

Saving Wheat Seed

Throughout the ages, farmers have planted wheat seed saved from their previous crop. When making seed wheat decisions, they selected the best quality seed from the highest yielding varieties.

With the advent of hybrid crops like corn, farmers discovered that they did not get the advantage of hybrid vigor when they saved their corn seed, the ensuing crop was not uniform, and yields were poor. It was quickly learned they needed to buy new seed each year of these hybrid crops to maximize yields. This annual purchase of hybrid seed commercialized the corn seed business and resulted in enormous investment into research and development for improved corn hybrids. Consequently, technology in corn has benefitted farmers tremendously. When it comes to hybrid corn, it just didn't make sense to save your corn seed any more.

With the passage of the US Plant Variety Protection Act in 1970, congress encouraged private investment into development of new plant varieties. An important component of this act was the farmer's right to save seed. Section 113 of the act states, *"It shall not infringe any right hereunder for a person to save seed produced by the person from seed obtained, or descended from seed obtained, by authority of the owner of the variety for seeding purposes and use such saved seed in the production of a crop for use on the farm of the person ..."*

Simply stated, if a farmer purchases Certified wheat seed they may keep seed grown from that seed for planting on his farm. However, if a farmer buys non-certified wheat seed of a PVPA protected variety from someone else, it is likely that not only is the purchase of that seed in violation of the Act, but saving seed of subsequent production is also a violation.

The most recent restrictions to saving seed are those imposed by patented traits and sales contracts. In most cases, farmers are prohibited by patent laws from saving seed of varieties with patented traits like Roundup® resistance in soybean and Clearfield® in wheat. This is usually reinforced through a contract that is signed at the point of purchase. Even if traits are not patented, saving seed may be prohibited as part of the sales contract.

The consequences of planting illegal seed can be substantial. The owner of the variety could go as far as filing a lawsuit asking for the destruction of the crop. There could also be monetary awards and attorney fees. If state or federal officials get involved, fines could be imposed.

Ignorance of the law is no excuse. As a best management practice, farmers should know what variety they are planting. If they can't show that they purchased Certified seed, they will need to investigate further before they save any production for planting. If they did purchase Certified seed, they should read the label and sales contracts to see if there are any restrictions on saving seed.

Should anyone have specific questions regarding saving wheat varieties for planting contact the Colorado State Seed Department at 970-491-6202.

With the recent private investment and inclusion of proprietary genetic traits into wheat variety development, time will tell if producers can save future seed. On the bright side, the value that seed Certification brings to seed wheat performance and convenience along with the improvements in yield and quality offered by new varieties may make saving your own seed an economically unattractive choice.

Source: Daryl Strouts, president, Kansas Wheat Alliance – December 2010 Wheat Farmer Newsletter