

Opinion No. [30-25]

August 26, 1930

BY: E. C. WARFEL, Assistant Attorney General

TO: Mr. F. E. Oakes, Feed & Fertilizer Control Office, State College, New Mexico.

FEED STUFFS -- What constitutes exposing for sale.

OPINION

Your letter of the 21st inst. to this office is received. In this letter you ask first, for an opinion with reference to what constitutes sale, offer or exposure for sale; second, as to whether feed stuffs that were in the hands of the dealers previous to July 1, 1929 are exempt from the operation of the law.

In reference to the first question, you do not give us sufficient facts upon which to base a definite opinion. What appears to be the universal holdings of the courts upon the subject is that "exposure for sale" means that the substance to be sold must be placed and situated where prospective buyers may actually see the same, so that if your feeding stuffs in question are merely stored away in a warehouse, even if stored with other stuff that is for sale, and is not exposed for personal inspection and in the sight of the prospective purchaser it cannot be held as exposed for sale.

As to your second question, we find no provision of the law which makes its application depend upon the time when feed stuffs are purchased or brought into the state, but it applies whenever feed stuffs are offered or exposed for sale, irrespective of how or when they came into the State.