

1969 O. A. G.

OFFICIAL OPINION NO. 29

October 15, 1969

Dr. A. C. Offutt
State Health Commissioner
Indiana State Board of Health
1330 West Michigan Street
Indianapolis, Indiana

Dear. Dr. Offutt:

In your letter of September 4, 1969, you request an opinion concerning the Indiana Meat and Poultry Act. Specifically, you question whether this act is "equal to" the Federal Poultry and Meat Inspection Act, not because of the deferred effective date of the mandatory inspection provisions, but because it is provided that an establishment can waive this grace period and voluntarily comply with the Act before the deadline. To quote: "They [United States Department of Agriculture] theorize that a plant could request and be granted inspection prior to November 15, 1970, then request suspension of inspection and continue to operate without inspection until November 15, 1970, the mandatory inspection date."

Indiana Acts of 1969, Ch. 377, Sec. 24, states that the law is to be effective immediately upon passage. But Sec. 14, of the Act, as found in Burns' (1969 Supp.), Section 35-4132, provides a grace period until November 15, 1970, before full compliance of all processors is required. Thus, an application must be received and inspection service inaugurated before that date. But it further provides that, if a processor requests, such service shall be inaugurated as soon as practicable upon receipt of the application. There is no provision in the Act providing for the cessation or suspension of such inspection once it is commenced.

Therefore, if a processor of meat or poultry voluntarily submits such application, he has elected one of two choices. He can wait for the deadline, or elect to be bound under the provisions of the law now in effect. But once he so elects, he cannot withdraw.

In addition, Section 1(b) of the Act states that the intent of the Act is to impose requirements that will make it *at least*

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equal to the Federal Statutes, and the secretary is *directed* to accomplish that purpose.

Therefore, it is my opinion that the Indiana and the Federal Acts are alike in their application.