

differences in purposes and in handling conditions. There are many instances where the distribution of USDA donated food at the local level is—and necessarily must be—made with inadequate equipment and under difficult conditions not prevalent, necessary or generally permissible in commercial trade. In order to insure the wholesomeness and the acceptability of these food products distributed in our programs, it is necessary to establish and to maintain higher standards than are needed for regular commercial distribution. For example, our maximum temperature specification at time of unloading at destination of 0° F. for frozen orange juice and 15° F. for frozen meat and poultry is tighter than required by good commercial practices when these products are moving in regular wholesale-retail distribution channels.

RELABELING OF REJECTED PRODUCTS

The Department makes every possible effort to insure compliance with its regulations concerning the reentry of rejected food into commercial channels. Department of Agriculture personnel in the course of routine field reviews for their respective programs, as well as personnel from the Office of the Inspector General, take continuing steps to insure that products with USDA markings on the container are not available after rejection, or under any other circumstances, for commercial use.

Because our procedures are quite effective, I would like to explain them in detail. The Department routinely sets out its terms and conditions for procurement. These notices to the trade explicitly include reference to the Department's prohibitions affecting disposition of excess or rejected products, containers and cases. Each of the commodity divisions procuring the various food items states the following in its purchase terms and conditions:

"Containers, which bear markings required under the contract, shall be used only for the product to be delivered to USDA under the contract. Any such markings on any containers, whether empty or containing rejected products which are not so delivered and accepted by USDA, shall be completely and permanently obliterated or destroyed. The release or use of any containers, bearing markings required under the contract, to outlets other than USDA, will result in damage to USDA in increased expenses in answering inquiries or complaints, the cost of which would be difficult to prove. Contractor agrees to pay, as compensation and not as a penalty, liquidated damages of \$100 for the first inquiry or complaint received by USDA arising from any actual breach of this provision and \$25 for each additional inquiry or complaint arising from the same breach. It is mutually agreed that such amounts are a reasonable estimate of the actual damages which may result from the breach."

In essence, if commodities are rejected upon offer by the shipper, it is his responsibility to see that USDA markings are obliterated. He accepts the responsibility unequivocally, and he agrees to payment of damages if he breaches it.

When a shipment of USDA-donated foods is received in damaged condition and the entire shipment is not to be rejected back to the shipper, consignees are required to accept all commodities which are usable for human consumption. Such commodities are recovered and used. Unusable portions that may have salvage value may, upon demand of the delivering carrier, be turned over for railroad salvage.

A review of the prices paid for foods used in the Department's various food programs indicates that there is little or no increase in cost as a result of the Department's relabeling requirements and procedure with respect to rejected foods.

These procedures originated in consequence of complaints received by the Department over a period of years. The complaints usually were confined to the policy question of whether we would allow foods originally packed for the exclusive use of the Department of Agriculture to be sold in commercial retail channels.

Labels on all packaged foods distributed domestically by USDA contain the statement:

Purchased by the
U.S. Department of Agriculture
Washington, D.C.

Not to be sold or exchanged

Nearly always, when any products bearing this kind of label appeared in salvage stores or other retail outlets, the Department was flooded with com-