

Feed Questions & Answers

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Section 1. Licensing

1.1 Q: Our facility sells only feed manufactured and guaranteed by others. We do handle some bulk feeds but we have no mixing equipment. Do we need a commercial feed license?

A: A business that makes only retail sales of feed guaranteed by others is not required to have a commercial feed license. However, your bulk feed situation may require that you have a commercial feed license. In most cases you will become the guarantor of a bulk feed once you have assumed custody or control of the feed or feed ingredient. If you become the bulk feed guarantor, you must have a MN Commercial Feed license. If you are authorized by the bulk feed guarantor to distribute the bulk feed in their name, you do not need a commercial feed license (reference: MS 25.341).

1.2 Q: Can an internet seller of feed, pet food or specialty pet food be required to have a MN Commercial Feed License?

A: Yes, if a guarantor/distributor's website identifies a Minnesota distribution location(s), the guarantor/distributor must have a Minnesota Commercial Feed license. Each guarantor of feed, pet food or specialty pet food distributed in MN must have a MN Commercial feed license [reference: MS 25.341 Subd. 1, MS 25.38(5)].

Section 2. Inspection fees

2.1 Q: What is the tonnage tax and who owes it?

A: The industry's terms "tonnage tax" and "tonnage fee(s)" are properly called "inspection fee(s)". The person/firm that first distributes (offers for sale) a feed or feed ingredient in Minnesota is responsible for the inspection fee. Feeds or feed ingredients manufactured in Minnesota and sold/distributed outside of MN are not subject to Minnesota inspection fees (reference: MS 25.39 Subd.1, MS 25.33 Subd.3). (also see Q&A 2.3)

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2.2 Q: My feed ingredient supplier has recently indicated that he must now charge me the Minnesota tonnage tax. I thought the first person to distribute was responsible for the tax.

A: There is no Minnesota Commercial Feed Law requirement for a feed or feed ingredient distributor to charge a buyer for the tonnage inspection fee. Likewise, the statute is silent on the passing forward of inspection fees to subsequent purchasers. In this case, the supplier is passing forward the fee that is either the supplier's obligation to remit to the state (as in the "first to distribute") or has also been passed forward to them by a previous distributor. This is a business practice that should be addressed in your purchase/sale contract (reference: MS 25.39 Subd. 1). (also see Q&A 2.3)

2.3 Q: How do I get credit for fees that I have paid on purchased feed that was then sold to purchasers outside of Minnesota?

A: Technically there is no "credit" procedure for out-of-state sales. You may be confused by the common business practice of passing forward the dollar amount for inspection fees to the next purchaser. Payment of this fee passed forward only results in compensating a previous fee payee and is not the same as a fee payment to the state. If qualified, you may obtain a "Tonnage Fee Exemption Permit" issued by the MDA. This permit exempts a "first to distribute" distributor from the obligation to remit fees for sales to a Tonnage Fee Exemption Permit holder. The Tonnage Fee Exemption Permit holder then assumes responsibility for payment of the inspection fees on their distribution in Minnesota, and is likewise responsible to the destination state for distribution outside of Minnesota. (reference: MS 25.39 Subd. 1) (also see Q&A 2.1, 2.2)

2.4 Q: We would like a clarification of inspection fees on items that we manufacture.

A: Inspection fees are due on any feed or feed ingredient that you are the *first to distribute in Minnesota*. Generally speaking, this will be grain that you have sold (distributed) and mixed into feed manufactured at your facility. Feed ingredients produced at your facility, such as roasted or extruded soybeans, and offered for sale in MN are subject to inspection fees. (reference; MS 25.33 Subd. 5, MS 25.33 Subd.10). Also included are feed(s) or feed ingredients that you are the first to bring into Minnesota. (also see Q&A 2.7, 2.8, 2.9, 2.11 and 2.17)

2.5 Q: Must a feed mill verify the inspection fee was paid on purchased ingredients?

A: No, it is the seller's responsibility to maintain records of tonnage distributed in Minnesota and pay the inspection fees (reference: MS 25.39 Subd 3).

2.6 Q: Inspection fees have already been paid on several ingredients in our finished feed products. How do I adjust my fee payment for these ingredients?

A: You are correct that the inspection fee on any particular feed ingredient is due only once. The MDA does not stipulate any particular format for calculating your inspection fee obligation. In most cases your inspection fee will be for grain that has been manufactured (e.g.; mixed, blended, extruded, steam flaked, roasted, pelleted, packaged or labeled as a feed or feed ingredient) at your facility and sold (distributed) as part of a finished feed. (also see Q&A 2.4)

2.7 Q: I understand that some materials are exempt from inspection fees. Can you explain what is exempt and what is not?

A: Whole seeds and physically altered entire seeds (also see Q&A 2.8, 2.9) are exempt from inspection fees, as long as the whole and physically altered entire seeds are not mixed, chemically altered, or adulterated, and not labeled as a feed or feed ingredient. The Minnesota Commercial Feed Rule also specifically exempts: raw meat, hay, loose salt, straw, stover, silages, cobs, husks and hulls. These products lose their exempt status when ground, mixed or intermixed with other materials, or labeled as a feed or feed ingredient (reference: MS 25.33 Subd 5, and MR 1510.1930 Subpart 2). (also see Q&A 2.17)

2.8 Q: Is rolled grain subject to inspection fees?

A: Whole corn that has been rolled or ground would be exempt from inspection fees as long as it is not mixed with other feed ingredients or labeled as a feed or feed ingredient. However, steam rolled oats is subject to inspection fees because the oats have been chemically altered (reference: MS 25.33 Subd 5). (also see Q&A 2.7)

2.9 Q: Is whole corn sold as deer feed subject to inspection fees?

A: If the corn has labeling indicating its intended use is as a feed or feed ingredient, inspection fees are due (reference: MS 25.33, Subd 5 & Subd 14). (also see Q&A 2.7)

2.10 Q: How do we determine if corn sold to a farmer is being used as a feed ingredient and, if so, is the seller responsible for the inspection fee?

A: Unmixed whole, rolled or ground corn that is not labeled as a feed or a feed ingredient is not subject to inspection fees (reference: MS 25.33, Subd 5). (also see Q&A 2.7)

2.11 Q: When we purchase DDGS (distillers dried grains with solubles) from an ethanol plant, is the inspection fee supposed to be paid by the ethanol plant?

A: This depends on where transfer of ownership takes place. If ownership takes place in Minnesota, the seller (in this case the ethanol plant) pays the inspection fee. However, if transfer of ownership of the DDGS occurs outside of Minnesota (e.g., FOB at an out of state ethanol plant), then the buyer is responsible for the Minnesota inspection fee when distribution occurs in Minnesota (reference: MS 25.39, Subd 1). (Also see Q&A 2.15)

2.12 Q: We have received invoices from ingredient suppliers that state, “tonnage inspection fee for the account of the buyer.” Aren’t ingredient sellers responsible for the inspection fee?

A: Such a statement is not supported by the MN Commercial Feed statute and does not relieve the supplier (distributor) of their fee obligation to the state. The Statute clearly states that the first person that distributes a commercial feed in/into Minnesota is responsible for the inspection fee (reference: MS 25.39 Subd 1). The Statute is silent on business practices (purchase/sale contracts, invoicing statements, etc.) that call for reimbursing a previous distributor for the inspection fees that they are obligated to remit to the state. (also see Q&A 2.2)

2.13 Q: Why is customer formula feed exempt but mill formula feed is subject to the inspection fee?

A: Customer formula feed is NOT exempt from inspection fees. All feed or feed ingredients distributed in Minnesota are subject to inspection fees. Ingredients that have had the fee paid previous to manufacturing at a particular site should not be included in that site's fee calculation. Whole seed/grain that is mixed as an ingredient in a customer formula feed is subject to inspection fees unless the whole seed/grain is directly provided (i.e., as evidenced by scale delivery tickets in the customer's name) by the customer (reference: MS 25.39 Subd. 1, MS 25.33 Subd. 5). (also see Q&A 2.17)

2.14 Q: I am the owner/operator of a commercial feed mill and I also have a swine finishing operation. Do I need to pay inspection fees on feed that I manufacture for my own hogs?

A: All commercial mills are obligated to pay inspection fees on previously exempt feed ingredients (corn, etc.) when mixed with other seeds, grain, feed or feed ingredients. No inspection fee on grain is owed if the swine raising entity is the deliverer/owner of the grain (also see Q&A 2.13, 2.17), [reference: MS 25.33 Subd 5, MS 25.39(1)].

2.15 Q: When is a broker responsible for the payment of fees?

A: The responsibility for payment of inspection fees depends on where the transfer of ownership of the feed or feed ingredient takes place. If a buyer takes ownership of the feed or feed ingredient in Minnesota, the first seller is responsible for payment of the inspection fee. If the transfer of ownership occurs at a point outside Minnesota, the buyer is then responsible for payment of the inspection fee for feed or feed ingredients distributed into Minnesota (reference: MS 25.39 Subd 1). (also see Q&A 2.11)

2.16 Q: How long am I required to keep my tonnage tax records?

A: MS 25.39 Subd. 3. states that, "records upon which the tonnage is based must be maintained for six years and made available to the commissioner for inspection, copying, and audit."

2.17 Q: Is Grain Bank exempt from tonnage tax?

A: Although there is no official recognition of Grain Bank in Chapter 25, Grain Bank (customer provided grain held by the feed manufacturer for future use in that customer's feed) grain is not distributed (sold) by the feed manufacturer and, as such, no inspection fees are due on this customer provided grain. (also see Q&A 2.13 and 2.14)

Section 3. Other

3.1 Q: What does custom mix mean?

A: Customer Formula Feed (i.e., Custom mix) means a commercial feed that has each batch manufactured according to the specific instructions of the final purchaser (reference: MS 25.33 Subd 9). Since by definition customer formula feed is different for each batch, Minnesota statute has provisions for customer formula feed labeling not provided to other commercial feeds. This labeling exemption provides that customer formula feeds may list the quantity of each commercial feed and each other ingredient (Grain Bank grain, etc.) used in the mixture or provide a guaranteed analysis and ingredient list as required of mill/commercial formula feeds [reference: MS 25.35 (b)(4)].

3.2 Q: Are corn screenings considered a commercial feed?

A: Corn screenings are fractions of a seed and, as such, are not considered “entire”. Therefore, corn screenings are commercial feed and subject to inspection fees. It is important to note that screenings (e.g., corn, wheat, beans, oats, etc.) are adulterated if they contain greater than 90 viable restricted weed seeds per pound and/or greater than 10 percent viable weed seeds by weight (reference; MS 25.37(b)(4), Minnesota Feed Rule 1510.2200, and the Minnesota Screenings Act, MS 21.71 through 21.78). If screenings are adulterated because of their weed seed content, such screenings can only be sold to holder’s of a Minnesota Screenings Purchaser Permit (reference: MS 21.71 through 21.78).

3.3 Q: Is fuzzy cottonseed a commercial feed?

A: Cottonseed labeling (reference: MS 25.33, Subd. 14) shows the intent (reference: MS 25.33, Subd. 5) for cottonseed to be distributed in Minnesota as a feed or feed ingredient. This labeling establishes cottonseed as a commercial feed.

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