

Farmer-Saved Wheat Seed: Regulations You Should Be Aware Of

J. F. Spears – Extension Seed Specialist
 Rand Weisz – Extension Small Grain Specialist
 Department of Crop Science
 North Carolina State University

Patented Wheat Seed And Plant Back

As small grain planting time draws closer, growers are deciding which varieties to plant and where they will get their seed. Some have already booked seed with their dealer, some are waiting to see how the year progresses before making this decision, and some will rely on seed they grew last year on their own farms. In the past, other than quality issues, saving wheat seed to plant back on your farm was not a concern. **Today however, some wheat varieties carry a utility patent that makes saving seed of these varieties illegal.** Growers are urged to look closely at what seed they are considering saving for plant-back. If the grain in the bin was produced from seed of a patented variety, growers should sell that as grain and select other sources of seed to plant.

Plant Back For Cover Crops?

Some growers may have questions about their right to save seed based on their intended use of that seed. For example, **what if I am only planting cover crop wheat? Can I save seed from a patented wheat variety? The answer is no.** It does not matter what the crop will be used for. No seed of patented varieties can be saved for planting purposes regardless of the intended use of the crop.

Patented Seed And Custom Cleaners

What about custom seed cleaners? What are their responsibilities? **Custom cleaners are liable for any seed of patented varieties found in their facility.** To avoid law suits, custom cleaners should consider having growers sign statements related to the identity of the seed to be cleaned, including the variety name, the company that sells the variety, the farm from which the seed came, the amount of seed to be cleaned, and the name and address of the person requesting cleaning service. While taking these steps will not eliminate liability risk it will substantially decrease it and should reduce the risk of the cleaner being guilty of willful infringement.

Avoid Violations

Violation of patent laws is serious and penalties can be substantial. Growers, retail dealers, and custom cleaners should be aware of all Federal and State laws pertaining to saving seed and handling seed. Your county Cooperative Extension Service has publications that describe the regulations and your responsibilities for handling protected varieties. Contact your local extension office for copies of these publications.