

DATE: May 22, 2014

TO: Grain Handlers, Feed Mill Operators and Crop Input Retailers

RE: Sales of grain for use as cover crop seed or forage

Cover crops are receiving increased attention as some of the benefits in soil conservation, water quality, organic matter, and nutrient management are better understood. Further, use of cover crops is being driven by various government programs and crop production recommendations such as barley in sugarbeet fields. These factors will increase demand for seed sources of small grains such as oats, barley, wheat, and rye.

Please be advised that sale of grain for use as seed invokes the Minnesota Seed Law. Seed offered for sale must be conditioned (cleaned), tested and accurately labeled so the customer is fully informed of the identity and quality of the seed purchased. Intended use as a cover crop does not negate these requirements.

There are several potential problems that arise from the sale of grain for seed. First, inadequately conditioned seed is a prime vehicle for introducing new weeds into the farmers' fields that can turn into bigger problems down the road. Second, seed viability naturally declines over time, especially if storage conditions aren't proper for seed. Third, sale of bin-run grain of certain varieties may place the seller in conflict with federal law, specifically the Plant Variety Protection (PVP) Act and possibly the Federal Seed Act. Most PVP protected varieties require a license from the company or university that released the variety for the rights to sell seed. Some varieties may have an additional requirement that they be sold only as certified seed. To be certified seed, the production field must have been inspected during the production year by a seed certifying agency, and a sample of the harvested seed must meet certification standards. Penalties for PVP violations may include triple compensatory damages to the PVP certificate holder, as well as state and/or federal penalties.

Use of certified seed, if available, is advised because it would have been produced and conditioned properly, and varietal identity is well documented. If certified seed is not available, sourcing good quality seed that has been properly conditioned, tested, and labeled from a seed company in your area is the next best option.

To sell seed, the following requirements must be met:

1. The person (or company) labeling seed for sale must have a Minnesota Seed Permit.
2. The lot must be cleaned (conditioned) for use as seed and a representative sample tested for purity and germination, and file sample retained for one year.
3. A label stating the kind, variety, purity factors, germination, lot identification, and labeler's name & address must be attached to each container or a bulk certificate provided to the customer.
4. Complete records regarding each lot must be kept on file for three years. Complete records include documentation of the above mentioned steps as well as the source of the seed. Ideally this would be in the form of a genuine growers declaration, other documents that contain the same information as to the variety (if known) and origin are acceptable.

MDA staff or your County Agricultural Inspector can provide guidance and assistance in getting set up to legally sell seed in Minnesota. Please visit our web site at www.mda.state.mn.us/seed or contact me or one of the seed inspectors listed below.

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