

# IMPORTANT NOTICE



## September 15, 2009, Minnesota Department of Agriculture's Interpretation of Minnesota Statute section 25.39 Subd. 1 (2008) – Customer Formula Feed Inspection Fees

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*This document is for guidance purposes only and does not constitute legal advice. It is the responsibility of the commercial feed manufacturer/distributor to ensure they are in compliance with the applicable laws and requirements. Following the guidance in this document does not preclude regulatory or compliance action by the Minnesota Department of Agriculture when authorized by state law, nor does it release any commercial feed manufacturer or distributor from legal responsibility or liability of any kind.*

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This purpose of this document is to clarify MDA's position on customer formula feed inspection fee issues. During Feed Program meetings with stakeholders and subsequent Feed Program interaction with the industry, it has become clear that the commercial feed industry lacks a uniform interpretation of the Minnesota Commercial Feed Law and its provision for payment of inspection fees.

Some commercial feed distributors are not paying the required fees. These distributors believe that, "no fee need be paid on customer formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients." [ref. MS 25.39 Subdivision 1(a)(1)(ii)] These distributors are arriving at an incorrect conclusion when maintaining that the grain (whole seeds and physically altered entire seeds) portion of a customer formula feed is not a commercial feed. This conclusion can only be supported by ignoring the word "unmixed" in the commercial feed definition which states, in part, that **unmixed whole seeds and physically altered entire seeds are exempt from the definition of commercial feed** (ref. MS 25.33 Subd. 5).

The state of Minnesota has determined that grain (whole seeds and physically altered entire seeds) **distributed and mixed with other feed ingredients** into a customer formula feed **is** subject to inspection fees.

*Ingredients furnished by the final purchaser, for use in their own feed, do not meet the definition of **distribute** (ref. MS 25.33 Subd. 3) and are not subject to inspection fees. An example of this would be a final purchaser furnishing their own ingredients/grain (as evidenced by scale tickets for grain received in the final purchaser's name), commonly known by the industry as "Grain Bank."*

**These feed fee clarifications are effective on January 1, 2010 for fees payable January, 2011.**

The Minnesota Department of Agriculture (MDA) Commercial Feed Program provides regulation, compliance assistance and technical assistance to the commercial feed industry in the state of Minnesota. There are several goals of this program:

- To ensure that commercial feed distributed in Minnesota is not misbranded or adulterated and the purchasers of the feed are protected;
- To ensure the health of animals consuming feed;
- To see that the industry is subject to uniform and fair conditions of regulation, and;
- To maintain public confidence in the feed/food chain by ensuring the feed poses no threat of carryover adulteration to the human food supply.

Comments and questions should be directed to Doug Lueders, MDA Commercial Feed Program Supervisor, at 651-201-6176 or [doug.lueders@state.mn.us](mailto:doug.lueders@state.mn.us).

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