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REPORT TO THE CONGRESS

Need For Regulating The Food Salvage Industry To Prevent Sales Of Unwholesome And Misbranded Foods To The Public

Department of Health, Education, and Welfare

Department of Agriculture

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report illustrates the need for regulating the food salvage industry to prevent sales of unwholesome and misbranded foods to the public. The Food and Drug Administration, Department of Health, Education, and Welfare, and the Animal and Plant Health Inspection Service, Department of Agriculture, are responsible for administering the activities discussed in this report.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Health, Education, and Welfare; and the Secretary of Agriculture.

Elmer B. Staats

Comptroller General
of the United States

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ABBREVIATIONS

APHIS	Animal and Plant Health Inspection Service
FDA	Food and Drug Administration
GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

NEED FOR REGULATING
THE FOOD SALVAGE INDUSTRY TO PREVENT
SALES OF UNWHOLESOME AND MISBRANDED
FOODS TO THE PUBLIC
Department of Health, Education,
and Welfare
Department of Agriculture

D I G E S T

WHY THE REVIEW WAS MADE

Because of the risk salvaged food poses to consumers if it is not reconditioned properly, GAO wanted to know whether the Departments of Health, Education, and Welfare (HEW) and Agriculture were adequately monitoring and regulating the food salvage industry.

FINDINGS AND CONCLUSIONS

During distribution, some food produced in America becomes damaged or subjected to contamination due to mishandling, accidents, or disasters caused by fires, floods, or storms.

If not destroyed, this food is salvaged and sold--often through outlets specializing in this service.

Much salvaged food is sold in outlets in low-income, urban areas. It is also bought by social institutions and private organizations, such as nursing homes, orphanages, schools, restaurants, and bakeries.

Salvage outlets are offering food to the public and institutions that may not have been properly reconditioned and/or is packaged in unlabeled, leaking, swollen, rusted, or badly dented containers.

The Food and Drug Administration, HEW, can affect the way food salvage outlets operate by coordinating with other agencies in establishing standards and overall guidelines for food salvaging and by insuring that outlets are properly regulated.

Both the Food and Drug Administration and the Animal and Plant Health Inspection Service of Agriculture are responsible for assuring that food shipped or received in interstate commerce is labeled properly and is wholesome, pure, and safe to eat.

Although the Administration and the Service have authority for foods shipped across State lines, responsibility for monitoring salvage outlets is usually left to State and local authorities.

Neither the Administration nor the Service know the total number of food salvage outlets in the Nation. GAO solicited such information from all 50 States and 93 of the 100 largest cities. On the basis of the responses received, GAO estimated that there are more than 1,000 salvage outlets nationwide.

Most States and cities did not know the sales volume of salvage outlets in their areas. However, data obtained by GAO showed that annual sales volume for these outlets ranged from $5,000 to $1.5 million. (See p. 1.)

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GAO auditors accompanied Administration, State, and local inspectors on visits to 30 salvage outlets in 5 major cities and to 25 rest homes, children's homes, schools, and other institutions in 3 of the cities.

Unlabeled and potentially contaminated food sold in food salvage outlets

Of the 30 food salvage outlets GAO visited, 23 were selling processed food products with absent, misleading, and/or incomplete labels.

Visible misbranding on retail shelves ranged from a few product containers at some locations to 50 or more at others.

Salvage outlets were wholesaling food products with improper labels to such institutions as nursing homes, children's homes, and schools. (See ch. 2.)

As a result, consumers--especially those on special diets--were not getting the information needed to choose those products best suited to their specific needs or preferences.

Twenty-six of the outlets GAO visited had food for sale which was insect infested or in leaking, rusted, stained, swollen, or badly damaged containers.

In addition, 14 of the 25 institutions visited had containers which were swollen or had severe rim or seam dents, rust, or leakage. Under existing Federal laws, insect-infested products and products with leaking containers could be considered adulterated. (See ch. 3.)

Need for standards and overall guidelines for food salvaging

Both food salvage outlets and agencies responsible for inspecting them should clearly understand acceptable standards and guidelines for sorting, reconditioning, labeling, repackaging, and storing food.

Few Federal, State, and local health organizations or private institutions have complete, specific food salvage laws, regulations, or guidelines.

The Administration's only reference to food salvaging is in an internal manual on disaster situations. This manual is of limited use in controlling food salvaging, however, because it does not address certain procedures important to insure that salvaged food sold to the public is wholesome, pure, and safe to eat.

The Service has not developed inspection guidelines for sorting, reconditioning, transporting, and storing salvaged meat and meat products.

Agriculture, however, has developed food container standards establishing acceptable defect limits for metal, glass, rigid, semirigid, and flexible containers for foods purchased under Federal Government contracts.

Only 6 of the 50 States and 5 of the 87 cities that responded to GAO's questionnaire had any specific salvage laws, regulations, and/or guidelines. (See p. 22.)

Development and implementation of uniform, comprehensive standards and guidelines are needed to

regulate food salvage outlets effectively. The Administration should coordinate this effort because it has prime responsibility for many of the goods sold.

Eighty-five percent of the States and 91 percent of the cities that responded to GAO's questionnaire favored a uniform code of practice.

Also, 48 percent of the State and local health agencies responding said they would like food salvage guidelines from the Administration and/or the Service. (See p. 23.)

Need for better regulation of salvage outlets

Because specific laws and guidelines for food salvaging are rare at the Federal, State, and local levels, a great deal of personal judgment--which varies widely--is used in inspecting salvage outlets.

Some State and local health departments GAO visited had unwritten guidelines governing the salability of damaged containers. During visits to salvage outlets in their jurisdictions, however, GAO found numerous products that did not meet the requirements of these guidelines.

The Administration should establish procedures for inspecting and regulating food salvage outlets. It has responsibility for such retail operations as grocery stores and restaurants but has historically left this responsibility to State and local governments because of the large number of these operations.

The Administration should directly oversee inspection of the much smaller number of food salvage outlets.

Eighty percent of the States and 81 percent of the cities responding to GAO's questionnaire favored the promulgation and adoption of regulatory controls over salvage outlets. (See p. 23.)

RECOMMENDATIONS

The Secretary, HEW, should direct the Commissioner, Food and Drug Administration, to:

--Develop and publish a Federal regulation establishing a nationally uniform code for salvage outlets, including guidelines and criteria for transporting, sorting, reconditioning, repackaging, and storing salvaged food.

--Establish a program for regulating salvage outlets through Administration inspections.

--Alert health agencies responsible for inspecting institutions in all States about the potential effects of allowing institutions to buy misbranded or damaged salvaged food products.

AGENCY ACTIONS AND UNRESOLVED ISSUES

HEW said the Administration would work in conjunction with the Association of Food and Drug Officials to develop a regulatory program for the food salvage industry. Agriculture said it would cooperate with HEW in preparing this program.

HEW advised GAO that, because of the Administration's limited manpower, the regulatory program for the more than 1,000 food salvage outlets would be handled by State and local authorities.

Although the States may be in a better position to regulate food salvage outlets, due both to the States' close proximity to the industry and the nature of the industry, GAO believes that the Administration should be prepared to use its regulatory powers under the Federal Food, Drug, and Cosmetic Act in instances where a State does not effectively inspect and regulate such outlets. Accordingly, the Administration should monitor State programs for regulating food salvage outlets.

HEW said the Administration, in cooperation with the Association of Food and Drug Officials, would inform the health agencies responsible for inspecting institutions about the potential hazards of misbranded or damaged salvaged food products. (See p. 26.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

Because the elderly, the poor, and the disadvantaged are a principal market for salvaged food in this country, this report should be useful to the Congress in deliberating on national hunger and nutrition matters.

CHAPTER 1

INTRODUCTION

WHAT IS A FOOD SALVAGE OUTLET?

During distribution, some food produced in America becomes damaged or subjected to contamination due to mishandling, accidents, or disasters caused by fires, floods, or storms. (See fig. 1.) This food is salvaged and sold, often through salvage outlets, or destroyed.

Because of the accidents and disasters, many food products and/or their containers are unlabeled, leaking, rusted and dented, or potentially contaminated by vermin infestations, exposure to poisonous substances, submersion in contaminated water, or other factors. Because of the potential harm to consumers, it is especially important that food salvage outlets properly sort, clean, repackage, label, and store products before offering them for sale.

Neither the Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare (HEW) nor the Animal and Plant Health Inspection Service (APHIS) of the Department of Agriculture, which are responsible for regulating salvaged food, know the total number of food salvage outlets in the Nation. By questionnaire, we solicited such information from all 50 States and 93 of the 100 largest U.S. cities.[1] On the basis of responses from all 50 States and 87 cities, we estimated that there are more than 1,000 salvage outlets nationwide. Most States and cities did not know the sales volumes of their areas' salvage outlets. However, data we obtained showed that annual sales volumes ranged from $5,000 to $1.5 million.

WHO BUYS SALVAGED FOOD?

Salvage outlets in low-income urban areas sell much salvaged food. In addition, it is bought by social institutions and private organizations, such as nursing homes, orphanages, schools, restaurants, and bakeries.

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[1]Bureau of the Census--cities over 100,000 population in 1970 census.

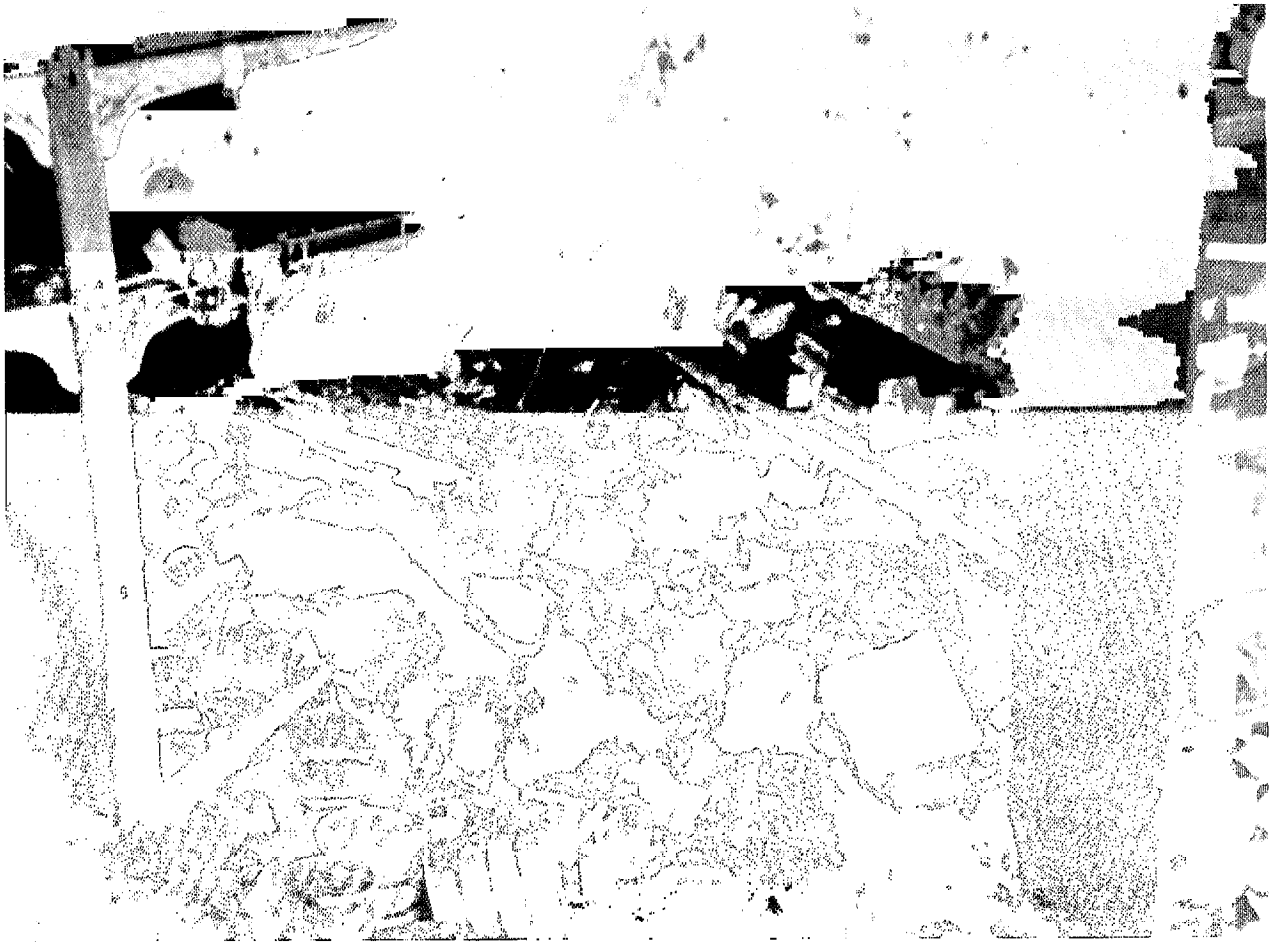

Fig. 1--Food products involved in a grocery store fire. (Photo taken by a health agency in the Midwest.)

Responses to our questionnaire indicated that about 75 percent of the salvage outlets are in cities. About 50 percent are in low-income areas. The operator of a large salvage outlet in one city said that five salvage outlets in that city had the black, Chicano, and elderly poor neighborhoods "covered."

In 3 cities, 703 institutions, organizations, or businesses bought food from salvage outlets. Two hundred and seventy-one were social institutions or organizations such as nursing homes, schools, and children's homes. Many operators of food salvage outlets told us that, since most of their food is sold on a retail cash basis, they had no record of who bought the food or knowledge of whether the buyer was an institution or organization. Therefore, the number of institutions and organizations buying salvaged food may be understated.

This report will (1) illustrate the relatively high incidence of misbranding and the questionable wholesomeness, purity, and safety of food sold by many salvage outlets and (2) suggest ways that responsible Federal agencies could better control and monitor salvage outlets.

WHO IS RESPONSIBLE FOR OVERSEEING SALVAGE OUTLETS?

Both FDA and APHIS are responsible for assuring that food shipped or received in interstate commerce is properly labeled and safe to eat. FDA derives its authority from the Fair Packaging and Labeling Act (15 U.S.C. 1451) and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301). The Federal Meat Inspection Act (21 U.S.C. 601) and the Poultry Products Inspection Act (21 U.S.C. 451) give APHIS its authority for meat and meat products. APHIS also has authority under these acts to designate States not having meat and poultry inspection programs at least equal to Federal laws and to assume inspection responsibility for these States' intrastate meat and poultry plants.

Although FDA and APHIS have authority for food establishments receiving goods in interstate commerce, responsibility for monitoring salvage outlets is usually left to State and local authorities. Six States and five cities that responded to our questionnaire had laws and/or

guidelines specifically pertaining to salvaged food. Other States and cities relied on laws covering food products in general.

CHAPTER 2

MISBRANDING

Of 30 food salvage outlets we visited with FDA, State, or local inspectors, 23 were selling processed food products with absent, misleading, and/or incomplete labels. Visible misbranding on retail shelves ranged from a few product containers at some locations to 50 or more at others. Food products with improper labels were being sold wholesale to such institutions as nursing homes, children's homes, and schools.

Properly labeled food containers are important to protect and inform consumers, especially those on special diets because of illness or allergies. Officials of the American Heart Association estimate that the approximately 23 million people with heart conditions should avoid saturated fats, salt, and caffeine. Over 4 million diabetics and kidney patients must avoid or restrict their intake of sugar and potassium, respectively, and both groups should restrict their intake of salt. Allergy physicians estimate that over 7 million people are allergic to various food ingredients.

FEDERAL LAWS COVERING MISBRANDING

The Fair Packaging and Labeling Act states that informed consumers are essential to the fair and efficient functioning of a free-market economy. The act provides that food products be labeled to inform consumers of their content and help them make value comparisons. The Federal Food, Drug, and Cosmetic Act prohibits the sale of misbranded food after interstate shipment. A product is misbranded if, among other things, its label:

--Is false or misleading.
--Does not (1) identify the product; (2) show the name and location of the manufacturer, packer, or distributor; (3) list the ingredients; and (4) show the net contents by weight or measure.
--Is marked dietary but does not include information on the product's dietary properties.

We did not determine specifically whether the misbranded products we observed in salvage outlets had been shipped interstate. However, an FDA official said that 90 percent of

all processed food is initially transported interstate. Therefore, most foods that are salvaged have been involved in interstate commerce. In addition, many operators of salvage outlets said they buy salvaged food from interstate carriers, such as railroads, and from grocery warehouses, which generally fall under FDA regulatory control. Thus we believe many salvage outlets are selling misbranded products in violation of Federal laws.

KINDS OF MISBRANDING FOUND

Products without labels

We found unlabeled cans for sale at 23 of the 30 outlets we visited. (See fig. 2.) Eleven outlets had 10 to 50 unlabeled containers, and 6 outlets had more than 50 unlabeled containers. According to display signs, the contents of the unlabeled containers included such products as baby food, fruits, and vegetables.

In 3 cities, we visited 25 institutions--including children's homes, rest homes, and schools which were buying salvaged food--and found unlabeled cans at 10. At one long term care facility, for example, the owner told us that a salvage outlet often sells the institution "surprise packages" of numerous unlabeled cans, the contents of which are unknown until opened. This salvage outlet also sells food to 215 other institutions in the area. (See fig. 3.)

Products with incomplete labels

Twenty-two outlets were selling food products with labels not carrying a statement of ingredients, net weight, and/or the name of the manufacturer or distributor. The number of containers found with partial or incomplete labels due to repackaging or handling ranged from 10 or less at some stores to more than 50 at others.

Several salvage outlets repackaged such products as flour, macaroni, candy, and batter mixes. Many of the repackaged containers showed only the product's name and/or price. (See fig. 4.)

Fig. 2--Unlabeled cans displayed in retail section of salvage outlet.

Fig. 3--Unlabeled food in institution storage area.

Seven institutions had products with incomplete labels. Most of these were repackaged products. One nursing home had more than 25 cans of vegetables marked dietetic; however, contrary to law, the labels did not state the dietetic properties of the product.

Products with misleading labels

One large salvage outlet sold canned products which had confusing, misleading, and/or incorrect labels. Some products with labels incorrectly stating sugar or salt content were sold to nursing homes where some patients were on special diets.

Three nursing homes had canned fruit or vegetables which were improperly labeled by the salvage outlet. At one home, the labels on 12 cans of spinach did not list salt as an ingredient. We had one of the cans analyzed in a State laboratory and found that the salt content was at a level normally found in "salt-added" canned vegetables. At another nursing home, 11 cans of plums were labeled as packed both "in water" and in "heavy syrup." We had one can analyzed and found that the plums actually were packed in fruit juice.

The sugar content of food products is important for diabetic patients and the salt content is important for those on low-salt diets. One dietician said that if a label does not list salt, she assumes the product contains none and uses it in low-salt diets. Other dieticians said they often taste the food in each can to determine whether the product is low salt or sugarless.

CHAPTER 3

FOOD POTENTIALLY UNFIT FOR HUMAN CONSUMPTION

SOLD IN FOOD SALVAGE OUTLETS

Of the outlets we visited, 26 had food for sale which was insect infested or in containers which were leaking, rusted, stained by foreign substances, swollen, or badly damaged. Such containers potentially allow contamination or decomposition of food. This food was sold in low-income areas and to restaurants, bakeries, grocery stores, and such social institutions as nursing homes, day care centers, and schools.

CONDITIONS IN SALVAGE OUTLETS

Sorting

Sorting means selecting particular items which are considered salvageable from damaged food products. Salvageable merchandise may be sold as is or reconditioned. Good sorting practices are important to screen out items which could be health hazards to consumers.

The Model State Salvage Code, developed by the Association of Food and Drug Officials of the United States, and the National Canners Association guidelines give some criteria for determining questionable container defects. Both organizations agree that cans with swells, springers, or flippers[1]; severe rim or seam dents; or certain degrees of

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[1]Swells--Both ends are bulged. Neither can be forced back in position to remain flat.

Springers--One end of the can bulges. Hand pressure on the bulged end forces the opposite end out.

Flippers--Only one end is slightly bulged. By applying pressure with a finger, the end can be pressed back flat and will remain so.

rust should not be sold. National Canners Association officials told us that container defects such as these and leaks could spoil the contents of containers and make them unfit for human consumption.

The number of salvaged food items for sale with questionable container defects in the outlets visited is shown below.

	Percent of salvage outlets having containers with			
Items	Swells, springers, or flippers	Severe rim or seam dents	Rust	Leaks
1 to 9	13	30	13	17
10 to 50	37	33	30	40
Over 50	3	24	20	3
Total	53	87	63	60

Fourteen institutions had containers with these defects. One long term care facility had purchased about 300 cases of canned foods from food salvage outlets. We examined about 250 cans and noted that most were defective.

Examples of food products offered for sale in salvage outlets or purchased by institutions from salvage outlets are pictured in figures 5, 6, 7, and 8.

Reconditioning

Reconditioning improves the appearance of products and/or makes them fit for human consumption. It includes cleaning, disinfecting, buffing, and relabeling product containers and repackaging products.

Some Federal and State guidelines specify reconditioning procedures for products subjected to fire and water contamination, but we could find little guidance for reconditioning products exposed to other types of contaminants. For example, in train wrecks, containers of toxic substances, such

Fig. 5--Bin of severely damaged food containers in retail section of salvage outlet.

Fig. 6--Rusted cans for sale in retail section of salvage outlet.

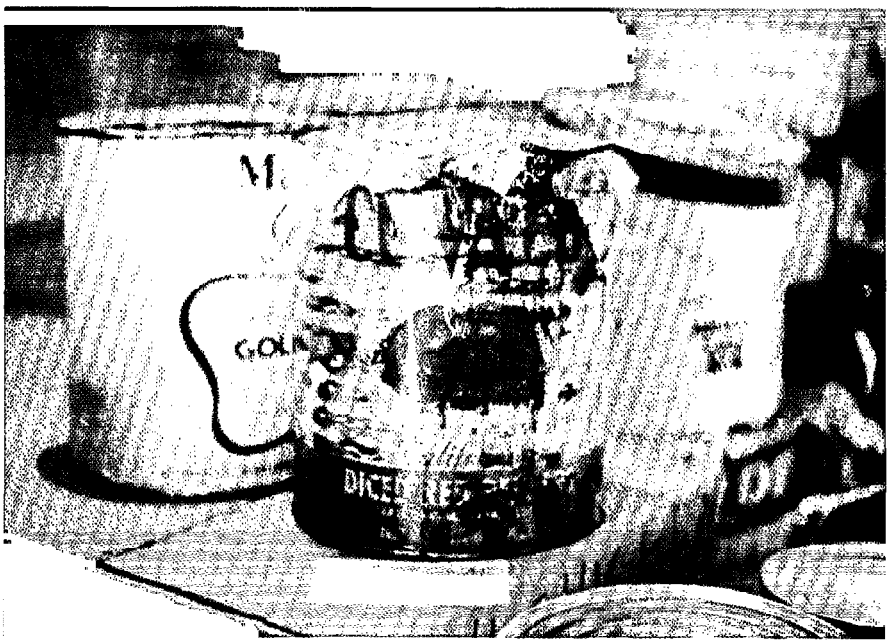

Fig. 7--Rim-dented and leaking can at long-term care facility.

Fig. 8--Severely rusted and rim damaged cans at nursing home.

as chemicals or oils, stored in railcars containing food products or in adjacent railcars may rupture and contaminate the food. Food may also become contaminated after a disaster or accident if it is shipped to a salvage outlet in the same truck as damaged and leaking nonfood products, such as hazardous chemicals or toxic detergents.

Products in paper containers may be directly contaminated in these ways. Food in cans or jars may become contaminated when the consumer opens the container. For example, when a can is opened, the lid itself or contaminants near the rim may fall into the can. When jars are opened, internal vacuum may draw sediment and debris lodged under the cap lids into the jar.

To insure proper reconditioning, operators of food salvage outlets should know the potential contaminants of their food and have adequate reconditioning procedures and facilities. However, most operators we questioned said they did not know the specific circumstances and contaminants that could have damaged their food.

Procedures and facilities used to clean or disinfect containers varied greatly, and many appeared inadequate. Several salvage outlets had no sinks or washing facilities. At some outlets that had washing facilities, the operators told us they washed only those containers which they visually identified as contaminated. Visual identification, however, is not always adequate because some contaminants are not readily visible. Even in outlets where the operators told us they generally cleaned potentially contaminated containers, containers offered for sale were dirty, rusted, or stained by unknown substances.

Two cleaning methods observed follow.

--One salvage outlet cleaned all contaminated or potentially contaminated canned products only by wiping the cans with a dry rag. At this outlet we noted that much merchandise covered with filth and foreign substances was offered for sale. In addition, containers of such products as baby food and catsup appeared to have insect larvae and/or general filth under their screw-cap lids.

--The operator of another salvage outlet told us he used a brush and water to clean baby food jars which had insect larvae encrusted under the lids. According to the FDA Inspection Operations Manual, "Non-Attack Disaster Procedures," sediment and debris lodged under screw-top, crimped-cap, and similar containers are impossible to remove. Therefore, the insect larvae may be dropped into or drawn into the containers by internal vacuum when the product is opened.

Another method of reconditioning is to buff rusted cans. Guidelines in this area differ. The FDA disaster guidelines specify that heavily rusted cans are not to be reconditioned. The Model State Salvage Code of the Association of Food and Drug Officials of the United States states that excessively rusted cans can be reconditioned by buffing.

Even within FDA disagreement exists on the propriety of reconditioning rusted cans and on the acceptability of fire-damaged cans. A salvage outlet we visited had acquired about 3,000 cases of canned olives that had been damaged by fire 4 years earlier. The salvager was reconditioning the cans by removing the rust with an electric buffer, spray painting the ends of the cans, and relabeling them. (See fig. 9.) FDA's Los Angeles district office, region IX, sampled part of the lot of olives and concluded that they had been properly reconditioned and were fit for human consumption. We later visited two retail outlets selling cans of these olives and found many cans with swells, springers, or flippers.

The lot had been purchased from a company in San Francisco, which is also in FDA region IX. The FDA Los Angeles district office notified the San Francisco district office about the questionable olives. The San Francisco district office found some of the olives still at that company. The office seized the olives and ordered them destroyed because they were "unfit for food by reason of being contained in swollen, leaking, and rusty cans." The office said the cans could not be adequately reconditioned.

Fig. 9--Before-and-after picture of 4-year old fire-damaged olives which were reconditioned.

The differences between the two FDA districts as to the propriety of reconditioning the cans indicates a need for FDA to clarify its policy on reconditioning salvaged foods.

Repackaging is sometimes done when containers of such products as flour or sugar become damaged. Such products could be contaminated if they were exposed to harmful nonfood products during a disaster or during transportation. They could also become contaminated during repackaging if it is done under insanitary conditions.

Nine outlets repackaged food products. Because they were not repackaging at the time of our visits, we were unable to observe their procedures. At least one outlet, however, may have been selling potentially contaminated repackaged flour.

The operator of this outlet repackaged bags of damaged flour in large plastic sacks to sell to the public. He had received the flour from a large warehouse which had a serious rodent problem, and many of the bags were gnawed and stained with rodent urine. He told us he had not known about the problem and therefore had routinely repackaged all flour he had received in bags with holes or tears.

In addition, we observed torn and damaged bags of flour loose in the bed of his truck along with open sacks of dog food and leaking and badly damaged food and such nonfood items as toxic detergents.

Food storage

One way to help prevent contaminating salvaged food is to properly store it. When salvaged food is received, it may have considerable container damage and leakage. Storing this food with harmful nonfood items in damaged containers or in areas with considerable filth, spillage, or insect or rodent infestation creates a high potential for contamination.

Of the 30 salvage outlets visited, 10 had considerable filth and product spillage, 13 had evidence of insects or rodents, 3 had food products which were actually insect infested, and 15 had stored food products with harmful nonfood products. Examples of some of the conditions found follow.

Outlet A:

1. Filthy floors, walls, and shelves throughout the store.

2. Food products stored next to open sewer main. (See fig. 10.)

3. Bleach and caustic cleaners stored with food products.

4. Dirty, rusty, swollen, or leaking food containers that were involved in a fire at least 5 years earlier.

5. No facilities to clean or recondition potentially contaminated food products.

Outlet B:

1. Poor sanitation in storage area.

2. Rodents in storage area and outside building.

3. Dead mouse on floor and numerous rodent droppings on sacks of dog food in storage area.

4. 150 boxes of insect-infested cornmeal and grits in retail area.

5. Hazardous substances, such as liquid bleach and insecticides, stored with food items in retail and storage areas.

Pictures of questionable storage practices in other salvage outlets are shown in figures 11 and 12.

Fig. 10--Open sewer in storage area of outlet A.

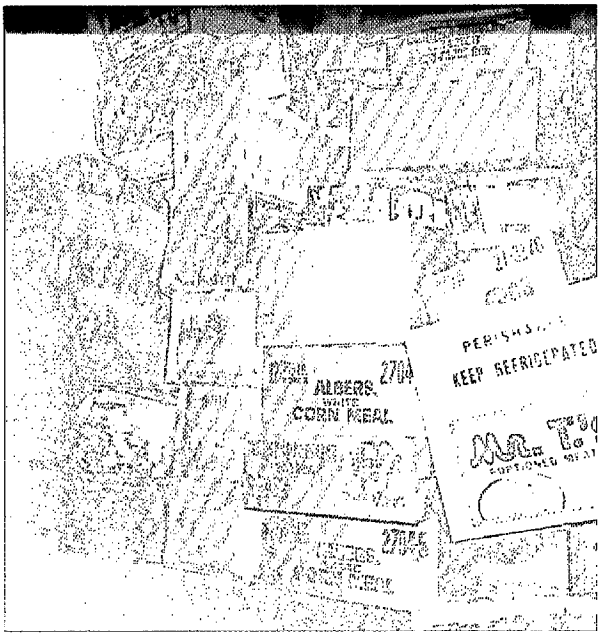

Fig. 11--Leaking boxes of detergent stored next to food products, including cornmeal, in storage area of salvage outlet.

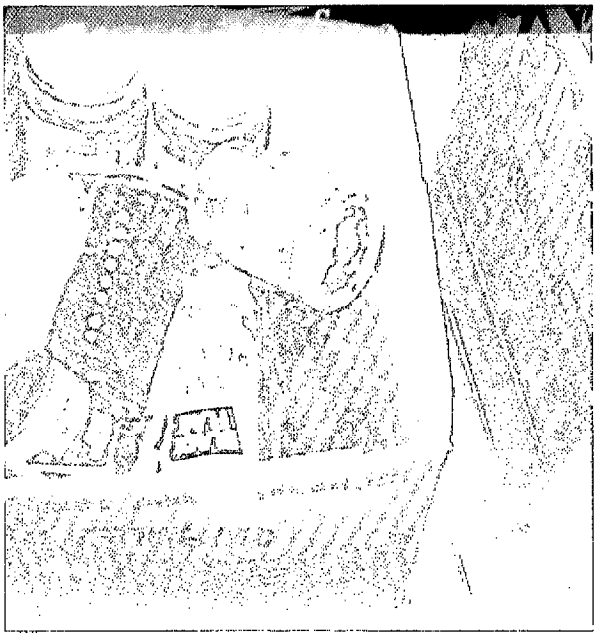

Fig. 12--Insecticides stored with food items in storage area of salvage outlet.

FEDERAL FOOD LAWS AND REGULATIONS

The Federal Food, Drug, and Cosmetic Act, the Poultry Products Inspection Act, and the Federal Meat Inspection Act define adulterated food to include foods which (1) contain substances which make them injurious to health, (2) consist of any filthy, putrid, or decomposed substance, or (3) have been prepared, packed, or held under insanitary conditions in which they may become contaminated. The U.S. Code of Federal Regulations (21 CFR 128) expands on these laws and cites some criteria which, in our opinion, could be used in food salvaging. These criteria include:

--Transporting and storing of finished products should be done under conditions which will prevent contamination and undesirable deterioration of the products and containers.

--Food products should be separated from undesirable microorganisms, chemicals, filth, and other potential contaminants.

--Food products should be protected against contamination by animals, birds, insects, and rodents.

--Food packaging should be done under conditions and controls which minimize potential deterioration or contamination.

--Running water at a suitable temperature and under pressure should be provided when required for cleaning containers.

--Contaminated food should be identified and rejected, treated, or processed to eliminate the contamination if possible.

Under the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, and the Poultry Products Inspection Act, insect-infested products and products with leaking containers could be considered adulterated. In addition, because of the extensive container defects and the questionable reconditioning and storage methods we observed, we believe there is a high probability that food sold in the salvage outlets visited was or could become adulterated.

ACTIONS TAKEN AS A RESULT OF OUR VISITS

Of the 30 salvage outlets we visited, 26 were offering potentially misbranded and/or adulterated processed food products to consumers. One salvage outlet voluntarily closed and eight others were asked to destroy food products. Regulatory actions were not taken against the 17 remaining salvage outlets with similar conditions.

Four to 9 months after our visits, we contacted the appropriate health officials to determine if any further regulatory actions had been taken. According to FDA and State and local authorities, most of the 17 salvage outlets had been reinspected or scheduled for reinspection. One operator was prosecuted and put on probation for a year, and food at one salvage outlet was condemned and confiscated.

FDA inspectors who accompanied us on some of the visits in Los Angeles told us they did not normally take action in salvage cases because small lots were often involved and FDA has an informal policy to not seize lots under $100.

CHAPTER 4

IMPROVED REGULATION OF FOOD SALVAGE OUTLETS NEEDED

To insure that salvaged food sold to consumers is safe to eat, both food salvage outlets and agencies responsible for inspecting them should clearly understand acceptable guidelines and procedures for sorting, reconditioning, labeling, repackaging, and storing food. Also, inspection agencies must take appropriate regulatory actions if a food salvage outlet does not adhere to these guidelines.

GUIDELINES

Comprehensive guidelines giving appropriate criteria and procedures for food salvaging are needed. Only 6 of the 50 States and 5 of the 87 cities which responded to our questionnaire had specific food salvage guidelines and/or laws.

FDA's only reference to food salvaging is in subchapter 930 of its Inspection Operations Manual, which describes to FDA inspectors procedures to follow for food which has been involved in such disasters as floods, hurricanes, fires, explosions, and wrecks. In a general way, the manual addresses the sorting and reconditioning of products in certain types of containers.

This manual, in our opinion, is of limited use in regulating food salvage outlets. According to it, State and local officials usually assume direct responsibility in disasters and FDA helps when State and local manpower and resources are overtaxed. The manual does not cover such areas as criteria for properly sorting dented containers; reconditioning cans and screw-top containers other than those subjected to water, fire, or smoke contamination; properly segregating food from nonfood goods during transportation to the salvage outlet; and storing the goods after transportation. Finally, the manual, which is for internal FDA use, covers only disaster situations and does not give guidance for regulating wholesale or retail salvage outlets.

The Department of Agriculture has food container standards establishing acceptable defect limits for metal, glass, rigid, semirigid, and flexible containers. These standards are used primarily within Agriculture for certifying the

condition of food products purchased under Federal Government contracts and are not intended for use in inspections of salvage outlets. APHIS has not developed inspection guidelines for properly sorting, reconditioning, transporting, and storing salvaged food.

The Model State Salvage Code falls short in several ways. For example, it does not specify proper cleaning and reconditioning methods for containers contaminated by chemicals or other unknown substances. More importantly, it has not been widely distributed among States and cities. Forty-three percent of the States and 89 percent of the cities that responded to our questionnaire were not aware of the code.

Although only six States and five cities had salvage guidelines and/or laws, 85 percent of the States and 91 percent of the cities favored a uniform code of practice. Forty-eight percent of the State and local agencies responding to our questionnaire stated that they would like food salvage guidelines from FDA and/or APHIS. Also, 80 percent of the States and 81 percent of the cities favored the promulgation and adoption of regulatory controls over salvage outlets.

ENFORCEMENT

To insure effective enforcement, definitive laws and guidelines are needed as a basis for regulating and inspecting salvage outlets. Because such specific laws and guidelines are rare at the Federal, State, and local levels, much personal judgment must be used in inspections.

Inspectors in several locations had different ideas of acceptable salvage practices and the salability of damaged products. Some State and local health departments had unwritten guidelines governing the salability of damaged containers. Salvage outlets in their jurisdictions, however, had many products that did not meet the requirements of the guidelines, even though the outlets were inspected routinely.

We did find some examples of actions having been taken against salvage operations. Officials in one State filed a complaint against a food salvage company operating one

retail store, two warehouses, and one repackaging and distribution facility and servicing four nursing homes after State inspections disclosed that the company was distributing hundreds of misbranded, dented, or leaking products that had been stored under insanitary conditions. Products included baby foods, flour and cereal mixes, lunch meat, and various canned vegetables and fruits. At the warehouses, inspectors found about 30,000 unlabeled canned goods and numerous potentially contaminated products which the owner was storing for use in the nursing homes.

The salvage company was prosecuted and found guilty of improper labeling and of selling adulterated products. A State health inspector told us a substantial fine would be levied.

CONCLUSIONS

Consumers who buy salvaged food should be given the same protection and product information given to those who buy other food. Salvage outlets are offering food to the public and institutions that (1) may not have been properly reconditioned after disasters, wrecks, or mishandling, and/or (2) is in unlabeled, leaking, swollen, rusted, or badly dented containers.

Our visits to salvage outlets showed that many consumers may be taking an unreasonable health risk in eating salvaged food. Those in such institutions as orphanages, youth camps, and nursing homes are particularly vulnerable because they must eat the food served them. FDA can affect the way food salvage outlets operate and thus lessen the risk to consumers.

Few existing laws, regulations, and guidelines at Federal, State, and local levels and at such private organizations as the Association of Food and Drug Officials of the United States and the National Canners Association concern food salvage. Development and implementation of uniform, comprehensive standards and guidelines are needed to effectively regulate food salvage outlets. FDA should coordinate this effort because it has prime responsibility for many of the goods sold.

FDA has never assumed direct responsibility for such retail operations as grocery stores and restaurants because of their numbers. However, it could directly oversee inspection of the much smaller number of food salvage outlets. This seems especially necessary in view of the conditions found.

RECOMMENDATIONS

We recommend that the Secretary, HEW, direct the Commissioner, FDA, to:

--Develop and publish a Federal regulation establishing a national uniform code of practice for food salvaging, including guidelines and criteria for transporting, sorting, reconditioning, repackaging, and storing salvaged food.

--Establish a program for regulating salvage outlets through FDA inspections.

--Alert health agencies responsible for inspecting institutions in all States about the potential effects of allowing institutions to buy misbranded or damaged salvaged food products.

AGENCY COMMENTS AND OUR EVALUATION

HEW stated (see app. I) that:

--FDA will work in conjunction with the Association of Food and Drug Officials to develop a good manufacturing practice regulation for food salvage outlets. To insure a uniform approach by State and local officials, the regulation will be designed so that it could be issued as a proposed model ordinance and code for adoption by State and local authorities.

--Also in cooperation with the Association, FDA will inform the health agencies responsible for inspecting institutions about the potential hazards of misbranded or damaged salvaged food products.

Regarding our recommendation that FDA establish a program for regulating salvage outlets through FDA inspections, HEW stated that:

--Because of FDA's limited manpower, FDA believes an effective monitoring program of the more than 1,000 food salvage outlets can best be handled at the State and local levels due to their close proximity to the industry and the nature of the industry. Salvage outlets deal mainly with small lots and try to move them quickly; thus, they require frequent, short inspections rather than more comprehensive inspections at longer intervals.

--FDA will exercise leadership in encouraging and assisting State officials to implement well-planned inspection programs and, in those States where industry is concentrated, encourage a coordinated State and local program. FDA will also train State and local officials based on the regulations.

Although the States may be in a better position to regulate food salvage outlets, we believe that FDA should be prepared to use its regulatory powers under the Federal Food, Drug, and Cosmetic Act in instances where a State

does not effectively inspect and regulate such outlets. Accordingly, FDA should monitor State programs for regulating food salvage outlets.

Agriculture stated (see app. II) that:

--The report accurately portrayed its role in the food salvage industry.

--Salvage outlets can best be regulated by State and local government agencies. (This agrees with HEW's comment.)

--A significant number of food salvage outlets are included in its Planned Compliance Program and that, in cooperation with local health authorities, it periodically evaluates the outlets' handling of meat and poultry products.

--A program to further regulate the food salvage industry at the Federal level would face certain difficulties, including identifying outlets and obtaining additional inspectional and laboratory resources.

--It would cooperate with HEW in the preparation of any program covering the food salvage industry as far as meat and poultry products are concerned.

We believe a coordinated Agriculture-FDA effort to develop a regulatory program for the food salvage industry would provide uniform, comprehensive standards and guidelines which, if effectively implemented, should reduce the risk to consumers who eat salvaged food.

CHAPTER 5

SCOPE OF SURVEY

We accompanied FDA, State, or local inspectors on visits to 30 food salvage outlets in Seattle, Los Angeles, New Orleans, Atlanta, and Chicago and visited 25 institutions, such as nursing homes and day care centers, which were purchasing salvaged food in Seattle, Los Angeles and New Orleans. Because there was not an inventory or listing of salvage outlets in those cities, the inspectors selected the outlets to be visited.

Input on food salvage standards and criteria was obtained from such national food associations as the National Canners Association and the Association of Food and Drug Officials of the United States, food processors and distributors, and Federal and State food laws and guidelines.

At FDA and Department of Agriculture headquarters, we discussed matters relating to the food salvage industry with agency officials and examined pertinent policies, procedures, and practices.

In addition, we surveyed, through a questionnaire and interviews, food salvage inspection programs of health departments in all States and in 93 of the Nation's 100 largest cities.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

March 7, 1975

Mr. Gregory J. Ahart
Director, Manpower and
Welfare Division
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Ahart:

The Secretary asked that I respond to your request for our comments on your draft report to the Congress entitled, "Need for Regulation of the Food Salvage Industry". They are enclosed.

We appreciate the opportunity to comment on this draft report before its publication.

Sincerely yours,

John Young

John D. Young
Assistant Secretary, Comptroller

Enclosure

DEPARTMENT COMMENTS ON THE GAO DRAFT REPORT TO CONGRESS ENTITLED

"NEED FOR REGULATION OF

THE FOOD SALVAGE INDUSTRY"

GAO RECOMMENDATION:

The Secretary, HEW, through the Commissioner, FDA, should develop and publish a Federal regulation which establishes a national uniform code of practice for salvage operations including guidelines and criteria for transporting, sorting, reconditioning, repackaging, and storing salvaged food.

DEPARTMENT COMMENT:

We concur. The Food and Drug Administration will work in conjunction with the Association of Food and Drug Officials (AFDO) to develop a Current Good Manufacturing Practice Regulation for salvage operations. In order to ensure a uniform approach by state and local officials, the regulation will be designed so that it can subsequently be reissued as a proposed model ordinance and code for adoption by state and local authorities.

GAO RECOMMENDATION:

The Secretary, HEW, through the Commissioner, FDA, should establish a program for regulating salvage outlets through FDA inspections.

DEPARTMENT COMMENT:

Because of FDA's limited manpower, FDA believes that an effective monitoring program of the more than 1,000 food salvage outlets can best be handled at the state and local level due to their close proximity to the industry and the nature of the salvage business. Salvage operations deal mainly with smaller lots and attempt to move the lots quickly. This requires frequent, short inspections, rather than a more comprehensive inspection on longer cycles.

FDA will exercise a leadership role in encouraging and assisting state officials to implement well-planned inspectional programs; and in those states where industry is concentrated, encourage a coordinated state and local program. The Agency will also train state and local officials based on the regulations.

GAO RECOMMENDATION:

The Secretary, HEW, through the Commissioner, FDA, should alert health agencies responsible for inspecting institutions in all states about the potential effects of allowing institutions to buy misbranded or damaged salvaged food products.

DEPARTMENT COMMENT:

We concur. FDA, with the cooperation of AFDO, will inform the health agencies responsible for inspecting institutions about the potential hazards of misbranded of damaged salvaged food products.

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WASHINGTON, D.C. 20250

MAR 12 1975

Mr. Henry Eschwege, Director
Resources and Economic
Development Division
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Eschwege:

Thank you for providing copies of the draft of your report entitled "Need for Regulation of the Food Salvage Industry" (B-164031-2). We have reviewed the proposed report and find that your auditors have, in general, portrayed accurately the Animal and Plant Health Inspection Service (APHIS) role with regard to the food salvage industry.

We note that the recommendations in the report are all addressed to the Secretary, Department of Health, Education, and Welfare (HEW). Since APHIS is responsible for the administration of both the Federal Meat Inspection Act (FMIA), and the Poultry Products Inspection Act (PPIA) which cover meat and poultry products, we are prepared to cooperate with HEW in the preparation of any program covering the food salvage industry as far as those products are concerned. We should point out, however, that a program to further regulate the food salvage industry at the Federal level would be faced with certain difficulties. These difficulties would include:

--defining what is meant by a "food salvage operator" when a significant number of individuals participating in the industry are only involved for short periods of time and then may not handle another lot for months or years, if ever;

--obtaining the resources in people and dollars necessary for the performance of additional inspections;

--handling the increased laboratory sampling load in our already over-extended scientific laboratories; and

--further reduction of State and local government agencies' incentive to perform those functions for which they are more suited than the Federal government.

Our agency already includes a significant number of food salvage operators in its "Planned Compliance Program." These operators are visited by Federal Compliance Officers, employees of this agency, on

a periodic basis based on past compliance. The way the operator handles meat and poultry products is evaluated. These visits do not supplant the activities of local public health authorities but are performed in cooperation with them. Any violations of the FMIA or PPIA discovered during these visits are handled through our regular compliance procedures. Since our compliance officers are already carrying a heavy workload, any expansion of this program would require additional resources.

We look forward to receiving copies of your final report and will be happy to respond to any further requests for information.

Sincerely,

F. J. Mulhern
Administrator

PRINCIPAL HEW OFFICIALS

RESPONSIBLE FOR ADMINISTERING ACTIVITIES

DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
SECRETARY OF HEALTH, EDUCATION AND WELFARE:		
Caspar W. Weinberger	Feb. 1973	Present
Frank C. Carlucci (acting)	Jan. 1973	Feb. 1973
Elliot L. Richardson	June 1970	Jan. 1973
Robert H. Finch	Jan. 1969	June 1970
Wilbur J. Cohen	Mar. 1968	Jan. 1969
John W. Gardner	Aug. 1965	Mar. 1968
ASSISTANT SECRETARY FOR HEALTH (note a):		
Theodore Cooper (acting)	Jan. 1975	Present
Charles C. Edwards	Mar. 1973	Jan. 1975
Richard L. Seggel (acting)	Dec. 1972	Mar. 1973
Merlin K. Duval, Jr.	July 1971	Dec. 1972
Roger O. Egeberg	July 1969	July 1971
Philip R. Lee	Nov. 1965	Feb. 1969
COMMISSIONER, FOOD AND DRUG ADMINISTRATION:		
Alexander M. Schmidt	July 1973	Present
Sherwin Gardner (acting)	Mar. 1973	July 1973
Charles C. Edwards	Feb. 1970	Mar. 1973
Herbert L. Ley, Jr.	July 1968	Dec. 1969
James L. Goddard	Jan. 1966	June 1968

[a]Until December 1972 the title of this position was Assistant Secretary (Health and Scientific Affairs).

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF AGRICULTURE RESPONSIBLE FOR ADMINISTERING ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
SECRETARY OF AGRICULTURE:		
Earl L. Butz	Dec. 1971	Present
Clifford M. Hardin	Jan. 1969	Nov. 1971
Orville L. Freeman	Jan. 1961	Jan. 1969
ASSISTANT SECRETARY, MARKETING AND CONSUMER SERVICES:		
Richard L. Feltner	Apr. 1974	Present
Clayton Yeutter	Jan. 1973	Mar. 1974
Richard E. Lyng	Mar. 1969	Jan. 1973
Vacant	Feb. 1969	Mar. 1969
Ted J. Davis	Oct. 1968	Jan. 1969
Vacant	June 1968	Sept.1968
George L. Mehren	Sept.1963	May 1968
ADMINISTRATOR, ANIMAL AND PLANT HEALTH INSPECTION SERVICE:		
Francis J. Mulhern	May 1972	Present
Francis J. Mulhern (acting)	Apr. 1972	May 1972
ADMINISTRATOR, CONSUMER AND MARKETING SERVICE (note a):		
George R. Grange (acting)	Jan. 1972	Mar. 1972
Clayton Yeutter	Oct. 1970	Jan. 1972
George R. Grange (acting)	July 1970	Oct. 1970
Roy W. Lennartson	Feb. 1969	July 1970
Roy W. Lennartson (acting)	Jan. 1969	Feb. 1969
Rodney E. Leonard	Dec. 1967	Jan. 1969

[a]Effective April 2, 1972, the Consumer and Marketing Service was renamed the Agricultural Marketing Service and its responsibility for inspecting meat and meat products was transferred to APHIS.

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