以不经品种权人许可，不向其支付使用费，但是不得侵犯品种权人依照本条例享有的其他权利：</p> <p>（一）利用授权品种进行育种及其他科研活动；</p>

<p>(二) 农民自繁自用授权品种的繁殖材料。</p>	<p>(二) 农民自繁自用授权品种的繁殖材料。</p>
<p>Article 12 Whether or not the period of the protection of a granted variety has expired, its registered name must be used when marketing the said granted variety.</p> <p>第十二条 不论授权品种的保护期是否届满，销售该授权品种应当使用其注册登记的名称。</p>	<p>Moved to Article 19</p>
<p>Chapter III Conditions for Granting Variety Rights</p> <p>第三章 授予品种权的条件</p>	<p>Chapter III Conditions for Granting Variety Rights</p> <p>第三章 授予品种权的条件</p>
<p>Article 13 In applying for a variety right a new plant variety shall belong to a botanical genus and species in the national catalogue of granted plant varieties. The catalogue of granted plant varieties shall be determined and announced by the examining and approving organs.</p> <p>第十三条 申请品种权的植物新品种应当属于国家植物品种保护名录中列举的植物的属或者种。植物品种保护名录由审批机关确定和公布。</p>	<p>Article 14 In applying for a variety right a new plant variety shall belong to a botanical genus and species in the national catalogue of granted plant varieties. The catalogue of granted plant varieties shall be determined and announced by the examining and approving organs.</p> <p>The right in new plant varieties shall not be granted to the new plant varieties that violate the law and endanger the social public interests and the ecological environment.</p> <p>第十四条 申请品种权的植物新品种应当属于国家植物品种保护名录中列举的植物的属或者种。植物品种保护名录由审批机关确定和公布。</p> <p>对违反法律，危害社会公共利益、生态环境的植物新品种，不授予植物新品种权。</p>
<p>Article 14 A plant new variety to be</p>	<p>Article 15 A plant new variety to be</p>

granted variety rights shall possess the characteristic of novelty. Novelty means that the propagation material of the new plant variety for which variety protection is applied has not been marketed prior to the application date, or the propagation material of the variety has not been marketed with the agreement of the breeder within the territory of China for longer than one year; the propagation material of vine plants, ~~forest tree, fruit tree and ornamental tree~~ varieties shall not have been marketed outside the territory of China for six years, or the propagation material of other plant varieties for longer than four years.

第十四条 授予品种权的植物新品种应当具备新颖性。新颖性，是指申请品种权的植物新品种在申请日前该品种繁殖材料未被销售，或者经育种者许可，在中国境内销售该品种繁殖材料未超过 1 年；在中国境外销售藤本植物、~~林木、果树和观赏树木~~品种繁殖材料未超过 6 年，销售其他植物品种繁殖材料未超过 4 年。

granted variety rights shall possess the characteristic of novelty. Novelty means that the propagation material **or harvest material** of the new plant variety for which variety protection is applied has not been marketed prior to the application date, or the propagation material **or harvest material** of the variety has not been marketed with the agreement of the breeder within the territory of China for longer than one year; the propagation material **or harvest material** of **woody and** vine plants varieties shall not have been marketed outside the territory of China for six years, or the propagation material of other plant varieties for longer than four years.

For genera or species of plants newly-included in the national list of granted plant varieties after the implementation of these Regulations, where an application for variety rights is filed within one year from the date of publication of the list of plants, and the propagation materials or harvest material of the variety has not been sold in China for more than 4 years, it shall have the characteristic of novelty. (Translator Note: moved/modified from Art. 45, 2014 Regulations)

第十五条 授予品种权的植物新品种应当具备新颖性。新颖性，是指申请品种权的植物新品种在申请日前该品种繁殖材料**或者收获材料**未被销售，或者经育种者许可，在中国境内销售该品种繁殖材料**或者收获材料**未超过 1 年；在中国境

	<p>外销售木本、藤本植物品种繁殖材料或者收获材料未超过 6 年，销售其他植物品种繁殖材料或者收获材料未超过 4 年。</p> <p>本条例施行后新列入国家植物品种保护名录的植物的属或者种，从名录公布之日起 1 年内提出品种权申请的，在境内销售该品种繁殖材料或者收获材料未超过 4 年的，具备新颖性。</p>
<p>Article 15 A new plant variety to be granted variety rights shall possess the characteristic of distinctness. Distinctness means that the new plant variety for which variety protection is applied shall be noticeably distinguished from a known plant variety at the time the application is filed.</p> <p>第十五条 授予品种权的植物新品种应当具备特异性。特异性，是指申请品种权的植物新品种应当明显区别于在递交申请以前已知的植物品种。</p>	<p>Article 16 A new plant variety to be granted variety rights shall possess the characteristic of distinctness. Distinctness means that a plant variety has more than one characteristic that is noticeably distinguished from a known variety.</p> <p>第十六条 授予品种权的植物新品种应当具备特异性。特异性，是指一个植物品种有一个以上性状明显区别于已知品种。</p>
<p>Article 16 A new plant variety to be granted variety rights shall possess the characteristic of uniformity. Uniformity means that the new plant variety for which variety protection is applied shall be uniform, except for variation that may be expected, in its relevant characteristics or identity after propagation.</p> <p>第十六条 授予品种权的植物新品种应当具备一致性。一致性，是指申请品种权的植物新品种经过繁殖，除可以预见的变异外，其相关的特征或者特性一致。</p>	<p>Article 17 A new plant variety to be granted variety rights shall possess the characteristic of uniformity. Uniformity means that the characteristics of a plant variety are uniform with the expression of relevant characteristics or identity among individuals in the group, except for the predictable natural variation.</p> <p>第十七条 授予品种权的植物新品种应当具备一致性。一致性，是指一个植物品种的特性除可预期的自然变异外，群体内个体间相关的特征或者特性表现一致。</p>
<p>Article 17 A new plant variety to be granted variety rights shall possess the characteristic of stability. Stability means</p>	<p>Article 18 A new plant variety to be granted variety rights shall possess the characteristic of stability. Stability means</p>

<p>that the new plant variety for which variety protection is applied shall remain unchanged to its relevant characteristics or identity after repeated propagation or at the end of a particular cycle of propagation.</p> <p>第十七条 授予品种权的植物新品种应当具备稳定性。稳定性，是指申请品种权的植物新品种经过反复繁殖后或者在特定繁殖周期结束时，其相关的特征或者特性保持不变。</p>	<p>that a plant variety shall remain unchanged to its main characteristics or identity after repeated propagation or at the end of a particular cycle of propagation.</p> <p>第十八条 授予品种权的植物新品种应当具备稳定性。稳定性，是指一个植物品种经过反复繁殖后或者在特定繁殖周期结束时，其主要性状保持不变。</p>
<p>Article 18 A new plant variety granted variety rights shall possess a proper name, which shall be distinguishable from that of any other already known variety of the same or closely related botanical genus or species. The name, after being registered, shall be the generic designation of the new variety of plant in question.</p> <p>The following names shall not be used for designating a variety:</p> <ol style="list-style-type: none"> (1) consisting solely of figures; (2) violating social morals; (3) liable to mislead the characteristics or identity of the new plant variety, or the identity of the breeder. <p>第十八条 授予品种权的植物新品种应当具备适当的名称，并与相同或者相近的植物属或者种中已知品种的名称相区别。该名称经注册登记后即为该植物新品种的通用名称。</p>	<p>Article 19 A new plant variety granted variety rights shall possess a proper name, which shall be distinguishable from that of any other already known variety of the same or closely related botanical genus or species. The name, after being registered, shall be the generic designation of the new variety of plant in question. Whether or not the period of the protection of a granted variety has expired, its registered name must be used when marketing the said granted variety.</p> <p>The following names shall not be used for designating a variety:</p> <ol style="list-style-type: none"> (1) showing solely of figures; (2) violating social morals; (3) liable to mislead the characteristics or identity of the new plant variety, or the identity of the breeder; (4) other names including those prohibited by other laws and regulations. <p>第十九条 授予品种权的植物新品种应当具备适当的名称，并与相同或者相近的植物属或者种中已知品种的名称相区别。该名称经注册登记后即为该植物新品种的通用名称。不论授权品种的保护</p>

<p>下列名称不得用于品种命名：</p> <p>（一）仅以数字组成的；</p> <p>（二）违反社会公德的；</p> <p>（三）对植物新品种的特征、特性或者育种者的身份等容易引起误解的。</p>	<p>期是否届满，销售该授权品种应当使用其注册登记的名称 (Translator Note: moved from Article 12, 2014 Regulations)。</p> <p>下列名称不得用于品种命名：</p> <p>（一）仅以数字表示的；</p> <p>（二）违反社会公德的；</p> <p>（三）对植物新品种的特征、特性或者育种者身份等容易引起误解的；</p> <p>（四）其他法律法规规定禁止使用的名称等。</p>
<p>Chapter IV Application for Variety Rights and Receipt Thereof 第四章 品种权的申请和受理</p>	<p>Chapter IV Application for Variety Rights and Receipt Thereof 第四章 品种权的申请和受理</p>
<p>Article 19 A Chinese unit or individual that intends to apply for variety rights may file an application with the examining and approving organs directly or by authorizing an agency.</p> <p>Where the new plant variety for which a variety right is applied by a Chinese unit or its individual involves State security or major interests and therefore needs to be kept confidential, it shall be handled in accordance with the relevant provisions of the State.</p> <p>第十九条 中国的单位和个人申请品种权的，可以直接或者委托代理机构向审批机关提出申请。</p> <p>中国的单位和个人申请品种权的植物新品种涉及国家安全或者重大利益需要保密的，应当按照国家有关规定办理。</p>	<p>Article 20 A Chinese unit or individual that intends to apply for variety rights may file an application with the examining and approving organs directly or by authorizing an agency.</p> <p>Where the new plant variety for which a variety right is applied by a Chinese unit or its individual involves State security or major interests and therefore needs to be kept confidential, it shall be handled in accordance with the relevant provisions of the State.</p> <p>第二十条 中国的单位和个人申请品种权的，可以直接或者委托代理机构向审批机关提出申请。</p> <p>中国的单位和个人申请品种权的植物新品种涉及国家安全或者重大利益需要保密的，应当按照国家有关规定办理。</p>
	<p>Article 21 The examining and approving organs shall strengthen technical research and publicity and training on the protection of new plant</p>

	<p>varieties, improve the testing system for new plant varieties, perfect the management of the preservation of propagation materials, and carry out international exchanges and cooperation.</p> <p>第二十一条 审批机关应当加强植物新品种保护技术研究和宣传培训，健全植物新品种测试体系，完善繁殖材料保藏管理，开展国际交流与合作。</p>
<p>Article 20 If a foreigner, foreign enterprise or other foreign organization files an application for a variety rights in China, it shall be handled in accordance with any agreement concluded between the country to which the applicant belongs and the People's Republic of China, or any international treaty to which both countries have acceded, or handled according to these Regulations on the basis of the principle of reciprocity.</p> <p>第二十条 外国人、外国企业或者外国其他组织在中国申请品种权的，应当按其所属国和中华人民共和国签订的协议或者共同参加的国际条约办理，或者根据互惠原则，依照本条例办理。</p>	<p>Article 22 If a foreigner, foreign enterprise or other foreign organization files an application for a variety rights in China, it shall be handled in accordance with any agreement concluded between the country to which the applicant belongs and the People's Republic of China, or any international treaty to which both countries have acceded, or handled according to these Regulations on the basis of the principle of reciprocity.</p> <p>第二十二条 外国人、外国企业或者外国其他组织在中国申请品种权的，应当按其所属国和中华人民共和国签订的协议或者共同参加的国际条约办理，或者根据互惠原则，依照本条例办理。</p>
<p>Article 21 When applying for a variety right, a written request and a specification conforming to the prescribed format and requirements as well as a photograph of the variety shall be submitted to the examining and approving organs.</p> <p>The application documents shall be written in Chinese.</p> <p>第二十一条 申请品种权的，应当向审批机关提交符合规定格式要求的请求书、说明书和该品种的照片。</p>	<p>Article 23 When applying for a variety right, a written request and a specification conforming to the prescribed format and requirements as well as a photograph of the variety shall be submitted to the examining and approving organs.</p> <p>The application documents shall be written in Chinese.</p> <p>第二十三条 申请品种权的，应当向审批机关提交符合规定格式要求的请求书、说明书和该品种的照片。</p>

<p>申请文件应当使用中文书写。</p>	<p>申请文件应当使用中文书写。</p>
<p>Article 22 The date on which the examining and approving organs receive the variety rights application documents shall be the filing date of the application. Where the application documents are sent by mail, the postmark date shall be the filing date of the application.</p> <p>第二十二条 审批机关收到品种权申请文件之日为申请日；申请文件是邮寄的，以寄出的邮戳日为申请日。</p>	<p>Article 24 The date on which the examining and approving organs receive the variety rights application documents shall be the filing date of the application. Where the application documents are sent by mail, the postmark date shall be the filing date of the application.</p> <p>第二十四条 审批机关收到品种权申请文件之日为申请日；申请文件是邮寄的，以寄出的邮戳日为申请日。</p>
<p>Article 23 An applicant who, within 12 months from the date on which an application for a variety right was first filed in a foreign country, files an application for a variety right in China for the same new plant variety, may, in accordance with any agreement concluded between the said foreign country and the People's Republic of China or any international treaty to which both countries have acceded, or on the basis of the principle of mutual recognition of the right of priority, enjoy a right of priority.</p> <p>Any applicant who claims the right of priority shall make a written declaration when the application is filed, and submit, within three months, a copy of the variety right application documents that were first filed, and confirmed by the original receiving authority; if the applicant fails to make the written declaration or fails to submit a copy of the variety right application documents in accordance the provisions of these Regulations, the claim to the right of priority shall be deemed not to have been made.</p>	<p>Article 25 An applicant who, within 12 months from the date on which an application for a variety right was first filed in a foreign country, files an application for a variety right in China for the same new plant variety, may, in accordance with any agreement concluded between the said foreign country and the People's Republic of China or any international treaty to which both countries have acceded, or on the basis of the principle of mutual recognition of the right of priority, enjoy a right of priority.</p> <p>Any applicant who claims the right of priority shall make a written declaration when the application is filed, and submit, within three months, a copy of the variety right application documents that were first filed, and confirmed by the original receiving authority; if the applicant fails to make the written declaration or fails to submit a copy of the variety right application documents in accordance the provisions of these Regulations, the claim to the right of priority shall be deemed not to have been made.</p>

<p>第二十三条 申请人自在外国第一次提出品种权申请之日起 12 个月内，又在中国就该植物新品种提出品种权申请的，依照该外国同中华人民共和国签订的协议或者共同参加的国际条约，或者根据相互承认优先权的原则，可以享有优先权。</p> <p>申请人要求优先权的，应当在申请时提出书面说明，并在 3 个月内提交经原受理机关确认的第一次提出的品种权申请文件的副本；未依照本条例规定提出书面说明或者提交申请文件副本的，视为未要求优先权。</p>	<p>第二十五条 申请人自在外国第一次提出品种权申请之日起 12 个月内，又在中国就该植物新品种提出品种权申请的，依照该外国同中华人民共和国签订的协议或者共同参加的国际条约，或者根据相互承认优先权的原则，可以享有优先权。</p> <p>申请人要求优先权的，应当在申请时提出书面说明，并在 3 个月内提交经原受理机关确认的第一次提出的品种权申请文件的副本；未依照本条例规定提出书面说明或者提交申请文件副本的，视为未要求优先权。</p>
<p>Article 24 Where an application for a variety right conforms to the provisions of Article 24 of these Regulations, the examining and approving organs shall accept it, establish the date of filing, assign a filing number and notify the applicant within one month of the date of receiving the application to pay the application fee.</p> <p>Where an application for a variety right does not, or after being revised still does not, conform to the provisions of Article 24 of these Regulations, the examining and approving organs shall not accept it and shall notify the applicant accordingly.</p> <p>第二十四条 对符合本条例第二十一条规定的品种权申请，审批机关应当予以受理，明确申请日、给予申请号，并自收到申请之日起 1 个月内通知申请人缴纳申请费。</p> <p>对不符合或者经修改仍不符合本条例第二十一条规定的品种权申请，审批机关不予受理，并通知申请人。</p>	<p>Article 26 Where an application for a variety right conforms to the provisions of Article 23 of these Regulations, the examining and approving organs shall accept it, establish the date of filing, assign a filing number and notify the applicant within one month of the date of receiving the application to pay the application fee.</p> <p>Where an application for a variety right does not, or after being revised still does not, conform to the provisions of Article 23 of these Regulations, the examining and approving organs shall not accept it and shall notify the applicant accordingly.</p> <p>第二十六条 对符合本条例第二十三条规定的品种权申请，审批机关应当予以受理，明确申请日、给予申请号，并自收到申请之日起 1 个月内通知申请人缴纳申请费。</p> <p>对不符合或者经修改仍不符合本条例第二十三条规定的品种权申请，审批机关不予受理，并通知申请人。</p>

<p>Article 25 An applicant may amend or withdraw the application for a variety right at any time before the variety right is granted.</p> <p>第二十五条 申请人可以在品种权授予前修改或者撤回品种权申请。</p>	<p>Article 27 An applicant may amend or withdraw the application for a variety right at any time before the variety right is granted.</p> <p>第二十七条 申请人可以在品种权授予前修改或者撤回品种权申请。</p>
<p>Article 26 Where a Chinese unit or individual intends to file an application in a foreign country for a variety right on a new plant variety bred in China, registration shall be made with the administrative department of agriculture or forestry of the provincial people's government, depending on the division of functions between them.</p> <p>第二十六条 中国的单位或者个人将国内培育的植物新品种向国外申请品种权的，应当按照职责分工向省级人民政府农业、林业行政部门登记。</p>	<p>Article 28 Where a Chinese unit or individual intends to file an application in a foreign country for a variety right on a new plant variety bred in China, registration shall be made with the competent department of agriculture, rural, forestry and grassland of the provincial people's government, depending on the division of functions between them.</p> <p>第二十八条 中国的单位或者个人将国内培育的植物新品种向国外申请品种权的，应当按照职责分工向省级人民政府农业农村、林业草原主管部门登记。</p>
<p>Chapter V Examination and Approval of Variety Rights 第五章 品种权的审查与批准</p>	<p>Chapter V Examination and Approval of Variety Rights 第五章 品种权的审查与批准</p>
<p>Article 27 After an applicant has paid an application fee, the examining and approving organs shall carry out a preliminary examination of the following contents of an application for a variety right:</p> <p>(1) whether the variety falls into the category of botanical genus or species included in the catalogue of granted plant varieties;</p> <p>(2) whether it conforms to the provisions of Article 20 of these Regulations;</p> <p>(3) whether it conforms to the provisions on novelty;</p>	<p>Article 29 After an applicant has paid an application fee, the examining and approving organs shall carry out a preliminary examination of the following contents of an application for a variety right:</p> <p>(1) whether the variety falls into the category of botanical genus or species included in the catalogue of granted plant varieties;</p> <p>(2) whether it conforms to the provisions of Article 22 of these Regulations;</p> <p>(3) whether it conforms to the provisions on novelty;</p>

<p>(4) whether the denomination of the new variety of plant is appropriate.</p> <p>第二十七条 申请人缴纳申请费后，审批机关对品种权申请的下列内容进行初步审查：</p> <p>（一）是否属于植物品种保护名录列举的植物属或者种的范围；</p> <p>（二）是否符合本条例第二十条的规定；</p> <p>（三）是否符合新颖性的规定；</p> <p>（四）植物新品种的命名是否适当。</p>	<p>(4) whether the denomination of the new variety of plant is appropriate.</p> <p>第二十九条 申请人缴纳申请费后，审批机关对品种权申请的下列内容进行初步审查：</p> <p>（一）是否属于植物品种保护名录列举的植物属或者种的范围；</p> <p>（二）是否符合本条例第二十二条的规定；</p> <p>（三）是否符合新颖性的规定；</p> <p>（四）植物新品种的命名是否适当。</p>
<p>Article 28 The examining and approving organs shall complete the preliminary examination within six months after the date of accepting an application for a variety right. Where the application for a variety right is found up to requirements through the preliminary examination, the examining and approving organs shall have it publicly announced and notify the applicant to pay an examination fee within three months.</p> <p>Where the application for a variety right is found not up to requirements in the preliminary examination, the examining and approving organs shall notify the applicant to state views or make revisions within three months; where no response is made within the time limit or, after revisions are made there still is non-conformity with requirements, the application is rejected.</p> <p>第二十八条 审批机关应当自受理品种权申请之日起 6 个月内完成初步审查。对经初步审查合格的品种权申请，审批机关予以公告，并通知申请人在 3 个月内缴纳审查费。</p>	<p>Article 30 The examining and approving organs shall complete the preliminary examination within six months after the date of accepting an application for a variety right. Where the application for a variety right is found up to requirements through the preliminary examination, the examining and approving organs shall have it publicly announced and notify the applicant to pay an examination fee within three months.</p> <p>Where the application for a variety right is found not up to requirements in the preliminary examination, the examining and approving organs shall notify the applicant to state views or make revisions within three months; where no response is made within the time limit, the application shall be deemed to be withdrawn; if after revisions are made there still is non-conformity with requirements, the application is rejected.</p> <p>第三十条 审批机关应当自受理品种权申请之日起 6 个月内完成初步审查。对经初步审查合格的品种权申请，审批机关予以公告，并通知申请人在 3 个月内缴纳审</p>

<p>对经初步审查不合格的品种权申请，审批机关应当通知申请人在 3 个月内陈述意见或者予以修正；逾期未答复或者修正后仍然不合格的，驳回申请。</p>	<p>查费。</p> <p>对经初步审查不合格的品种权申请，审批机关应当通知申请人在 3 个月内陈述意见或者予以修正；逾期未答复的，视为撤回申请；修正后仍然不合格的，驳回申请。</p>
<p>Article 29 After an applicant has paid the examination fee as provided, the examining and approving organs shall carry out substantive examination on the characteristics of distinctness, uniformity and stability of the variety for which a variety right is applied.</p> <p>Where the applicant has not paid the examination fee as provided, the application for a variety right shall be deemed to be withdrawn.</p> <p>第二十九条 申请人按照规定缴纳审查费后，审批机关对品种权申请的特异性、一致性和稳定性进行实质审查。</p> <p>申请人未按照规定缴纳审查费的，品种权申请视为撤回。</p>	<p>Article 31 After an applicant has paid the examination fee as provided, the examining and approving organs shall carry out substantive examination on the characteristics of distinctness, uniformity and stability of the variety for which a variety right is applied.</p> <p>Where the applicant has not paid the examination fee as provided, the application for a variety right shall be deemed to be withdrawn.</p> <p>第三十一条 申请人按照规定缴纳审查费后，审批机关对品种权申请的特异性、一致性和稳定性进行实质审查。</p> <p>申请人未按照规定缴纳审查费的，品种权申请视为撤回。</p>
<p>Article 30 the examining and approving organs shall carry out substantive examination chiefly on the basis of application documents and other relevant written materials. The examining and approving organs may, if they deem it necessary, authorize a designated testing institution to test or inspect the results of planting or other experiments that have already been carried out.</p> <p>For the purposes of examination, the applicant shall, at the request of the examining and approving organs, furnish necessary information and propagation</p>	<p>Article 32 the examining and approving organs shall carry out substantive examination chiefly on the basis of application documents and other relevant written materials. The examining and approving organs may, if they deem it necessary, authorize a designated testing institution to test or inspect the results of planting or other experiments that have already been carried out.</p> <p>Where the relevant characteristic of the variety in respect of which variety rights is applied for has a definitely associated gene, the examination of distinctness may</p>

<p>material of the new plant variety.</p> <p>第三十条 审批机关主要依据申请文件和其他有关书面材料进行实质审查。审批机关认为必要时，可以委托指定的测试机构进行测试或者考察业已完成的种植或者其他试验的结果。</p> <p>因审查需要，申请人应当根据审批机关的要求提供必要的资料和该植物新品种的繁殖材料。</p>	<p>be conducted based on the gene differences.</p> <p>For the purposes of examination, the applicant shall, at the request of the examining and approving organs, furnish necessary information and propagation material of the new plant variety.</p> <p>第三十二条 审批机关主要依据申请文件和其他有关书面材料进行实质审查。审批机关认为必要时，可以委托指定的测试机构进行测试或者考察业已完成的种植或者其他试验的结果。</p> <p>申请品种相关性状有明确关联基因的，可以依据基因差异进行特异性审查。</p> <p>因审查需要，申请人应当根据审批机关的要求提供必要的资料和该植物新品种的繁殖材料。</p>
<p>Article 31 Where the application for a variety right is found in substantive examination to be in conformity with the provisions of these Regulations, the examining and approving organs shall make a decision granting variety rights, issue a new variety rights certificate, and have it registered and published.</p> <p>Where the application variety rights is found not to be in conformity with the provisions of these Regulations, the examining and approving organs shall reject the application and notify the applicant.</p> <p>第三十一条 对经实质审查符合本条例规定的品种权申请，审批机关应当作出授予品种权的决定，颁发品种权证书，并予以登记和公告。</p>	<p>Article 33 Where the application for a variety right is found in substantive examination to be in conformity with the provisions of these Regulations, the examining and approving organs shall make a decision granting variety rights, issue a new variety rights certificate, and have it registered and published.</p> <p>Where the application variety rights is found not to be in conformity with the provisions of these Regulations, the examining and approving organs shall reject the application and notify the applicant.</p> <p>第三十三条 对经实质审查符合本条例规定的品种权申请，审批机关应当作出授予品种权的决定，颁发品种权证书，并予以登记和公告。</p>

<p>对经实质审查不符合本条例规定的品种权申请，审批机关予以驳回，并通知申请人。</p>	<p>对经实质审查不符合本条例规定的品种权申请，审批机关予以驳回，并通知申请人。</p>
<p>Article 32 The examining and approving organs shall set up a Review Board for New plant varieties.</p> <p>An applicant, if not satisfied with the decision of the examining and approving organs rejecting the application, may request the Review Board for New plant varieties to make a review within three months from the date of receiving the notice. The Review Board for New plant varieties shall, within six months from the date of receiving the request for review, make a decision and notify the applicant.</p> <p>An applicant, if not satisfied with the review decision of the Review Board for New plant varieties, may file a suit in the people's court within 15 days from the date of receiving the notice.</p> <p>第三十二条 审批机关设立植物新品种复审委员会。</p> <p>对审批机关驳回品种权申请的决定不服的，申请人可以自收到通知之日起 3 个月内，向植物新品种复审委员会请求复审。植物新品种复审委员会应当自收到复审请求书之日起 6 个月内作出决定，并通知申请人。</p> <p>申请人对植物新品种复审委员会的决定不服的，可以自接到通知之日起 15 日内向</p>	<p>Article 34 The examining and approving organs shall set up a Review Board for New plant varieties (hereinafter referred to as the Review Board).</p> <p>An applicant, if not satisfied with the decision of the examining and approving organs rejecting the application, may request the Review Board to make a review within three months from the date of receiving the notice. The Review Board shall, within six months from the date of receiving the request for review, make a decision and notify the applicant. The time required for testing and appraisal according to law is not counted in the stipulated review period.</p> <p>An applicant, if not satisfied with the review decision of the Review Board, may file a suit in the people's court within 15 days from the date of receiving the notice.</p> <p>第三十四条 审批机关设立植物新品种复审委员会（以下称复审委员会）。</p> <p>对驳回品种权申请的决定不服的，申请人可以自收到通知之日起 3 个月内，向复审委员会请求复审。复审委员会应当自收到复审请求书之日起 6 个月内作出决定，并通知申请人。依法需要测试鉴定的时间不计算在规定的审查期限内。</p> <p>申请人对复审委员会的复审决定不服</p>

<p>人民法院提起诉讼。</p>	<p>的，可以自接到通知之日起 15 日内向人民法院提起诉讼。</p>
<p>Article 33 After the variety rights have been granted, the variety rights owner is entitled to claim compensation for the period beginning on the date on which an acceptable application was published on preliminary examination and ending on the date of grant of variety rights, from units which, and person who, have produced or sold the propagating material of the granted variety in question for commercial purposes without consent.</p> <p>第三十三条 品种权被授予后，在自初步审查合格公告之日起至被授予品种权之日止的期间，对未经申请人许可，为商业目的生产或者销售该授权品种的繁殖材料的单位和个人，品种权人享有追偿的权利。</p>	<p>Article 35 After the variety rights have been granted, the variety rights owner is entitled to claim compensation for the period beginning on the date on which an acceptable application was published on preliminary examination and ending on the date of grant of variety rights, from units which, and person who violates the provisions of Article 7 of these Regulations.</p> <p>第三十五条 品种权被授予后，在自初步审查合格公告之日起至被授予品种权之日止的期间，任何单位或者个人违反本条例第七条规定的，品种权人享有追偿的权利。</p>
<p>Chapter VI Term, Termination and Invalidation</p> <p>第六章 期限、终止和无效</p>	<p>Chapter VI Term, Termination and Invalidation</p> <p>第六章 期限、终止和无效</p>
<p>Article 34 The term of protection of variety rights shall be computed <u>20</u> years for vines, forest trees, fruit trees and ornamental trees and 15-years for other plants, from the date of the grant.</p> <p>第三十四条 品种权的保护期限，自授权之日起，藤本植物、林木、果树和观赏树木为 <u>20</u> 年，其他植物为 <u>15</u> 年。</p>	<p>Article 36 The term of protection of variety rights shall be computed 25 years for woody and vine plants and 20 years for other plants, from the date of the grant.</p> <p>第三十六条 品种权的保护期限，自授权之日起，木本、藤本植物为 25 年，其他植物为 20 年。</p>
<p>Article 35 The variety rights owner shall pay an annual fee beginning with the year in which the variety rights are granted, and shall furnish propagation material of the granted variety for the purpose of testing as required by the examining and approving organs.</p>	<p>Article 37 The variety rights owner shall pay an annual fee beginning with the year in which the variety rights are granted, and shall furnish propagation material of the granted variety for the purpose of testing as required by the examining and approving organs.</p>

<p>第三十五条 品种权人应当自被授予品种权的当年开始缴纳年费，并且按照审批机关的要求提供用于检测的该授权品种的繁殖材料。</p>	<p>第三十七条 品种权人应当自被授予品种权的当年开始缴纳年费，并且按照审批机关的要求提供用于检测的该授权品种的繁殖材料。</p>
	<p>Article 38 Where a party loses its rights due to delay in the time limit specified in the Regulations or the time limit specified by the examining and approving organs due to force majeure, it may explain the reasons to the examining and approving organs within 2 months from the date of removal of the obstacle, and at the latest within 2 years from the date of expiration of the time limit, and attach the relevant supporting documents to request a recovery of rights.</p> <p>Where a party loses its rights due to delay in the time limit specified in the Regulations or the time limit specified by the examining and approving organs due to justified reasons, it may explain the reasons to the Protection Office within 2 months from the date of receipt of the notice to request a recovery of rights.</p> <p>Where a party requests an extension of the time limit designated by the examining and approving organs, it shall explain the reasons to the examining and approving organs and go through the relevant formalities before the expiration of the time limit.</p> <p>The provisions of paragraphs 1 and 2 of this Article shall not apply to the time limits specified in Articles 15, 25, 34 (2) and (3), 36 and 40 (2) of the Regulations.</p>

	<p>第三十八条 当事人因不可抗力而耽误《条例》规定的期限或者审批机关指定的期限导致其权利丧失的，自障碍消除之日起2个月内，最迟自期限届满之日起2年内，可以向审批机关说明理由，并附具有关证明文件，请求恢复其权利。</p> <p>当事人因正当理由而耽误《条例》规定的期限或者审批机关指定的期限，造成其权利丧失的，可以自收到通知之日起2个月内向保护办公室说明理由，请求恢复其权利。</p> <p>当事人请求延长审批机关指定期限的，应当在期限届满前，向审批机关说明理由并办理有关手续。</p> <p>本条第一款和第二款的规定不适用《条例》第十五条、第二十五条、第三十四条第二、三款、第三十六条、第四十条第二款规定的期限。</p>
<p>Article 36 Variety right shall be terminated prior to the expiration of the period of protection in any of the following cases:</p> <p>(1) where the variety right owner by a written declaration renounces the variety right;</p> <p>(2) where the variety right owner fails to pay the annual fee as prescribed;</p> <p>(3) where the variety right owner fails to furnish, as required by the examining and approving organs, propagation material of the granted variety needed for testing;</p> <p>(4) where, upon testing, the granted variety is found to be no longer in conformity with the characteristics and</p>	<p>Article 39 Variety right shall be terminated prior to the expiration of the period of protection in any of the following cases:</p> <p>(1) where the variety right owner by a written declaration renounces the variety right;</p> <p>(2) where the variety right owner fails to pay the annual fee as prescribed;</p> <p>(3) where the variety right owner fails to furnish, as required by the examining and approving organs, propagation material of the granted variety needed for testing;</p> <p>(4) where, upon testing, the granted variety is found to be no longer in conformity with the characteristics and</p>

<p>identity that existed when the variety rights were granted;</p> <p>The termination of a variety right shall be registered and publicly announced by the examining and approving organs.</p> <p>第三十六条 有下列情形之一的，品种权在其保护期限届满前终止：</p> <p>（一）品种权人以书面声明放弃品种权的；</p> <p>（二）品种权人未按照规定缴纳年费的；</p> <p>（三）品种权人未按照审批机关的要求提供检测所需的该授权品种的繁殖材料的；</p> <p>（四）经检测该授权品种不再符合被授予品种权时的特征和特性的。</p> <p>品种权的终止，由审批机关登记和公告。</p>	<p>identity that existed when the variety rights were granted;</p> <p>(5) The name of the granted variety does not comply with the provisions, and is not changed within the specified time limit;</p> <p>(6) Other circumstances leading to the termination of variety rights.</p> <p>The termination of a variety right shall be registered and publicly announced by the examining and approving organs.</p> <p>第三十九条 有下列情形之一的，品种权在其保护期限届满前终止：</p> <p>（一）品种权人以书面声明放弃品种权的；</p> <p>（二）品种权人未按照规定缴纳年费的；</p> <p>（三）品种权人未按照审批机关的要求提供检测所需的该授权品种的繁殖材料的；</p> <p>（四）经检测该授权品种不再符合被授予品种权时的特征和特性的；</p> <p>（五）授权品种名称不符合规定的，在指定期限内未予以更名的；</p> <p>（六）其他导致品种权终止的情形。</p> <p>品种权的终止，由审批机关登记和公告。</p>
<p>Article 37 From the date of the announcement of the grant of a variety right by examining and approving organs, the Review Board for New plant varieties may, according to its functions and duties or on the basis of a written request made by a unit or individual, declare a variety right invalid where it is not in conformity with the provisions of Articles 14,15,16 and 17 of these Regulations, or change the</p>	<p>Article 40 From the date of the announcement of the grant of a variety right by examining and approving organs, the Review Board may, according to its functions and duties or on the basis of a written request made by a unit or individual, declare a variety right invalid where it is not in conformity with the provisions of Articles 15 to 18 of these Regulations, or change the denomination</p>

<p>denomination of any variety that is not in conformity with the provisions of Article 18 of these Regulations. The decision to invalidate variety rights and the decision to change the name shall be registered and publicly announced by the examining and approving organs, and the parties shall be notified.</p> <p>If not satisfied with the decision of the Review Board for New plant varieties, a suit may, be filed in a people's court within three months from the date of receiving notice.</p> <p>第三十七条 自审批机关公告授予品种权之日起，植物新品种复审委员会可以依据职权或者依据任何单位或者个人的书面请求，对不符合本条例第十四条、第十五条、第十六条和第十七条规定的，宣告品种权无效；对不符合本条例第十八条规定的，予以更名。宣告品种权无效或者更名的决定，由审批机关登记和公告，并通知当事人。</p> <p>对植物新品种复审委员会的决定不服的，可以自收到通知之日起 3 个月内向人民法院提起诉讼。</p>	<p>of any variety that is not in conformity with the provisions of Article 19 of these Regulations. The decision to invalidate variety rights and the decision to change the name shall be registered and publicly announced by the examining and approving organs, and the parties shall be notified by the Review Board.</p> <p>If any party is not satisfied with the decision of the Review Board on invalidation or name change, a suit may, be filed in a people's court within three months from the date of receiving notice.</p> <p>The specific rules on review shall be formulated and promulgated by the examining and approving organs.</p> <p>第四十条 自审批机关公告授予品种权之日起，复审委员会可以依据职权或者依据任何单位或者个人的书面请求，对不符合本条例第十五条至第十八条规定的，宣告品种权无效；对不符合本条例第十九条规定的，予以更名。宣告品种权无效或者更名的决定，由审批机关登记和公布，并由复审委员会通知当事人。</p> <p>当事人对复审委员会无效宣告或更名决定不服的，可以自收到通知之日起 3 个月内向人民法院提起诉讼。</p> <p>复审具体规定由审批机关制定并发布。</p>
<p>Article 38 A variety right that has been declared invalid shall be deemed to be void from the beginning.</p> <p>A decision declaring a variety right invalid shall have no retroactive effect on</p>	<p>Article 41 A variety right that has been declared invalid shall be deemed to be void from the beginning.</p> <p>A decision declaring a variety right invalid shall have no retroactive effect on</p>

<p>any judgment or order on infringement of a new variety of plant which has already been pronounced and enforced by the people's court, on any decision concerning the handling of infringement of a new variety of plant which has already been made and enforced by the administrative departments of agriculture and forestry of the People's Governments at or above provincial level, and on any contract of license for exploitation of a new variety of plant and any contract of assignment of the right of a new variety of plant which has been performed, prior to the declaration; however, damage caused to any other person through bad faith on the part of the variety right owner shall be reasonably compensated.</p> <p>If, according to the provisions of the preceding paragraph, the fee for the exploitation of a new variety of plant or the price for the assignment of a variety right is not returned by the variety right owner or the assignor of the variety right to the licensee or the assignee, which is obviously contrary to the principle of fairness, the variety rights owner or the assignor of the variety right shall return in whole or part fee for the exploitation of the variety or the price for assignment of the variety right to the licensee or the assignee.</p> <p>第三十八条 被宣告无效的品种权视为自始不存在。</p> <p>宣告品种权无效的决定，对在宣告前人民法院作出并已执行的植物新品种侵权的判决、裁定，省级以上人民政府农业、林业行政部门作出并已执行的植物新品种侵权处理决定，以及已经履行的植物新品种实施许可合同和植物新品种权转让合同，</p>	<p>any judgment or order on infringement of a new variety of plant which has already been pronounced and enforced by the people's court, on any decision concerning the handling of infringement of a new variety of plant which has already been made and enforced by the competent departments of agriculture, rural, forestry and grassland of the People's Governments at or above county level, and on any contract of license for exploitation of a variety right and any contract of assignment of the right of a variety right which has been performed, prior to the declaration; however, damage caused to any other person through bad faith on the part of the variety right owner shall be reasonably compensated.</p> <p>If, according to the provisions of the preceding paragraph, the compensation for infringement of new plant varieties, royalty of variety rights, and fees for assignment of variety rights are not returned, which is obviously contrary to the principle of fairness, all or part of them shall be returned.</p> <p>第四十一条 被宣告无效的品种权视为自始不存在。</p> <p>宣告品种权无效的决定，对在宣告前人民法院作出并已执行的植物新品种侵权的判决、裁定，县级以上人民政府农业农村、林业草原主管部门作出并已执行的植物新品种侵权处理决定，以及已经履行的品种权实施许可合同和品种权转让合同，不具有追溯力。但是，因品种权人的恶意给他</p>
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<p>不具有追溯力；但是，因品种权人的恶意给他人造成损失的，应当给予合理赔偿。</p> <p>依照前款规定，品种权人或者品种权转让人不向被许可实施人或者受让人返还使用费或者转让费，明显违反公平原则的，品种权人或者品种权转让人应当向被许可实施人或者受让人返还全部或者部分使用费或者转让费。</p>	<p>人造成损失的，应当给予合理赔偿。</p> <p>依照前款规定不返还植物新品种侵权赔偿金、品种权使用费、品种权转让费，明显违反公平原则的，应当全部或者部分返还。</p>
<p>Chapter VII Penalty Provisions 第七章 罚 则</p>	<p>Chapter VII Penalty Provisions 第七章 罚 则</p>
<p>Article 39 Where the propagation material of a granted variety is produced or marketed for commercial purposes without the consent of the variety right owner, the variety right owner or other interested party may request the administrative departments of agriculture and forestry of the people's governments at or above the provincial level to handle it in accordance with their respective functions and powers, or directly file suit in a people's court.</p> <p>The administrative departments of agriculture and forestry of the people's governments at or above the provincial level may, according to their respective functions and powers and on the basis of the principle of free will of the parties, mediate the compensation for damages caused by the infringement. Where an agreement is reached through mediation, it shall be executed by the parties; where no agreement is reached through mediation, the variety right owner or other interested party may file suit in a people's court according to the civil procedure.</p>	<p>Article 42 Violation of Article 7 of these Regulations shall be resolved through negotiation between the parties. If they are unwilling to negotiate or the negotiation fails, the variety right owner or other interested party may the competent departments of agriculture, rural, forestry and grassland of the People's Governments at or above county level to handle it in accordance with their respective functions and powers, or apply for arbitration or directly file suit in a people's court.</p> <p>The competent departments of agriculture, rural, forestry and grassland of the People's Governments at or above county level may, according to their respective functions and powers and on the basis of the principle of free will of the parties, mediate the compensation for damages caused by the infringement. Where an agreement is reached through mediation, it shall be executed by the parties; where the parties fail to perform the agreement or no agreement is reached through mediation, the variety right owner or other interested party may file suit in a people's court according to law.</p>

<p>In handling cases of infringement of variety right in accordance with their respective functions and powers, the administrative departments of agriculture and forestry of the people's governments at or above the provincial level may, for the purposes of safeguarding the public interests society, order the infringer to stop the infringing act, confiscate the illegal gains and propagation material of the plant variety; where the value of material is more than 50,000 yuan, a fine of more than one time but less than five times the value of material may be imposed; where there is no value of plant variety or the value of material is less than 50,000 yuan, a fine of less than 250,000 yuan may be imposed according to the seriousness of circumstances.</p> <p>第三十九条 未经品种权人许可，以商业目的生产或者销售授权品种的繁殖材料的，品种权人或者利害关系人可以请求省级以上人民政府农业、林业行政部门依据各自的职权进行处理，也可以直接向人民法院提起诉讼。</p> <p>省级以上人民政府农业、林业行政部门依据各自的职权，根据当事人自愿的原则，对侵权所造成的损害赔偿可以进行调解。调解达成协议的，当事人应当履行；调解未达成协议的，品种权人或者利害关系人可以依照民事诉讼程序向人民法院提起诉讼。</p> <p>省级以上人民政府农业、林业行政部门依据各自的职权处理品种权侵权案件时，为维护社会公共利益，可以责令侵权人停止侵权行为，没收违法所得和植物品种繁殖材料；货值金额 5 万元以上的，可处货</p>	<p>In handling cases of infringement of variety right as requested, the competent departments of agriculture, rural, forestry and grassland of the People's Governments at or above county level, for the purposes of safeguarding the public interests society, will order the infringer to stop the infringing act, confiscate the illegal gains and propagation material as well as harvest material of the plant variety; where the value of the material is less than 50,000 yuan, a fine of not less than 10,000 yuan but not more than 250,000 yuan shall be imposed; where the value of material is more than 50,000 yuan, a fine of more than five times but less than ten times the value of material will be imposed.</p> <p>第四十二条 违反本条例第七条规定的，由当事人协商解决。不愿协商或者协商不成的，品种权人或者利害关系人可以请求县级以上人民政府农业农村、林业草原主管部门依据各自的职权进行处理，也可以申请仲裁或者直接向人民法院提起诉讼。</p> <p>县级以上人民政府农业农村、林业草原主管部门依据各自的职权，根据当事人自愿的原则，对侵犯品种权所造成的损害赔偿可以进行调解。调解达成协议的，当事人应当履行；当事人不履行协议或者调解未达成协议的，品种权人或者利害关系人可以依法向人民法院提起诉讼。</p> <p>县级以上人民政府农业农村、林业草原主管部门应请求处理侵犯品种权案件时，为了维护社会公共利益，责令侵权人停止侵权行为，没收违法所得和植物品种繁殖材料、收获材料；货值金额不足 5 万元</p>
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<p>值金额 1 倍以上 5 倍以下的罚款；没有货值金额或者货值金额 5 万元以下的，根据情节轻重，可处 25 万元以下的罚款。</p>	<p>的，并处 1 万元以上 25 万元以下罚款；货值金额 5 万元以上的，并处货值金额 5 倍以上 10 倍以下罚款。</p>
<p>Article 40 Where a new plant variety is counterfeited, the administrative departments of agriculture and forestry of the people's governments at or above the county level shall enjoin the counterfeiting act, confiscate the illegal gains and the propagation material of the plant variety; where the value of plant variety is more than 50,000 yuan, a fine of more than one time but less than five times the value of plant variety shall be imposed; where there is no value of plant variety or the value of plant variety is less than 50,000 yuan, a fine of less than 250,000 yuan shall be imposed according to the seriousness of circumstances; where the circumstances are so serious as to constitute a crime, criminal liability shall be investigated according to law.</p> <p>第四十条 假冒授权品种的，由县级以上人民政府农业、林业行政部门依据各自的职权责令停止假冒行为，没收违法所得和植物品种繁殖材料；货值金额 5 万元以上的，处货值金额 1 倍以上 5 倍以下的罚款；没有货值金额或者货值金额 5 万元以下的，根据情节轻重，处 25 万元以下的罚款；情节严重，构成犯罪的，依法追究刑事责任。</p>	<p>Article 43 Where a new plant variety is counterfeited, the competent departments of agriculture, rural, forestry and grassland of the people's governments at or above the county level shall enjoin the counterfeiting act, confiscate the illegal gains and the propagation material as well as harvest material of the plant variety; where the value of the material is less than 50,000 yuan, a fine of not less than 10,000 yuan but not more than 250,000 yuan shall be imposed; where the value of material is more than 50,000 yuan, a fine of more than five times but less than ten times the value of material will be imposed. Where the circumstances are so serious as to constitute a crime, criminal liability shall be investigated according to law.</p> <p>第四十三条 假冒授权品种的，由县级以上人民政府农业农村、林业草原主管部门依据各自的职权责令停止假冒行为，没收违法所得和植物品种繁殖材料、收获材料；货值金额不足 5 万元的，并处 1 万元以上 25 万元以下罚款；货值金额 5 万元以上的，并处货值金额 5 倍以上 10 倍以下罚款。情节严重，构成犯罪的，依法追究刑事责任。</p>
	<p>Article 44 The competent departments of agriculture and rural affairs, forests and grasslands of the people's government at or above the county level may carry out the testing on propagation materials or harvest materials for production and operation by using the rapid testing methods provided by the State, and the</p>

	<p>testing results may be used as the basis for administrative punishments. Where the parties have objections to the testing results, they may apply for a retesting, but the same testing method shall not be used. Where losses are caused to the parties due to errors in the testing results, the competent departments shall assume compensation liability in accordance with law.</p> <p>第四十四条 县级以上人民政府农业农村、林业草原主管部门可以采用国家规定的快速检测方法对生产经营的繁殖材料或收获材料进行检测，检测结果可以作为行政处罚依据。被检查人对检测结果有异议的，可以申请复检，复检不得采用同一检测方法。因检测结果错误给当事人造成损失的，依法承担赔偿责任。</p>
<p>Article 41 The administrative departments of agriculture and forestry of the people's governments at or above the provincial level investigation and handling cases of infringement of variety right in accordance with their respective functions and powers, and the administrative departments of agriculture and forestry of the people's governments at or above the county level investigating and handling cases concerning counterfeiting granted variety in accordance with their respective functions and powers, may, as necessary, seal or seize propagation material of the plant variety related to the case, and have access to, make copies of and seal up contracts, account books and other relevant documents relating to the case.</p>	<p>Article 45 The competent departments of agriculture, rural, forestry and grassland of the people's governments at or above the county level investigation and handling cases of infringement of variety right and cases concerning counterfeiting granted variety, may, as necessary, take the following measures:</p> <p>(1) Enter the site of production and operation to conduct on-site inspection;</p> <p>(2) Carry out sampling testings, experiments or inspections on propagation materials and harvest materials of plant varieties;</p> <p>(3) Have access to and make copies of relevant contracts, bills, account books, production and operation archives and other relevant documents;</p> <p>(4) Seal up or seize the propagation</p>

<p>第四十一条 省级以上人民政府农业、林业行政部门依据各自的职权在查处品种权侵权案件和县级以上人民政府农业、林业行政部门依据各自的职权在查处假冒授权品种案件时，根据需要，可以封存或者扣押与案件有关的植物品种的繁殖材料，查阅、复制或者封存与案件有关的合同、账册及有关文件。</p>	<p>materials and harvest materials of plant varieties that are proved to infringe the variety rights or counterfeit granted varieties, as well as tools, equipment and means of transport used for production and operation of infringing varieties or counterfeiting of granted varieties;</p> <p>(5) Seal up the places where activities of infringement of variety rights or counterfeiting of granted varieties are carried out.</p> <p>When the competent departments of agriculture and rural affairs, forests and grasslands of the people's government at or above the county level exercise the functions and powers provided for in the preceding paragraph according to law, the parties shall assist in and cooperate with them, and shall not refuse to do so or create obstacles.</p> <p>第四十五条 县级以上人民政府农业农村、林业草原主管部门在查处品种权侵权案件和假冒授权品种案件时，根据需要可以采取下列措施：</p> <p>(一)进入生产经营场所进行现场检查；</p> <p>(二)对植物品种的繁殖材料、收获材料进行取样测试、试验或者检验；</p> <p>(三)查阅、复制有关合同、票据、账簿、生产经营档案及其他有关资料；</p> <p>(四)查封、扣押有证据证明是品种权侵权或假冒授权品种的植物品种繁殖材料、收获材料，以及用于生产经营侵权品种或假冒授权品种的工具、设备及运输工具等；</p> <p>(五)查封从事品种权侵权或假冒授权品种活动的场所。</p> <p>县级以上人民政府农业农村、林业草原</p>
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	主管部门依法行使前款规定的职权时，当事人应当予以协助、配合，不得拒绝、阻挠。
<p>Article 42 Where a granted variety is sold without using its registered denomination, the administrative departments of agriculture and forestry of the people's governments at or above the county level shall, in accordance with their respective functions and powers, order corrections within a specified time limit, and may impose a fine not more than 1,000 yuan.</p> <p>第四十二条 销售授权品种未使用其注册登记的名称的，由县级以上人民政府农业、林业行政部门依据各自的职权责令限期改正，可以处 1000 元以下的罚款。</p>	Deleted
<p>Article 43 If the parties have disputes over the right to apply for a new plant variety and the ownership of the variety right, they may bring a lawsuit to the people's court.</p> <p>第四十三条 当事人就植物新品种的申请权和品种权的权属发生争议的，可以向人民法院提起诉讼。</p>	<p>Article 46 If the parties have disputes over the right to apply for a variety right and the ownership of the variety right, they may bring a lawsuit to the people's court.</p> <p>第四十六条 当事人就品种权的申请权和品种权的权属发生争议的，可以向人民法院提起诉讼。</p>
	<p>Article 47 Where the parties do not know and should not know that it is the propagation material or harvest material of the infringing variety, and can prove that there is a lawful source available, the competent departments of agriculture and rural affairs, forests and grasslands of the people's government at or above the county level shall order to cease infringement, and may waive or reduce punishment in accordance with law.</p> <p>第四十七条 当事人不知道也不应当知道是侵权品种的繁殖材料、收获材料，并</p>

	<p>且能够证明有合法来源的，县级以上人民政府农业农村、林业草原主管部门应当责令停止侵权，可以依法免除或者减轻处罚。</p>
<p>Article 44 Any staff member of the administrative departments of agriculture and forestry of the people's governments at or above the county level and of other departments who abuses his power, neglects his duty, commits illegality for personal interest or by fraudulent means, or seeks or accepts bribes shall be investigated for criminal liability according to law if a crime is constituted; administrative sanctions shall be given according to law if a crime is not constituted.</p> <p>第四十四条 县级以上人民政府农业、林业行政管理部门的及有关部门的工作人员滥用职权、玩忽职守、徇私舞弊、索贿受贿，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。</p>	<p>Article 48 Any staff member of the competent departments of agriculture, rural, forestry and grassland of the people's governments at or above the county level and of other departments who abuses his power, neglects his duty, commits illegality for personal interest or by fraudulent means, or seeks or accepts bribes shall be investigated for criminal liability according to law if a crime is constituted; administrative sanctions shall be given according to law if a crime is not constituted.</p> <p>第四十八条 县级以上人民政府农业农村、林业草原主管部门及有关部门的工作人员滥用职权、玩忽职守、徇私舞弊、索贿受贿，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。</p>
	<p>Article 49 Where there is deception, concealment, forgery or other dishonest conduct in the application process, it shall be included in credit records by the examining and approving organs in accordance with law and announced to the public; and relevant applicants and responsible persons shall not apply for variety rights within 3 years, and shall assume compensation liability for the resulting losses according to law.</p> <p>Where losses are caused by the failure of the applicant or variety rights owner to register in accordance with the provisions of Articles 11 and 28 of these Regulations,</p>

	<p>they shall bear corresponding compensation liability in accordance with law.</p> <p>第四十九条 在申请过程中存在欺骗、隐瞒、伪造等不诚信行为的，审批机关依法纳入信用记录，并向社会公布。相关申请人和责任人3年内不得申请品种权，造成损失的，依法承担赔偿责任。</p> <p>因申请人或者品种权人不按本条例第十一条、第二十八条的规定登记，造成损失的，依法承担相应的赔偿责任。</p>
Chapter VIII Supplementary Provisions	Chapter VIII Supplementary Provisions
第八章 附 则	第八章 附 则
<p>Article 45 The examining and approving organs may formulate responsive provisions on the requirements of novelty for genus or species first included in the catalogue of granted plant varieties before the entry into force of these Regulations and for genus or species newly included in the catalogue of granted plant varieties after the entry into force of the Regulations.</p> <p>第四十五条 审批机关可以对本条例施行前首批列入植物品种保护名录的和本条例施行后新列入植物品种保护名录的植物属或者种的新颖性要求作出变通性规定。</p>	Moved to Article 15 (and modified)
	<p>Article 50 The meanings of the following terms in these Regulations are:</p> <p>(1) Propagation materials refer to planting materials used for propagation, including seed grains, fruits, roots, stems, seedlings, buds, leaves, flowers, etc.;</p> <p>(2) Harvest materials refer to the whole or part of the plants obtained from the propagation materials of the variety after planting;</p>

	<p>(3) Farmers as mentioned in these Regulations refer to members of rural collective economic organizations that have signed rural land contracts in the form of a system of contracted responsibilities on the household basis with remuneration linked to output.</p> <p>第五十条 本条例下列用语的含义是：</p> <p>（一）繁殖材料是指用于繁殖的种植材料，包括籽粒、果实、根、茎、苗、芽、叶、花等；</p> <p>（二）收获材料是指从品种的繁殖材料经过种植后获得的植物整体或者部分；</p> <p>（三）本条例所称的农民是指以家庭联产承包责任制的形式签订农村土地承包合同的农村集体经济组织成员。</p>
<p>Article 46 These Regulations shall take effect as of October 1, 1997.</p> <p>第四十六条 本条例自 1997 年 10 月 1 日起施行。</p>	<p>Article 51 These Regulations shall take effect as of</p> <p>第五十一条 本条例自 年 月 日起施行。</p>