

September 13, 1940.

Mr. G. L. Knight  
Chief of the Division of Horticulture  
Missoula, Montana

My dear Mr. Knight:

While most of the apples sold in Montana are packed in boxes, crates, barrels, or bags, some are loaded loose in trucks and are sold in bulk. You have asked if the inspectors of the Division of Horticulture can require the truck owner to fumigate his truck after hauling a load of loose apples and before hauling another such load.

Section 3610, Revised Codes of Montana, 1935, declares that the commissioner of agriculture may prescribe regulations for the inspection, disinfection, or destruction of fruit boxes or packages or other suspected material or transportable articles dangerous to orchards, fruit, and fruit trees. This section also provides:

“\* \* \* For further prevention of the spread of diseases dangerous to fruit and fruit trees, it shall be unlawful for any person or persons, dealer or dealers, to allow, or cause to be used a second time, any crate, box, barrel, package or wrapping once having contained fruit or nursery stock, except that at the written request of a nurseryman, an inspector may permit boxes or packages having contained nursery stock to be thoroughly fumigated by him or in his presence, at the expense of the nurseryman \* \* \*.”

It is a well known fact that one of the chief causes for the spread of insect pests and orchard infections is the re-use of old boxes, crates, and the like. The purpose of Section 3610 is to remove some of the danger of infection of clean orchards by diseases and insects from infected orchards. If an apple box or crate could spread insect pests and orchard disease, how much greater would be the opportunity for the insects and disease carriers to lurk in the bed of a truck? This is even more evident when it is recalled that the better grade of apples are always sorted, graded, and packed in boxes while it is only the poorer grades that are sold in bulk. This means that the loose apples are much more likely to be the ones that are diseased or contaminated than are those that are packed in boxes, etc.

Opinion No. 259.

Horticulture, Inspector—Power to Require Fumigation—Apples—  
Agriculture, Commissioner of.

HELD: The Commissioner of Agriculture may require that trucks in which loose apples have been hauled be fumigated in the presence of one of the horticultural inspectors before another load may be hauled therein.

It is, then, my opinion that the Commissioner of Agriculture has the authority to treat a truck in which loose apples are loaded in the same way he treats a box of apples. Then he may require that a truck in which loose apples have been loaded to be fumigated in the presence of one of the horticultural inspectors before another load of apples may be hauled therein.