

January 2, 1944

A. M. Kumar, Commissioner
Food and Drug Administration
Federal Security Agency
Washington, D. C.

Dear Mr. Kumar:

This will acknowledge receipt of your letter of December 26th which I very much appreciated receiving.

I believe our efforts in connection with the industry in their laziness in preparing applications for shipment is having some favorable results. We were able to find out the warehouses particularly negligent and have been working with them almost continuously in bringing about changes which we are sure are beneficial in connection with the industry.

It occurs to me that through your representatives and your own thorough knowledge of the problem it would be distinctly helpful if you could outline a tentative plan of control that might meet with the general endorsement of the Food and Drug Administration. This would give us something to work from in an effort to modify or enlarge upon, if necessary, to bring about a practical working plan of control on the shipping end. Naturally this would all be tentative and merely suggestions on the part of the Food and Drug Administration until we were able to submit to you a proposed plan for your approval or rejection. I hope this idea may appeal to you.

I thoroughly agree with you that any experience in courts in connection with the problem, whether adverse to the government or not, would be detrimental to the growers, as well as the industry. I am quite sure you will agree with me they could not justify a hearing in connection with the fixing of a tolerance on lead arsenate at this time. It is something which should be taken up after the war when all the scientists, and others who are essential to such a hearing, return to their more normal pre-war work. It would not seem patriotic to ask them to leave the work they are now doing which is so vital in many cases to participate in a hearing of this nature where none is being hurt, and there is no damage to public health, even though evasions were on a larger scale than they are. The people in the producing areas are still eating unpeeled fruit the same as they have been for over 25 years without any damage to their health. This, of course, is particularly demonstrated by the 3 years of work by the Public Health Service in connection with arsenate of lead in this district.

Dr. P. B. Dunbar

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The industry, of course, would have to resist any attempt to hold a hearing during this period to the limit it was possible for them to do so. There is some scientific work that Dr. Kehoe felt was distinctly essential before a hearing should be held that, to the best of my knowledge, is not being done. I am hopeful that the Public Health Service may undertake this.

What I have in mind is this: We don't know just what takes place in the toxicity of arsenic and the toxicity of lead when they are combined to make arsenate of lead. I believe Dr. Kehoe was of the opinion that the amount of lead on apples before being washed (which is 6 to 10 times the tolerance) should be dangerous to public health if it were straight lead. However, the investigation by the Public Health Service indicated without doubt that this lead combined with arsenic was not dangerous to public health. The combining of the lead and arsenic therefore must have something to do with lessening the toxicity of both.

I believe that Dr. Kehoe's thorough research in connection with lead alone indicated very clearly to him that something transpires in the combination to lessen the toxicity of lead. This is a problem which the manufacturers of lead arsenate might undertake to solve, as it greatly affects the popularity and use of lead arsenate.

I expect to be in Washington January 25th to 27th and hope you will be there at that time so we may discuss the matter fully.

With kind personal regards and best wishes for the New Year, I am

Sincerely yours,

CEC:o

C. E. CHASE, Secretary-Manager

KE 0008480

Federal Security Agency

FOOD AND DRUG ADMINISTRATION

Washington, D.C.

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December 26, 1944

Mr. J. J. Chase, Secretary-Manager
Washington State Apple Commission
P. O. Box 18
Wenatchee, Washington

Dear Mr. Chase:

On return from an official trip I found awaiting me your letters of December 9 and 11.

I am gratified that the acute situation which was developing in Central Washington has been brought out into the open, and that your efforts toward a correction of the procedures of some of the shippers are beginning to bear fruit.

I am most interested in the plans you are formulating for next year. I shall be glad to discuss them with you any time you are in Washington. I know that both Mr. Monfore and Mr. Harvey would also be glad to consider with you any arrangements which can be made before the next shipping season that would tend to preclude a recurrence of what has happened this year. As you point out, it may be that some simplified form of shipping-point inspection would serve the purpose. As you recognize, there could be evasions in any practicable form of control which would be set up. Some shippers, just like other people, are prone to take chances.

Certainly the best solution of the whole question would be to develop an insecticide that would be effective without involving a public health hazard. I share your pessimism that this is not in immediate prospect. I am afraid that we are going to have to put up for a time with cryolite and lead arsenate sprays.

I am not sure whether I understand the significance of your references to the establishment of tolerances for arsenate of lead. As you point out, our experiences with the courts in cases brought on lead arsenate spray residues demonstrate that in contested cases decisions are likely to be adverse to the Government. Perhaps these experiences also show that the decisions are equally likely to be adverse to the growers. The point is that in the absence of formally established tolerances under section 406 of the Federal Food, Drug and Cosmetic Act, the Government can have no assurance of what its obligations are in the institution of cases, nor can the industry have any assurance as to just what rule it will be required to abide by.

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I have a profound conviction that this uncertainty on the part of both the Government and the producers has played a highly important part in the misunderstandings that have developed, some of which as you know have been quite acute. I think that in all likelihood it played a substantial part in the situation that occurred this fall in Central Washington which you described, and I think accurately, as an "uprear".

I see no reason why the Government and the industry should not sit down at a public hearing, just as was done in the fluorine case, and develop a factual record upon the basis of which the Administrator could prescribe tolerances for lead arsenate. Frankly, I feel it is my obligation to recommend to the Administrator that this be done. I sincerely hope that you and the industry you represent will cooperate to that end. I am suggesting this in the sincere belief that with the establishment of formal tolerances the small proportion of the shippers who have been disposed to cut corners and take chances that in some instances have resulted in publicity adverse to the industry, will be less inclined to continue their distasteful operations. Certainly this would promote the welfare of both the industry and the public.

Sincerely yours,

F. B. DUNBAR

Commissioner of Food and Drugs

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