CHAPTER 25
COMMERCIAL FEED

25.01 [Repealed, 1959 c 170 s 16]

25.02 [Repealed, 1959 c 170 s 16]

25.03 [Repealed, 1959 c 170 s 16]

25.04 [Repealed, 1959 c 170 s 16]

25.05 [Repealed, 1959 c 170 s 16]

25.06 [Repealed, 1959 c 170 s 16]

25.07 [Repealed, 1959 c 170 s 16]

25.08 [Repealed, 1959 c 170 s 16]

25.09 [Repealed, 1959 c 170 s 16]

25.10 [Repealed, 1959 c 170 s 16]

25.11 [Repealed, 1959 c 170 s 16]

25.12 [Repealed, 1959 c 170 s 16]

25.13 [Repealed, 1959 c 170 s 16]

25.14 [Repealed, 1959 c 170 s 16]

25.15 [Repealed, 1971 c 433 s 16]

25.16 [Repealed, 1971 c 433 s 16]

25.17 [Repealed, 1971 c 433 s 16]

25.18 [Repealed, 1971 c 433 s 16]

25.19 [Repealed, 1971 c 433 s 16]

25.20 [Repealed, 1971 c 433 s 16]

25.21 [Repealed, 1971 c 433 s 16]

25.22 [Repealed, 1971 c 433 s 16]

25.23 [Repealed, 1971 c 433 s 16]

25.24 [Repealed, 1971 c 433 s 16]

25.25 [Repealed, 1971 c 433 s 16]

25.26 [Repealed, 1971 c 433 s 16]

25.27 [Repealed, 1971 c 433 s 16]

25.28 [Repealed, 1971 c 433 s 16]

25.29 [Repealed, 1971 c 433 s 16]

25.31 CITATION, COMMERCIAL FEED LAW.

Sections 25.31 to 25.43 are known and may be cited as the "Minnesota Commercial Feed Law."

History: *1971 c 433 s 1; 1980 c 509 s 5; 1997 c 216 s 35*

25.32 COMMISSIONER'S DUTIES.

Sections 25.31 to 25.43 shall be administered by the commissioner.

History: *1971 c 433 s 2; 1980 c 509 s 6; 1997 c 216 s 36*

25.33 DEFINITIONS.

Subdivision 1. **Scope.** When used in sections 25.31 to 25.43, the terms defined in this section have the meanings given them.

Subd. 2. [Repealed, 1996 c 310 s 1]

Subd. 3. **Distribute.** "Distribute" means to offer for sale, sell, exchange, barter, or otherwise supply commercial feed. The term distribute shall not include or apply to any feeds manufactured for livestock owned by the distributor.

Subd. 4. **Distributor.** "Distributor" means any person who distributes commercial feed in this state.

Subd. 5. **Commercial feed.** "Commercial feed" means materials or combinations of materials that are distributed or intended to be distributed for use as feed or for mixing in feed, including feed for aquatic animals, unless the materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, if the whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of section 25.37, paragraph (a), are exempt. The commissioner by rule may exempt from this definition, or from specific provisions of sections 25.31 to 25.43, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances if those commodities, compounds, or substances are not intermixed with other materials, and are not adulterated within the meaning of section 25.37, paragraph (a).

Subd. 6. **Feed ingredient.** "Feed ingredient" means each of the constituent materials making up a commercial feed.

Subd. 7. **Mineral feed.** "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

Subd. 8. **Drug.** "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans and articles other than feed intended to affect the structure or any function of the animal body.

Subd. 9. **Customer formula feed.** "Customer formula feed" means commercial feed which consists of a mixture of commercial feeds or feed ingredients or both, each batch of which is manufactured according to the specific instructions of the final purchaser.

Subd. 10. **Manufacture.** "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.

Subd. 11. **Brand name.** "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or license holder and distinguishing it from that of others.

Subd. 12. **Product name.** "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.

Subd. 13. **Label.** "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

Subd. 14. **Labeling.** "Labeling" means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrapper or accompanying or supporting such commercial feed.

Subd. 15. **Ton.** "Ton" means a net weight of 2,000 pounds avoirdupois.

Subd. 16. **Percent; percentages.** "Percent" or "percentages" means percentages by weights.

Subd. 17. **Official sample.** "Official sample" means a sample of feed taken by the commissioner or the commissioner's agent in accordance with the provisions of section 25.41, subdivision 3, 5, or 6.

Subd. 18. [Repealed, 2012 c 244 art 1 s 83]

Subd. 19. **Pet food.** "Pet food" means any commercial feed prepared and distributed for consumption by pets.

Subd. 20. **Pet.** "Pet" means a domesticated dog or cat normally maintained in or near the household of its owner.

Subd. 21. **Commissioner.** "Commissioner" means the commissioner of agriculture or a designated representative.

Subd. 22. **Specialty pet.** "Specialty pet" means a domesticated animal normally maintained in a cage or tank, including, but not limited to, a gerbil, hamster, canary, psittacine bird, mynah, finch, tropical fish, goldfish, snake, or turtle. "Specialty pet" does not include a dog, cat, horse, rabbit, or wild bird.

Subd. 23. **Specialty pet food.** "Specialty pet food" means commercial feed prepared and distributed for consumption by specialty pets.

Subd. 24. **Quantity statement.** "Quantity statement" means a statement of the net weight (mass), net volume (liquid or dry), count, or other form of measurement.

History: *1971 c 433 s 3; 1980 c 509 s 7,8; 1985 c 248 s 70; 1986 c 444; 1991 c 309 s 12; 1997 c 216 s 37-45; 2006 c 203 s 1; 2012 c 244 art 1 s 31*

25.34 [Repealed, 1997 c 216 s 160]

25.341 LICENSING.

Subdivision 1. **Requirement.** Before a person may: (1) manufacture a commercial feed in the state; (2) distribute a commercial feed in or into the state; or (3) have the person's name appear on the label of a commercial feed as guarantor, the person must have a commercial feed license for each manufacturing or distributing facility. A person who makes only retail sales of commercial feed, guaranteed by another, is not required to obtain a license.

Subd. 2. **Application; fee; term.** A person who is required to have a commercial feed license shall submit an application on a form provided or approved by the commissioner accompanied by a fee of $25 paid to the commissioner for each location. A license is not transferable from one person to another, from one ownership to another, or from one location to another. The license year is the calendar year. A license expires on December 31 of the year for which it is issued, except that a license is valid through January 31 of the next year or until the issuance of the renewal license, whichever comes first, if the licensee has filed a renewal application with the commissioner on or before December 31 of the year for which the current license was issued. Any person who is required to have, but fails to obtain a license or a licensee who fails to comply with license renewal requirements, shall pay a $50 late fee in addition to the license fee.

Subd. 3. **Copies of labels.** The commissioner may request from a licensee copies of labels and labeling in order to determine compliance with sections 25.31 to 25.43.

Subd. 4. **Denial; revocation; suspension; limits.** The commissioner may deny a license to a person or suspend or revoke the license of a person who is not in compliance with sections 25.31 to 25.43. The commissioner may impose conditions that limit production or distribution of a particular commercial feed on the license of a person who is not in compliance with sections 25.31 to 25.43. A license may not be made conditional, suspended, refused, or revoked unless the applicant or licensee has been given an opportunity to be heard before the commissioner in order to comply with the requirements of sections 25.31 to 25.43.

History: *1997 c 216 s 46; 1Sp2005 c 1 art 1 s 57; 2007 c 45 art 1 s 35*

25.342 CERTIFICATES, FREE SALE.

A nonrefundable application fee of $25 must accompany all free sale certificate requests to facilitate the movement of Minnesota processed and manufactured feeds destined for export from the state. Each label submitted for review must be accompanied by a nonrefundable $50 application fee.

History: *1Sp2005 c 1 art 1 s 58*

25.35 LABELING.

(a) A commercial feed, except a customer formula feed, must be accompanied by a label bearing the following information:

(1) the product name and the brand name, if any, under which the commercial feed is distributed;

(2) the guaranteed analysis, stated in terms the commissioner requires by rule, to advise the user of the composition of the feed or to support claims made in the labeling. The substances

or elements must be determinable by laboratory methods such as the methods published by the AOAC International or other generally recognized methods;

(3) the common or usual name of each ingredient used in the manufacture of the commercial feed. The commissioner may by rule permit the use of a collective term for a group of ingredients which perform a similar function, or may exempt commercial feeds or any group of commercial feeds from this requirement on finding that an ingredient statement is not required in the interest of consumers;

(4) the name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed;

(5) adequate directions for use for all commercial feeds containing drugs and for such other feeds as the commissioner may require by rule as necessary for their safe and effective use;

(6) precautionary statements which the commissioner determines by rule are necessary for the safe and effective use of the commercial feed; and

(7) a quantity statement.

(b) A customer formula feed must be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) name and address of the manufacturer;

(2) name and address of the purchaser;

(3) date of delivery;

(4) the product name and either (i) the quantity of each commercial feed and each other ingredient used in the mixture, or (ii) a guaranteed analysis and list of ingredients in paragraph (a), clauses (2) and (3);

(5) adequate directions for use for all customer formula feeds containing drugs and for other feeds the commissioner requires by rule as necessary for their safe and effective use;

(6) precautionary statements the commissioner determines by rule are necessary for the safe and effective use of the customer formula feed;

(7) if a product containing a drug is used:

(i) the purpose of the medication (claim statement); and

(ii) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in a manner required by the commissioner by rule; and

(8) for a customer formula feed for which the formula is developed by someone other than the manufacturer, a disclaimer may be included on the label stating "THIS FEED IS A CUSTOMER FORMULA FEED DEVELOPED BY SOMEONE OTHER THAN THE MANUFACTURER. THE MANUFACTURER DOES NOT CLAIM, REPRESENT, WARRANT, OR GUARANTEE, AND IS NOT RESPONSIBLE FOR THE NUTRITIONAL ADEQUACY OF THIS FEED OR THE NUTRITIONAL SUITABILITY OF THIS FEED FOR ITS INTENDED PURPOSE."

(c) The manufacturer of a customer formula feed the formula of which is developed by someone other than the manufacturer is not responsible or liable for the nutritional adequacy or the nutritional suitability of the feed for its intended purpose if: (1) the manufacturer does not make a claim of nutritional adequacy for the customer formula feed and does not make a claim for nutritional suitability of the feed for its intended purpose; and (2) the manufacturer

includes the disclaimer in paragraph (b), clause (8). A person other than the manufacturer who develops or recommends a formula for a customer formula feed is responsible for providing to the manufacturer of the feed the appropriate labeling information and for providing the appropriate use information to the feed manufacturer.

History: *1971 c 433 s 5; 1985 c 248 s 70; 1986 c 444; 1997 c 216 s 47*

25.36 MISBRANDING.

A commercial feed is misbranded if:

(1) its labeling is false or misleading in any particular;

(2) it is distributed under the name of another commercial feed;

(3) it is not labeled as required in section 25.35;

(4) it purports to be or is represented as a commercial feed or it purports to contain or is represented as containing a commercial feed ingredient unless that commercial feed or feed ingredient conforms to the definition, if any, prescribed by rule by the commissioner;

(5) any word, statement, or other information required by or under authority of sections 25.31 to 25.43 to appear on the label or labeling is not prominently placed on it with such conspicuousness as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(6) its labeling would deceive or mislead the purchaser with respect to its composition or suitability.

History: *1971 c 433 s 6; 1980 c 509 s 10; 1985 c 248 s 70; 1997 c 216 s 48*

25.37 ADULTERATION.

(a) A commercial feed or a material exempted from the definition of commercial feed under section 25.33, subdivision 5, is adulterated if:

(1) it bears or contains a poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, the commercial feed is not considered adulterated if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health;

(2) it bears or contains an added poisonous, deleterious, or nonnutritive substance which is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act, other than the one which is a pesticide chemical in or on a raw agricultural commodity, or a food additive;

(3) it is unsafe or bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act and that raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed is not unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance

prescribed for the raw agricultural commodity unless the feeding of the processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act;

(5) it is, or it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act;

(6) it is, or it bears or contains, any new animal drug which is unsafe within the meaning of section 512 of the Federal Food, Drug, and Cosmetic Act;

(7) it consists, in whole or in part, of any filthy, putrid, or decomposed substance, or is otherwise unfit for feed;

(8) it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health;

(9) it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of section 402(a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act;

(10) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(11) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under section 409 of the Federal Food, Drug, and Cosmetic Act.

(b) A commercial feed is adulterated if:

(1) any valuable constituent has been in whole or in part omitted or abstracted from it or any less valuable substance substituted for a constituent;

(2) its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;

(3) it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules promulgated by the commissioner to assure that the drug meets the safety requirements of sections 25.31 to 25.43 and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In adopting rules under this clause, the commissioner shall adopt the current good manufacturing practice rules for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the commissioner determines that they are not appropriate to the conditions which exist in this state; or

(4) it contains viable weed seeds in amounts exceeding limits established by the commissioner by rule.

History: *1971 c 433 s 7; 1985 c 248 s 70; 1986 c 444; 1997 c 216 s 49*

25.371 GOOD MANUFACTURING PRACTICES CERTIFICATE FOR COMMERCIAL FEED AND FEED INGREDIENTS.

Subdivision 1. **Definition of words and terms.** In addition to the definitions in section 25.33, for the purpose of this section, the terms defined in this subdivision have the meanings given them.

(a) "Adulteration" means the presence of any poisonous or deleterious substance at a level that may render feed or feed ingredients injurious to human or animal health, as provided in section 25.37, paragraph (a).

(b) "Establishment" includes, but is not limited to, buildings, structures, facilities, equipment, and conveyances that receive, store, manufacture, process, package, label, transport, or distribute feed or feed ingredients.

(c) "Pest" means any objectionable animal, including, but not limited to, bats, birds, rodents, insects, and insect larvae.

Subd. 2. **Certificate application.** (a) A person may apply to the commissioner for a good manufacturing practices certificate for commercial feed and feed ingredients. Application for good manufacturing practices certificates must be made on forms provided or approved by the commissioner. The commissioner shall conduct inspections of facilities for persons that have applied for or intend to apply for a good manufacturing practices certificate for commercial feed and feed ingredients from the commissioner. The commissioner shall not conduct an inspection under this section if the applicant has not paid in full the inspection fee for previous inspections. Certificate issuance shall be based on compliance with subdivisions 3 to 14, or United States Food and Drug Administration rules regarding preventive controls for animal feed.

(b) The commissioner may assess a fee for the inspection, service, and work performed in carrying out the issuance of a good manufacturing practices certificate for commercial feed and feed ingredients. The inspection fee must be based on mileage and the cost of inspection.

Subd. 3. **Personnel.** (a) Persons working in direct contact with feed and feed ingredients must conform to good hygienic practices to minimize the risk of adulteration.

(b) Persons who receive, store, manufacture, process, package, label, sample, transport, or distribute feed or feed ingredients must be trained for the persons' areas of responsibility.

Subd. 4. **Establishments.** (a) Establishments must be of a size, construction, and design to facilitate routine maintenance and cleaning.

(b) The grounds of establishments must be maintained in a condition that minimizes pest infestation of feed or feed ingredients.

Subd. 5. **Maintenance and housekeeping.** (a) Establishments must be kept in sufficient repair and condition to minimize the risk of adulteration.

(b) Establishments must be cleaned in a manner and at a frequency that minimizes the risk of adulteration.

(c) Establishments must implement procedures that are effective in minimizing pest infestation of feed or feed ingredients.

(d) Substances not approved for use in feed or feed ingredients must be received, stored, and used in a manner that minimizes the risk of adulteration, and in accordance with applicable laws and regulations. These substances must be physically separated from work areas and equipment used for the production or storage of feed and feed ingredients.

Subd. 6. **Equipment.** (a) All equipment, including scales, metering devices, and mixers must be of a suitable size, design, construction, precision, and accuracy for the equipment's intended purpose, and to minimize the risk of adulteration.

(b) All equipment, including scales, metering devices, and mixers must be designed to facilitate inspection and cleaning, and must be properly maintained and operated to minimize the risk of adulteration.

(c) All equipment must be constructed and maintained so as to minimize the risk of lubricants and coolants becoming adulterants in feed or feed ingredients.

(d) All scales and metering devices must be tested for accuracy upon installation and at least annually thereafter.

(e) All mixers must be tested to demonstrate the capability of the equipment to produce a homogeneous mix upon installation and periodically thereafter to ensure proper function. Mixers must be operated utilizing procedures that provide for proper mixing and proper mixing times as demonstrated by testing.

(f) Records sufficient to document the testing of equipment identified in paragraphs (d) and (e) must be maintained until a subsequent test is conducted or for one year from the date of the test, whichever is longer.

Subd. 7. **Receiving and storage for further manufacture.** Specifications and procedures effective in minimizing the risk of adulteration must be established and implemented to govern the acceptance, rejection, and storage of inbound feed or feed ingredients intended for further manufacturing of feed or feed ingredients. The procedures must include the following:

(1) feed or feed ingredients must be visually inspected during receiving to confirm identity and check required labeling;

(2) feed or feed ingredients to be used in the further manufacture of feed or feed ingredients must be stored in a manner that maintains the identity and minimizes the risk of adulteration;

(3) cleanout procedures must be established and implemented for equipment, conveyances, and storage structures or containers that are effective in minimizing the risk of adulteration of feed or feed ingredients;

(4) inventory practices, including inventory rotation, must be established and implemented for feed or feed ingredients to minimize the risk of adulteration; and

(5) records must be maintained identifying the immediate previous source, quantity, type or name, and date received for each feed or feed ingredient for at least one year from the date of disposition.

Subd. 8. **Manufacturing.** (a) A feed or feed ingredient that is considered adulterated must not be used in the manufacture of feed or feed ingredients unless made safe for the feed or feed ingredient's intended use.

(b) Procedures effective in minimizing the risk of adulteration and ensuring safety and identity must be established and implemented for the manufacture of feed or feed ingredients. The procedures must include the following:

(1) a description of the manufacturing operation, which may include, but is not limited to, feed or feed ingredient formulation, mixing, and production practices;

(2) measures effective in minimizing manufacturing errors that may result in adulteration of feed or feed ingredients. The measures must include, but are not limited to:

(i) cleanout practices, which may include sequencing, flushing, or other methods; and

(ii) measures to minimize the inclusion of physical adulterants, including metal, in feed or feed ingredients.

(c) Records sufficient to document the production history of the feed or feed ingredient manufactured in the establishment must be maintained for at least one year from the date of disposition.

Subd. 9. **Packaging.** (a) Packaged feed or feed ingredients must be packaged in a manner that maintains identity and minimizes the risk of adulteration.

(b) Bags and totes used as packaging for feed or feed ingredients must not be reused unless cleaned using effective and documented cleanout procedures.

(c) Records sufficient to document these cleanout procedures must be maintained for at least one year from the date of disposition.

Subd. 10. **Labeling.** (a) A label or other unique identifier must be affixed to, or accompany feed or feed ingredients to maintain identity and facilitate safe and effective use.

(b) Labels must be stored, handled, and used in a manner that minimizes errors.

(c) Obsolete labels must be discarded promptly.

Subd. 11. **Storage of finished feed or feed ingredients.** (a) Finished feed or feed ingredients must be stored in a manner that minimizes the risk of adulteration. The bin, bulk tank, or other location where feed or feed ingredients are stored must be clearly identified.

(b) Inventory practices, including inventory rotation, must be established and implemented for feed or feed ingredients to minimize the risk of adulteration.

Subd. 12. **Inspection, sampling, and testing of incoming and finished feed or feed ingredients for adulterants.** (a) Finished feed or feed ingredients must be visually inspected for the presence of visible adulterants and verification of identity.

(b) When sampling and testing of feed or feed ingredients is performed by the establishment to monitor for adulteration, test results must be reviewed by trained personnel. Test results that indicate feed or feed ingredients are adulterated must be investigated by the establishment. Investigations may include, but are not limited to, review of:

(1) ingredient specifications used in the development of the formula;

(2) formula;

(3) production records; and

(4) sampling and testing methods.

(c) Records must be kept for at least one year after the investigation and review of test results for adulterants, and of any corrective action or actions taken when adulterants are detected. Records must not be used as the sole basis for official enforcement actions or penalties by the commissioner.

Subd. 13. **Transportation of feed or feed ingredients.** Feed or feed ingredients must be transported utilizing methods that minimize the risk of adulterations, including, but not limited to, the following:

(1) conveyances used to transport feed or feed ingredients must be inspected for cleanliness and structural integrity prior to loading;

(2) feed, feed ingredients, or other materials or substances that may pose a risk of adulterating feed or feed ingredients must not be loaded onto the same conveyance unless measures are taken to minimize risk; and

(3) records must be maintained for each feed or feed ingredient identifying the immediate subsequent recipient, quantity, type or name, unique identifier if available, and date shipped for at least one year from the date of disposition.

Subd. 14. **Voluntary recall; withdrawal.** (a) Sufficient records and other information concerning the identity and disposition of feed or feed ingredients must be maintained for at least one year from the date of disposition to permit the rapid and effective recall from the marketplace or withdrawal from feeding if a feed or feed ingredient is found to be adulterated.

(b) Voluntary recalls of feed or feed ingredients should be guided by procedures outlined by the United States Food and Drug Administration in the Code of Federal Regulations, title 21, section 7.

Subd. 15. **Expiration.** Subdivisions 1 and 3 to 14 expire upon the United States Food and Drug Administration's adoption of rules regarding preventative controls for animal feed.

History: *2012 c 124 s 1*

25.38 PROHIBITED ACTS.

The following acts and causing the following acts in Minnesota are prohibited:

(1) manufacture or distribution of any commercial feed that is adulterated or misbranded;

(2) adulteration or misbranding of any commercial feed;

(3) distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of section 25.37, paragraph (a);

(4) removal or disposal of a commercial feed in violation of an order under section 25.42;

(5) failure or refusal to obtain a commercial feed license under section 25.341 or to provide a small package listing under section 25.39; or

(6) failure to pay inspection fees or file reports as required by section 25.39.

History: *1971 c 433 s 8; 1997 c 216 s 50*

25.39 INSPECTION FEES AND REPORTS.

Subdivision 1. **Amount of fee.** (a) An inspection fee at the rate of 16 cents per ton must be paid to the commissioner on commercial feeds distributed in this state by the person who first distributes the commercial feed, except that:

(1) no fee need be paid on:

(i) a commercial feed if the payment has been made by a previous distributor; or

(ii) customer formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients; or

(2) a Minnesota feed distributor who can substantiate that greater than 50 percent of the distribution of commercial feed is to purchasers outside the state may purchase commercial feeds without payment of the inspection fee under a tonnage fee exemption permit issued by the commissioner. Such location specific permits shall be issued on a calendar year basis to commercial feed distributors who submit a $100 nonrefundable application fee and comply with rules adopted by the commissioner relative to record keeping, tonnage of commercial

feed distributed in Minnesota, total of all commercial feed tonnage distributed, and all other information which the commissioner may require so as to ensure that proper inspection fee payment has been made.

(b) In the case of pet food distributed in the state only in packages of ten pounds or less, a listing of each product and a current label for each product must be submitted annually on forms provided by the commissioner and accompanied by an annual fee of $50 for each product in lieu of the inspection fee. This annual fee is due by July 1. The inspection fee required by paragraph (a) applies to pet food distributed in packages exceeding ten pounds.

(c) In the case of specialty pet food distributed in the state only in packages of ten pounds or less, a listing of each product and a current label for each product must be submitted annually on forms provided by the commissioner and accompanied by an annual fee of $25 for each product in lieu of the inspection fee. This annual fee is due by July 1. The inspection fee required by paragraph (a) applies to specialty pet food distributed in packages exceeding ten pounds.

(d) The minimum inspection fee is $10 per annual reporting period.

Subd. 1a. **Containers of ten pounds or less.** A distributor who is subject to the annual fee specified in subdivision 1, paragraph (b) or (c), shall do the following:

(1) before beginning distribution, file with the commissioner a listing of pet and specialty pet foods to be distributed in the state only in containers of ten pounds or less, on forms provided by the commissioner. The listing under this clause must be renewed annually before July 1 and is the basis for the payment of the annual fee. New products added during the year must be submitted to the commissioner as a supplement to the annual listing before distribution; and

(2) if the annual renewal of the listing is not received before July 1 or if an unlisted product is distributed, pay a late filing fee of $10 per product in addition to the normal charge for the listing. The late filing fee under this clause is in addition to any other penalty under this chapter.

Subd. 2. **Annual statement.** A person who is liable for the payment of a fee under this section shall file with the commissioner on forms furnished by the commissioner an annual statement setting forth the number of net tons of commercial feeds distributed in this state during the calendar year. The report is due by the 31st of each January. The inspection fee at the rate specified in subdivision 1 must accompany the statement. For each tonnage report not filed or payment of inspection fees not made on time, a penalty of ten percent of the amount due, with a minimum penalty of $10, must be assessed against the license holder, and the amount of fees due, plus penalty, is a debt and may be recovered in a civil action against the license holder. The assessment of this penalty does not prevent the department from taking other actions as provided in this chapter.

Subd. 3. **Records.** Each person required to pay an inspection fee or to report in accordance with this section shall keep records, as determined by the commissioner, accurately detailing the tonnage of commercial feed distributed in this state. Records upon which the tonnage is based must be maintained for six years and made available to the commissioner for inspection, copying, and audit. A person who is located outside of this state must maintain and make available records required by this section in this state or pay all costs incurred in auditing of the records at another location. Unless required for the enforcement of this chapter, the information in the records required by this subdivision is private or nonpublic.

Subd. 4. **Commercial feed inspection account.** A commercial feed inspection account is established in the agricultural fund. Fees and penalties collected under this chapter and interest

attributable to money in the account must be deposited in the agricultural fund and credited to the commercial feed inspection account. Money in the account, including interest earned, is appropriated to the commissioner for the administration and enforcement of this chapter.

History: *1971 c 433 s 9; 1973 c 448 s 1; 1985 c 248 s 70; 1Sp1985 c 10 s 46; 1993 c 172 s 27; 1997 c 216 s 51; 1999 c 231 s 48; 1Sp2005 c 1 art 1 s 59,60; 2006 c 203 s 2,3*

25.40 RULES.

Subdivision 1. **Adoption.** The commissioner may adopt rules for commercial feeds, pet foods, and specialty pet foods as are authorized in sections 25.31 to 25.43 and other reasonable rules as may be necessary for the efficient enforcement of sections 25.31 to 25.43. In the interest of uniformity the commissioner shall by rule adopt, unless the commissioner determines that they are inconsistent with the provisions of sections 25.31 to 25.43 or are not appropriate to conditions which exist in this state, the official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization.

Subd. 2. **Notice; public comment.** Before the issuance, amendment, or repeal of any rule authorized by sections 25.31 to 25.43, the commissioner shall publish the proposed rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to give interested parties, including all current license holders, adequate notice and shall afford all interested persons an opportunity to present their views orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the commissioner shall take appropriate action to issue the proposed rule or to amend or repeal an existing rule. The provisions of this subdivision notwithstanding, if the commissioner, pursuant to the authority of sections 25.31 to 25.43, adopts the official definitions of feed ingredients or official feed terms as adopted by the Association of American Feed Control Officials, any amendment or modification adopted by the association shall be adopted automatically under sections 25.31 to 25.43 without regard to the publication of the notice required by this subdivision unless the commissioner, by order specifically determines that the amendment or modification shall not be adopted.

Subd. 3. **Food and drug rules.** Applicable federal regulations including recodification contained in Code of Federal Regulations, title 21, parts 1 to 1299, not otherwise adopted herein, also are adopted as feed rules of this state.

History: *1971 c 433 s 10; 1980 c 509 s 11; 1985 c 248 s 70; 1986 c 444; 1997 c 7 art 1 s 10; 2006 c 203 s 4; 2012 c 124 s 2-4*

25.41 INSPECTION, SAMPLING, AND ANALYSIS.

Subdivision 1. **Authorization; limitation.** For the purpose of enforcement of sections 25.31 to 25.43, and associated rules, in order to determine whether the provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the commissioner, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized:

(1) to enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and

(2) to inspect at reasonable times, within reasonable limits, and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished

materials, containers, and labeling therein. The inspection may include the verification of records and production and control procedures related to the manufacture, distribution, storage, handling, or disposal of commercial feed as may be necessary to determine compliance with this chapter.

Subd. 2. **Notification; promptness.** A separate notice shall be given for each inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the owner, operator, or agent in charge of the facility or vehicle shall be so notified.

Subd. 3. **Receipt for samples.** If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the officer or employee shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

Subd. 4. **Refusal to admit inspector.** If the owner, operator, or agent in charge of any factory, warehouse, or establishment described in subdivision 1 refuses to admit the commissioner or the commissioner's agent to inspect in accordance with subdivisions 1 and 2, the commissioner is authorized to obtain from the district court of the county in which the premises are located a warrant directing the owner, operator, or agent in charge to submit the premises described in the warrant to inspection.

Subd. 5. **Entry of premises.** For the purpose of the enforcement of sections 25.31 to 25.43, the commissioner or the commissioner's duly designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.

Subd. 6. **Methods.** Sampling and analysis must be conducted in accordance with methods published by the AOAC International or other generally recognized methods.

Subd. 7. **Notice of analysis.** The results of all analyses of official samples shall be forwarded by the commissioner to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicated a commercial feed has been adulterated or misbranded and upon request within 30 days following receipt of the analysis the commissioner shall furnish to the license holder a portion of the sample concerned.

Subd. 7a. **Manufacturer's report of investigation.** If the inspection and analysis of an official sample indicates that a commercial feed has been adulterated or misbranded, the person whose name appears on the label of the indicated commercial feed as guarantor shall provide a manufacturer's report of investigation to the commissioner within 30 days following the receipt of the official analysis.

Subd. 8. **Use of official sample.** The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in section 25.33, subdivision 17 and obtained and analyzed as provided for in subdivisions 3, 5, and 6.

History: *1971 c 433 s 11; 1980 c 509 s 12,13; 1985 c 248 s 70; 1986 c 444; 1997 c 7 art 1 s 10; 1997 c 216 s 52; 2006 c 203 s 5-9*

25.42 DETAINED COMMERCIAL FEEDS.

Subdivision 1. **Withdrawal from distribution order.** When the commissioner or the commissioner's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of sections 25.31 to 25.43 or of any of the prescribed rules under sections 25.31 to 25.43, the commissioner or agent may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the lot of commercial feed so withdrawn when said provisions and rules have been complied with. If compliance is not obtained within 30 days, the commissioner may begin, or upon request of the distributor or license holder shall begin, proceedings for condemnation.

Subd. 2. **Seizure; disposition.** Any lot of commercial feed not in compliance with said provisions and rules shall be subject to seizure on complaint of the commissioner to the district court of the county in which said commercial feed is located. In the event the court finds the commercial feed to be in violation of sections 25.31 to 25.43 and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance, shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with sections 25.31 to 25.43.

History: *1971 c 433 s 12; 1980 c 509 s 14; 1985 c 248 s 70; 1986 c 444; 1997 c 7 art 1 s 10; 2006 c 203 s 10*

25.43 PENALTIES.

Subdivision 1. **Misdemeanor.** Any person convicted of violating any of the provisions of sections 25.31 to 25.43 or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said commissioner or duly authorized agent in performance of a duty in connection with the provisions of sections 25.31 to 25.43, shall be guilty of a misdemeanor.

Subd. 2. **Minor violations.** Nothing in sections 25.31 to 25.43 shall be construed as requiring the commissioner or the commissioner's representative to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution order, as a result of minor violations of sections 25.31 to 25.43, or when the commissioner or representative believes the public interest will best be served by suitable notice of warning in writing.

Subd. 3. **County attorney duties.** Each county attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in the district court or other court of competent jurisdiction without delay. Before the commissioner reports a violation for such prosecution, an opportunity shall be given the distributor to present views to the commissioner.

Subd. 4. **Injunction.** The commissioner may apply to the district court for a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of sections 25.31 to 25.43 or any rule promulgated under the act notwithstanding the existence of other remedies at law.

Subd. 5. **Appeal.** Any person adversely affected by an act, order, or ruling made pursuant to the provisions of sections 25.31 to 25.43 may seek judicial review in accordance with chapter 14.

History: *1971 c 433 s 13; 1980 c 509 s 15; 1982 c 424 s 130; 1983 c 247 s 17; 1985 c 248 s 70; 1986 c 444; 1997 c 7 art 1 s 10*

25.44 [Repealed, 1996 c 310 s 1]

25.45 [Repealed, 1975 c 227 s 10]

25.46 [Repealed, 1996 c 310 s 1]

25.47 [Repealed, 1Sp2001 c 2 s 162]