

Opinion No. 41-3713

February 5, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. J. R. Poe State Dairy Commissioner State College, New Mexico

{*33} Your letter of February 4, 1941, makes inquiry as to whether or not cartons of eggs which are marked "processed" must also be marked "cold storage".

Subsection (a) of Section 4, Chapter 227, Laws of 1937, as amended by Chapter 161, Laws of 1939, provides:

"(a) Cartons containing eggs shall be stamped in the upper left-hand corner the date candled, and whether fresh, processed or cold storage.

Subsection (a) of Section 3, supra, provides:

"(a) That any person, firm or corporation in selling eggs, shall mark or label, cold storage, processed or fresh eggs as graded under United States Department of Agriculture standard requirements for eggs."

Subsections (a) and (b) of Section 2, supra, define:

"(a) 'Processed Eggs', defined: Processed eggs as herein defined shall mean and include all eggs the shells of which have been treated for the purpose of preservation and contains none of the defects listed under (a), (b), (c), (d), (e), or (f).

(b) Cold Storage Eggs Defined: Cold storage eggs refer to eggs which do not contain any of the defects listed under (a), (b), (c), (d), (e), or (f), and have been in cold storage at an artificial temperature of 45 degrees Fahrenheit or less for a period of thirty days or more."

In view of the foregoing provisions, it is my opinion that cartons containing eggs must be marked "processed" if they have {*34} have been treated for preservation, must be marked "cold storage" if they have been in cold storage thirty days, and further, if the cartons contain eggs which have been processed and which have also been in cold storage for thirty days under the conditions set out in Section 2 (b) above; that the carton must be stamped "processed **and** "cold storage."

Contemplation of the Legislature was, undoubtedly, to compel egg jobbers to mark eggs "processed" if processed, "cold storage" if cold stored, and both "processed and cold storage" if both conditions exist as to the particular eggs.

By GEO. H. HUNKER, Jr.

Asst. Atty. General