

plaints or tips that stolen goods were being offered for sale. Consequently, we decided that something should be done to avoid this confusion and misunderstanding, short of barring its commercial sale entirely.

Originally, the first remedial step taken was to require that sellers remove from the label the portion stating "not to be sold or exchanged." This requirement went into effect in the late fifties.

In 1960 the Department adopted an even more restrictive policy regarding foods rejected by us. At that time, the Department stated that all USDA markings required under the contract must be removed after rejection and before entry into commercial channels of trade. The only exception involves products which are rejected to railroad carriers. They are not required to obliterate markings on containers of products rejected to them but are required to stamp the containers with the words "Railroad Salvage."

We believe that these restrictions on the commercial sale of USDA labeled products have served a worthwhile purpose and have been carried out at no appreciable cost to the Government.

CONSUMER AWARENESS OF GOVERNMENT REJECTION

We see no reason to question the legality or propriety of selling Government-rejected food products in commercial channels if such products comply with all applicable Federal standards for wholesomeness, identity, minimum quality and labeling. Conversely, no food products which are unfit for human consumption—or below minimum standards—should be permitted to move in commerce whether or not such products have been rejected by a Government procurement agency.

We do not know of any consequential rights over the ultimate disposition of rejected products which might inure to the Department as the result of the contractor having submitted himself to the procurement process set out in our regulations and contract terms. As indicated above, we use the liquidated damages approach in implementing the requirement that all USDA ownership markings shall be obliterated or removed whenever products are rejected. Presumably, other justifiable restrictions against actions which would result in damages to the procuring agency could be handled in the same manner. We have no suggestions, however, for additional restrictions at this time. Another factor to keep in mind is that prohibiting the commercial use of our distinctive USDA ownership label on rejected products is relatively easy to enforce. Other merchandising restrictions might not be.

We see no reason to think that new legislation requiring disclosure on the label of all Government-rejected products would be constructive or beneficial to consumers. A wholesome, suitable product meeting regular commercial-level standards should be sold without the stigma or onus of carrying a "rejected" label.

Many commercial distributors and retail firms carefully select commodities for their own brand identification either by their own specifications and examination or by use of USDA inspection and grade standards or by some combination. These firms often reject large quantities of products which fail to meet some or all of their specifications. It would serve no useful purpose for a consumer to know that a commercial firm had rejected a product which is lawfully being offered for sale by a different firm. My point in making this comparison is to indicate that we see no difference in this regard between rejection under special standards by a commercial firm and rejection by a Government agency when wholesomeness, safety and honesty are not at issue in either case.

REPORTING REJECTIONS TO USDA INSPECTION ACTIVITIES

There are no written regulations relevant to the reporting by other Federal agencies to USDA regulatory inspection authorities concerning the identity of foods which they reject. Our regulatory authority relating to fitness for human consumption applies on a mandatory basis only to meat and poultry products. The Food and Drug Administration exercises such authority for other foods.

Within the Department, we have a standing and continuous arrangement whereby our meat and poultry inspectors are notified of any USDA-rejected meat or poultry product which is considered to be unfit for human consumption. In many instances, such inspectors also perform the acceptance or rejection examination in our procurement operations, so that their notification takes place automatically.