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WFO 8
JAN. 19, 1943

WAR FOOD ADMINISTRATION

(War Food Order 8)
PART 1401—DAIRY PRODUCTS

RESTRICTIONS ON PRODUCTION OF FROZEN DAIRY FOODS AND MIX

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and to assure an adequate supply and efficient distribution of dairy products to meet war and essential civilian needs, *It is hereby ordered as follows:*

§ 1401.31 *Frozen dairy foods and mix, Limitations with respect to production thereof*—(a) *Definitions.* When used in this regulation, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) The term "processor" means any person engaged in the manufacture of frozen dairy foods or mix.

(2) The term "frozen dairy foods" means any frozen or partially frozen food products (including ice cream, French ice cream, ice milks, milk ices, frozen custards, sherbets, and other similar preparations) containing milk solids and sugar together with stabilizers, extracts, fruits, nuts, coloring, or flavoring materials.

(3) The term "mix" means any liquid or dried unfrozen preparation (including ice cream mix, ice cream powders, milk ice mix, ice milk mix, milk shake mix, and other similar preparations), containing milk solids and sugar, that is used directly in the freezing of a frozen dairy food.

(4) The term "ice cream" means any frozen dairy food containing 8 per centum or more (by weight) of milk fat included in 14 per centum or more (by weight) of total milk solids.

(5) The term "person" means any individual, partnership, corporation, association, or other business entity.

(6) The term "Director" means the Director of Food Distribution, United States Department of Agriculture, or any employee of the United States Department of Agriculture designated by such Director.

(7) The term "base period" means the period from December 1, 1941, to November 30, 1942, both dates inclusive.

(8) The term "allocation period" means any period, specified by the Director, to which quotas, reports, and other regulations herein provided are applicable.

(b) *Restrictions on production of frozen dairy foods and mix.* (1) No processor may, during any allocation period specified by the Director pursuant hereto, utilize in the production of frozen dairy foods or mix more than 65 per centum of the total milk solids used by the respective processor in the production of such products, respectively, during the corresponding portion of the base period. The milk solids used in frozen dairy foods or mix manufactured for, delivered to, and for the account of an agency specified in or pursuant to paragraph (c) hereof shall be excluded from the amount of milk solids to which the aforesaid 65 per centum is applicable.

(2) The maximum total milk solids content of frozen dairy foods manufactured, sold, or delivered by any person after January 31, 1943, shall be 22 per centum by weight.

(3) The milk solids-not-fat (sometimes referred to as serum solids) content of ice cream or ice cream mix manufactured, sold, or delivered by any person after January 31, 1943, shall not exceed 80 per centum by weight of the milk fat content of such ice cream and ice cream mix, respectively.

(4) Frozen dairy foods other than ice cream or mixes for ice cream are exempt from the provisions of (b) (3) hereof, but no processor shall, during any allocation period specified by the Director pursuant hereto, use in the production of such products more than 10 per centum (by weight) of the total milk solids available to him under the provisions in (b) (1) hereof or more than 100 per centum (by weight) of the amount of milk solids used by the respective processor for the production of such products in the corresponding portion of the base period. The milk solids used in frozen dairy foods or mix manufactured for, delivered to, and for the account of any agency specified in or pursuant to paragraph (c) hereof shall be excluded from the amount of milk solids to which the aforesaid 100 per centum is applicable.

(c) *Military exemption.* Frozen dairy foods or mix manufactured for delivered to, and for the account of the Army or Navy, including the U. S. Army Post Exchanges, U. S. Navy Ship's Service Departments, and U. S. Marine Corps Post Exchanges, shall be exempt from the provisions of paragraphs numbered (b) (1) and (b) (4) hereof: *Provided*, That

such Exchanges or Departments shall comply with the requirements, prescribed by the Director pursuant hereto, including, but not being limited to the submission of reports with respect to the purchases of frozen dairy foods or mix in each allocation period and with respect to the estimates of prospective purchases in designated allocation periods.

(d) *Equitable distribution.* Each processor shall make equitable distribution, among those persons supplied by such processor during the base period, of the frozen dairy foods and mix manufactured by such processor.

(e) *Option with respect to multiple plant operations.* Upon approval by the Director of a written request from a processor having multiple plant operations, such plants shall be considered separately in the application of the provisions hereof.

(f) *Records and reports.* Each person to whom this order applies shall maintain such records for such periods of time, and shall execute and file such reports and submit such information as the Director may from time to time request or direct, and within such times as he may prescribe.

(g) *Audits and inspections.* Each person to whom this order applies shall permit the Director or any person designated by him to inspect (1) the stocks of frozen dairy foods and mix, (2) the premises used for the manufacture of such products, and (3) the books, records, and accounts of the respective person subject to the provisions of this order.

(h) *Territorial scope.* Any processor doing business in one or more of the forty-eight States or the District of Columbia is subject to the provisions hereof, but the provisions hereof shall not apply to any processor doing business exclusively in any Territory or Possession of the United States.

(i) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may apply in writing for relief to the Director, setting forth, in said petition, all pertinent facts and the reasons for such petition being approved. The Director may thereupon take such action as he deems appropriate.

(j) *Communications to Department of Agriculture.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: Director of Food Distribution, United States Department of Agriculture, Washington, D. C., Ref: FD-8.

(k) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order,

wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of or from processing or using material under priority control, and may be deprived of priority assistance.

(l) *Delegation of authority.* The Director is hereby designated to administer the provisions hereof.

(m) *Effective date.* This order shall be effective as of 12:01 a. m., E. W. T., February 1, 1943.

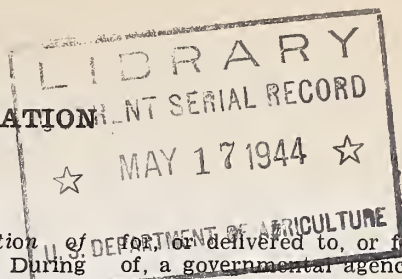
(E.O. 9280, 7 F.R. 10179)

Issued this 19th day of January 1943.

[SEAL]

CLAUDE R. WICKARD,
Secretary of Agriculture.

WAR FOOD ADMINISTRATION



[WFO 8, Amdt. 1]

PART 1401—DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

War Food Order No. 8, 9 F.R. 4319 (formerly designated as Food Distribution Order No. 8, as originally issued by the Secretary of Agriculture on January 19, 1943, 8 F.R. 953, and as amended, 8 F.R. 12163), is amended as follows:

1. By deleting the provisions of § 1401.31 (a) (6), and inserting, in lieu thereof, the following:

(6) The term "governmental agency" means (i) the Armed Services of the United States (for the purposes of this order, including, but not restricted to, the United States Army Post Exchanges; United States Navy Ships' Service Departments; and the United States Marine Corps Post Exchanges); (ii) the War Shipping Administration; (iii) the Veterans' Administration; and (iv) any other instrumentality or agency designated by the War Food Administrator. The term "governmental agency" also includes any person who, pursuant to a war food order, is entitled to purchase frozen dairy foods or mix subject to this order.

2. By deleting the provisions of § 1401.31 (b) (1) and § 1401.31 (b) (2) and inserting, in lieu thereof, the following:

(b) *Restrictions on production of frozen dairy foods and mix.* (1) During the allocation periods commencing May 1, 1944, and June 1, 1944, respectively, as specified in War Food Order No. 8.1, 9 F.R. 4319 (formerly designated as Food Distribution Order No. 8-1, as issued by the Director on February 1, 1943, 8 F.R. 1330), no processor may utilize in the production of frozen dairy foods or mix more than 75 per centum of the total milk solids used by the respective processor in the production of such products, respectively, during the corresponding portion of the base period, exclusive of all such products processed for, or sold to, a governmental agency by such processor during such corresponding portion of the base period. During each allocation period commencing after June 30, 1944, specified by the Director in said War Food Order No. 8-1, or hereafter specified by the Director, no processor may utilize in the production of frozen dairy foods or mix more than 65 per centum of the total milk solids used by the respective processor in the production of such products, respectively, during the corresponding portion of the base period, exclusive of all such products processed for, or sold to, a governmental agency by such processor during such corresponding portion of the base period. The milk solids used in frozen dairy foods or mix manufactured for, or delivered to, or for the account of, a governmental agency, shall be excluded from the amount of milk solids to which the aforesaid percentages are applicable.

(2) During the months of May and June 1944 the maximum total milk solids content of frozen dairy foods manufactured, sold, or delivered by any person shall be 24 per centum (by weight). After June 30, 1944, the maximum total milk solids content of frozen dairy foods manufactured, sold, or delivered by any person, shall be 22 per centum (by weight).

This amendment shall become effective at 12:01 a. m., e. w. t. May 1, 1944. With respect to violations, rights accrued, or liabilities incurred prior to the effective time of this amendment, the provisions of War Food Order No. 8 in effect prior to the effective time hereof shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334; 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 1st day of May 1944.

WILSON COWEN,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO 8 Amendment 1

Manufacturers of frozen dairy foods will be permitted to make more ice cream during May and June than during the same period last year and richer ice cream than at any time since February 1943 under the second action announced this month by the War Food Administration to help assure full utilization of all milk produced during the period of peak milk output.

From May 1 through June 30, manufacturers will be permitted to use in the production of ice cream and other frozen dairy foods 75 percent of the milk solids that they used in May and June 1942

respectively and the maximum milk solids content of ice cream has been raised to 24 percent for these two months.

Since February 1943, manufacturers have been limited each month to 65 percent of the milk solids which they used in the corresponding month of the base period (December 1941 through November 1942), and to a maximum milk solids content of 22 percent. These limitations on the use of milk in ice cream—contained in War Food Order 8 (formerly FDO 8)—were made to help conserve milk and butterfat for use in butter, milk powder, and other war-important dairy foods. It is estimated that the order thus far has conserved enough butterfat to make about 125 million pounds of

butter and enough nonfat milk solids to make about 55 million pounds of skim milk powder.

The quotas are being raised temporarily, WFA officials said, in anticipation of a heavier-than-usual production of milk during May and June. The increased quotas will make it easier to handle the flush production which comes at a time when a shortage of manpower in many processing plants makes it difficult for processors to make full use of the milk supply. The WFA announced last week that quotas limiting the sale of cream, and such milk byproducts as cottage cheese, buttermilk, and chocolate drink also have been raised for May and June.



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WAR FOOD ADMINISTRATION

[WFO 8, Amdt. 3]

PART 1401—DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

War Food Order No. 8, as amended, 9 F.R. 4319, 4735 (formerly designated as Food Distribution Order No. 8, as originally issued by the Secretary of Agriculture on January 19, 1943, 8 F.R. 953, and as amended, 8 F.R. 12163), is further amended as follows:

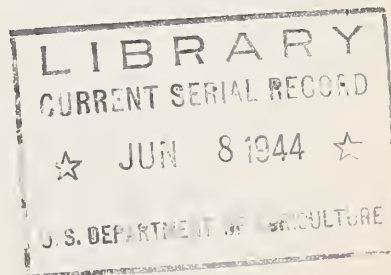
1. By deleting § 1401.31 (b) (1) and § 1401.31 (b) (2) therefrom and inserting, in lieu thereof, the following:

(b) *Restrictions on production of frozen dairy foods and mix.* (1) During the allocation period commencing June 1,

1944, as specified in War Food Order No. 8.1, 9 F.R. 4319 (formerly designated as Food Distribution Order No. 8.1, as issued by the Director on February 1, 1943, 8 F.R. 1330), no processor may utilize in the production of frozen dairy foods or mix more than 85 per centum of the total milk solids used by the respective processor in the production of such products, respectively, during the corresponding portion of the base period, exclusive of all such products processed for, or sold to, a governmental agency by such processor during such corresponding portion of the base period. During the allocation period commencing July 1, 1944 no processor may utilize in the production of frozen dairy foods or mix more than 75

per centum of the total milk solids used by the respective processor in the production of such products, respectively, during the corresponding portion of the base period, exclusive of all such products processed for, or sold to, a governmental agency by such processor during such corresponding portion of the base period. During each allocation period commencing after July 31, 1944, specified by the Director in said War Food Order No. 8.1, or hereafter specified by the Director, no processor may utilize in the production of frozen dairy foods or mix more than 65 per centum of the total milk solids used by the respective processor in the production of such products, respectively, during the corresponding portion of the

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base period, exclusive of all such products processed for, or sold to, a governmental agency by such processor during such corresponding portion of the base period. The milk solids used in frozen dairy foods or mix manufactured for, or delivered to, or for the account of, a governmental agency, shall be excluded from the amount of milk solids to which the aforesaid percentages are applicable.

(2) During the months of June and July 1944 the maximum total milk solids content of frozen dairy foods manufactured, sold, or delivered by any person

shall be 24 per centum (by weight). After July 31, 1944, the maximum total milk solids content of frozen dairy foods manufactured, sold, or delivered by any person, shall be 22 per centum (by weight).

This amendment shall become effective at 12:01 a. m., e. w. t., June 1, 1944.

With respects to violations, rights accrued, or liabilities incurred prior to the effective time of this amendment, the provisions of War Food Order No. 8, as

amended, in effect prior to the effective time hereof shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 27th day of May 1944.

WILSON COWEN,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO-8 Am. 3.

Ice cream quotas raised.—The War Food Administration has announced that manufacturers of frozen dairy foods will be permitted to make more ice cream during June and July than has previously been announced in order to help assure full utilization of the exceptionally heavy milk output expected during these two months.

Quotas limiting the amount of milk solids which each manufacturer may use in June and July 1944 have been raised to 85 percent for June and to 75 percent for July.

The new quota for June represents a further increase from that announced earlier this month. At that time, the quotas for May and June were set at 75

percent of the base period production for those months and the maximum milk solids content—which determines ice cream “richness”—was raised from 22 to 24 percent. This increased richness also will be permitted during July. In August it will drop to the 22 percent limitation and the original 65 percent quota on the use of milk solids also will be restored.

From February 1943 to May 1944, manufacturers were limited each month to 65 percent of the milk solids which they used in the corresponding month of the base period (December 1941 through November 1942), and to a maximum milk solids content of 22 percent. These limitations on the use of milk in ice cream—contained in War Food Order 8, as amended—were made to help conserve milk and butterfat for use in but-

ter, milk powder and other war-important dairy foods. It is estimated that the order thus far has conserved enough butterfat to make more than 125 million pounds of butter and enough non-fat milk solids to make more than 55 million pounds of skim milk powder.

The increased quotas will make it easier to handle the sharp increase in milk production which will come at a time when a shortage of manpower in many processing plants would make it difficult for processors to make full use of the milk supply.

As a result of this and previous adjustments, production of ice cream and other frozen dairy foods for civilian use this summer should be more than 30 million gallons greater than that of last summer.

WAR FOOD ADMINISTRATION

[WFO 8, Amdt. 4]

PART 1401—DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

War Food Order No. 8, as amended (3 F.R. 953, 12163, 9 F.R. 4321, 4319, 4735, 5333, and 5767), is further amended to read as follows:

1. By deleting therefrom § 1401.31 (b) (3).

2. By deleting therefrom § 1401.31 (a) (8) and inserting, in lieu thereof, the following:

(8) The term "Director" means the Director of Distribution, War Food Administration.

3. By inserting therein, after § 1401.31 (a) (10), the following:

(11) "Dairy and Poultry Branch Field Representative" means the person in charge of the appropriate Dairy and Poultry Branch field office as follows:

(i) For the States of California, Washington, Oregon, Nevada, Arizona, Wyoming, Utah, Idaho, and Montana:

Western Field Office,
Dairy and Poultry Branch,
Office of Distribution,
821 Market Street,
San Francisco, California.

(ii) For the States of Arkansas, Colorado, Kansas, Louisiana, New Mexico, Texas, and Oklahoma:

Southwest Field Office,
Dairy and Poultry Branch,
Office of Distribution,
425 Wilson Building,
Dallas, Texas.

(iii) For the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia:

Southern Field Office,
Dairy and Poultry Branch,
Office of Distribution,
Western Union Building,
Atlanta, Georgia.

(iv) For the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin:

Midwest Field Office,
Dairy and Poultry Branch,
Office of Distribution,
5 South Wabash Avenue,
Chicago, Illinois.

(v) For the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia:

Northeast Field Office,
Dairy and Poultry Branch,
Office of Distribution,
150 Broadway,
New York, New York.

4. By deleting therefrom § 1401.31 (d) and inserting, in lieu thereof, the following:

(d) It is hereby declared to be the policy of the War Food Administration that every processor shall make equitable distribution among those persons supplied by such processor during the base period of the frozen dairy foods and-mix manufactured by such processor. All processors shall observe such policy in selling or distributing the frozen dairy foods and mix which they process. In the event the Director finds that the distribution made by a processor in any particular instance is not equitable, the Director may prohibit the particular processor from making any further distribution of such frozen dairy foods and mix except such as may be specified by the Director as being equitable. Any failure to observe such a direction by the Director shall be a violation of this order.

5. By deleting therefrom § 1401.31 (f) and inserting, in lieu thereof, the following:

(f) *Records and reports.* (1) The Director shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in the Director's discretion, for the enforcement or administration of the provisions of this order.

(2) Every person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his production and transactions in frozen dairy foods and mix.

6. By deleting therefrom § 1401.31 (i) and (j) and inserting, in lieu thereof, the following:

(i) *Petition for relief from hardship.* Any person affected by this order, who considers that compliance herewith

would work an exceptional and unreasonable hardship on him, may file a petition for relief with the Dairy and Poultry Branch Field Representative serving the area in which such person resides or does business. Petitions for such relief shall be in writing, and shall set forth all pertinent facts and the nature of the relief sought. If such person is dissatisfied with the action taken on the petition by the Dairy and Poultry Branch Field Representative, he may, by requesting the Dairy and Poultry Branch Field Representative therefor, secure a review of such action by the Director. The Director may, after such review, take such action as he deems appropriate, and such action shall be final.

(j) *Communications.* All reports required to be filed hereunder shall be addressed in conformity with the instructions specified in the respective form required to be submitted. All other communications concerning this order shall, unless instructions to the contrary are issued by the Director, be addressed to the Dairy and Poultry Branch Field Representative serving the area in which the person affected by this order resides or does business.

This amendment shall become effective at 12:01 a. m., e. w. t., August 5, 1944. With respect to violations, rights accrued, liabilities incurred, or appeals taken under said War Food Order No. 8, as amended, prior to the effective time of the provisions hereof, the provisions of said War Food Order No. 8, as amended, in effect prior to the effective time hereof shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with regard to any such violation, right, liability, or appeal.

NOTE: All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 5th day of August 1944.

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO 8 Amendment 4.

Beginning August 5, 1944, manufacturers of frozen dairy foods will not be restricted under War Food Order 8 in the use of milk solids-not-fat in ice

cream so long as the total quantity of milk solids they use does not exceed 22 percent, the War Food Administration announced.

Heretofore, the use of fat and nonfat milk solids was on a ratio basis: the total quantity of non-fat milk solids used

could not exceed 80 percent of the butterfat used. That is, for each pound of butterfat used in making ice cream, only 8/10 of a pound of milk solids-not-fat could be used.

Removal of the provision limiting the use of milk solids-not-fat in making

frozen dairy foods—effected by Amendment 4 to WFO 8—was made in recognition of the improvement in the production of nonfat dry milk solids and of the decline in butter production.

Several factors are responsible for the increased output of nonfat dry milk solids. More farmers are shipping whole milk to market instead of farm-separated cream. OPA has raised the ceiling price on roller nonfat dry milk solids. The country now is enjoying the benefits of a two years' expansion of milk-drying facilities. Perhaps most important of all are the several War Food Orders, particularly WFO 93, which have diverted skim milk into powder.

During the first 6 months of this year, production of spray and roller non-fat dry milk solids was more than 56 million pounds greater than during the same period in 1943. Butter production, on the other hand, declined more than 107 million pounds from January through June this year, compared with the first 6 months of 1943.

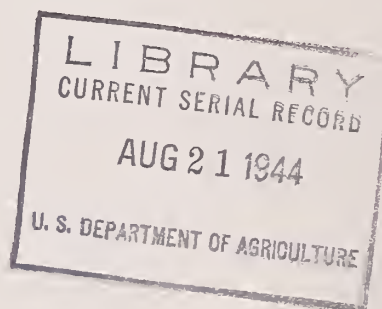
The amendment to WFO 8 also changes the person to whom petitions for relief from hardship and other communications concerning the order should be addressed. The change is from the Regional Director of the Office of Distribution to the appropriate Dairy and

Poultry field representative. Field representatives of the OD's Dairy and Poultry Branch are located at 821 Market Street, San Francisco, Calif.; 425 Wilson Building, Dallas, Texas; Western Union Building, Atlanta, Ga.; 5 South Wabash Avenue, Chicago, Ill.; and 150 Broadway, New York City.

A third change specifies that every person subject to WFO 8 shall maintain records of his production and transactions in frozen dairy foods and mix for at least 2 years.

The amendment also strengthens the "equitable distribution" provisions of the order.

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WAR FOOD ADMINISTRATION

[WFO 8, Amdt. 7]

PART 1401—DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

War Food Order No. 8 (8 F.R. 953), as amended (8 F.R. 12163, 9 F.R. 4321, 4319, 4735, 5767, 9584, 10 F.R. 103), is further amended to read as follows:

§ 1401.31. *Frozen dairy foods and mix, limitations with respect to the production thereof*—(a) *Definitions*. (1) "Processor" means any person engaged in the manufacture of frozen dairy foods or mix.

(2) "Frozen dairy foods" means any frozen or partially frozen food products (including ice cream, French ice cream, ice milks, milk ices, frozen custards, sherbets, and other similar preparations) containing milk fat and sugar, together with stabilizers, extracts, fruits, nuts, coloring, or flavoring materials.

(3) "Mix" means any liquid or dried unfrozen preparation (including ice cream mix, ice cream powders, milk ice mix, ice milk mix, milk shake mix, and other similar preparations), containing milk fat and sugar, that is used directly in the freezing of a frozen dairy food.

(4) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(5) "Governmental agency" means (i) the Armed Services of the United States with respect to purchases made with funds appropriated by Act of Congress; (ii) the United States Army Exchange Service and post exchanges, excluding purchases made for use in service clubs, officers' clubs, non-commissioned officers' clubs, post restaurants as defined in Army Regulation 210-100, post messes for civilian employees as defined in Army Regulation 210-60, and similar activities which are not owned and operated by the Exchange Service; (iii) United States Marine Corps post exchanges; (iv) War Shipping Administration; (v) United States Navy ships' service departments; (vi) Veterans Administration; (vii) contract schools, maritime academies, and marine hospitals as defined in War Food Order No. 73 (8 F.R. 7523), as amended (8 F.R. 13879, 15655, 9 F.R. 4321, 4319, 10036, 13741, 10 F.R. 103); (viii) licensed ship suppliers as defined in War Food Order No. 74 (8 F.R. 13880), as amended (8 F.R. 15655, 9 F.R. 4321, 4319, 8002, 10 F.R. 103); (ix) American Red Cross, if the frozen dairy foods and mix purchased by it are to be used by mobile units of the American Red Cross overseas for distribution to members of the United States Armed Forces; and (x) any other instrumentality or agency designated by the War Food Administrator.

(6) "Armed Services of the United States" means the Army, the Navy, the Marine Corps, and the Coast Guard of the United States.

(7) "Director" means the Director of Marketing Services, War Food Administration.

(8) "Base period" means the period from December 1, 1941, to November 30, 1942, both dates inclusive.

(9) "Quota period" means any calendar month.

(10) "Dairy and Poultry Branch Field Representative" means the person in charge of the appropriate field office of the Dairy and Poultry Branch, Office of Marketing Services, as follows:

(i) For the States of California, Washington, Oregon, Nevada, Arizona, Wyoming, Utah, Idaho, and Montana:

Western Field Office
Dairy and Poultry Branch
Office of Marketing Services
821 Market Street
San Francisco, California.

(ii) For the States of Arkansas, Colorado, Kansas, Louisiana, New Mexico, Texas, and Oklahoma:

Southwest Field Office
Dairy and Poultry Branch
Office of Marketing Services
425 Wilson Building
Dallas, Texas.

(iii) For the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia:

Southern Field Office
Dairy and Poultry Branch
Office of Marketing Services
Western Union Building
Atlanta, Georgia.

(iv) For the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin:

Midwest Field Office
Dairy and Poultry Branch
Office of Marketing Services
5 South Wabash Avenue
Chicago, Illinois.

(v) For the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia:

Northeast Field Office
Dairy and Poultry Branch
Office of Marketing Services
150 Broadway
New York, New York.

(b) *Restrictions on production of frozen dairy foods and mix*. No processor may, during any quota period, utilize in the production of frozen dairy foods or mix more than 65 percent of the total milk fat used by the respective processor in the production of such products, respectively, during the corresponding month of the base period, exclusive of all such products delivered to a governmental agency by such processor during such base period.

(c) *Conversion of milk solids to milk fat*. (1) With respect to any authorization granted to a processor under War Food Order No. 8, as amended, prior to the effective time of the provisions hereof, such processor shall, for the quota periods covered by the letter of authorization, determine the amount of milk

fat to which he shall apply the percentage specified in (b) hereof by applying 55 percent to the amount of total milk solids set forth in his letter of authorization.

(2) With respect to a processor who has agreed or has been required to compensate for excessive utilization of total milk solids under War Food Order No. 8, as amended, prior to the effective date of the provisions hereof, such processor shall, until the expiration of the period of time required for the complete compensation for such excessive utilization of total milk solids, determine the amount of milk fat which he shall deduct from his permissible quotas by applying 55 percent to the amount of milk solids which he has agreed or has been required to deduct.

(3) With respect to a processor who has not included in his report on Form FDO-8-1 the number of pounds of milk fat utilized by such processor during the base period in the production of frozen dairy foods and mix for civilians, the milk fat quotas of such processor shall be determined by applying the percentage in (b) hereof to 50 percent of the total milk solids reported by such processor as having been used by him during each month in the base period: *Provided*, That if such processor reports the number of pounds of milk fat utilized by him during the base period in the production of frozen dairy foods and mix for civilians, the milk fat quotas of such processor shall thereafter be determined pursuant to (b) hereof.

(d) *Governmental agency exemption*. Frozen dairy foods or mix delivered to a governmental agency shall be exempt from (b) hereof if the processor making such delivery maintains for at least two years, after the date of such delivery, the following certificate with respect to the respective delivery, such certificate being duly executed by the person to whom the delivery is made and with the appropriate information being inserted in the blank spaces:

The undersigned certifies and represents to the War Food Administrator that ---- gallons of frozen dairy foods or mix containing ---- pounds of milk fat have been delivered to -----

(Indicate specific name of receiving agency) a quota exempt agency as defined in (a) (5) of War Food Order No. 8, as amended, the terms of which order, as amended, are familiar to me; and the specific type of governmental agency receiving such frozen dairy foods or mix is indicated by a check mark opposite the name of such agency, as follows:

- Armed Services of the United States with respect to purchases made with funds appropriated by Act of Congress
- United States Army Exchange Service and post exchanges, excluding purchases made for use in service clubs, officers' clubs, non-commissioned officers' clubs, post restaurants as defined in Army Regulation 210-100, post messes for civilian employees as defined in Army Regulation 210-60, and similar activities which are not owned and operated by the Exchange Service

- United States Marine Corps post exchanges
- War Shipping Administration.
- United States Navy ships' service departments
- Veterans Administration
- Contract schools, maritime academies, and marine hospitals as defined in War Food Order No. 73, as amended
- Licensed ship suppliers as defined in War Food Order No. 74, as amended
- American Red Cross, if the frozen dairy foods and mix purchased by it are to be used by mobile units of the American Red Cross overseas for distribution to members of the United States Armed Forces
- Any other instrumentality or agency designated by the War Food Administrator

(Name)

(Date)

(Title)

(e) *Equitable distribution.* It is hereby declared to be the policy of the War Food Administration that every processor shall make equitable distribution among those persons supplied by such processor during the base period of the frozen dairy foods and mix manufactured by such processor. All processors shall observe such policy in selling or distributing the frozen dairy foods and mix which they process. In the event the Director finds that the distribution made by a processor in any particular instance is not equitable, the Director may prohibit the particular processor from making any further distribution of such frozen dairy foods and mix except such as may be specified by the Director as being equitable. Any failure to observe any such direction by the Director shall be a violation of this order.

(f) *Option with respect to multiple plant operations.* Upon approval by the Director of a written request by an operator having multiple plant operations, such plants shall be considered separately in the application of the provisions hereof: *Provided*, That any such processor shall promptly report to the Director any transfer of a milk solids quota from one plant to another plant. The foregoing report shall be submitted to the Dairy and Poultry Branch Field Representative for the area where such processor's main office is located during the first quota period affected by any such transfer. Such report shall be accompanied by a statement of the reasons for making such transfer.

(g) *Records and reports.* (1) Each processor who has not correctly completed Form FDO 8-1, entitled "Production Report of Frozen Dairy Foods and Mix," and filed such report with the Administrator, WFO 8, United States Department of Agriculture, Washington 25, D. C., shall correctly complete said Form FDO 8-1 and mail the completed form to the Dairy and Poultry Branch Field Representative for the respective region in which the processor's plant is located. The report shall be mailed to the Dairy and Poultry Branch Field Representative within 21 calendar days after the effective date hereof.

(2) Each processor who manufactures mix shall correctly complete and submit "Dairy Products Report No. 1" (i. e., USDA Form C. E. 9-119, revised) to the United States Department of Agriculture,

P. O. Box 6910-A, Chicago, Illinois, except that a processor who used less than 5,000 pounds of milk solids in the manufacture of mix during the base period and who manufactures no other dairy product is exempted from this reporting requirement. The aforesaid report shall, for each plant of the processor, be submitted each calendar month not later than the close of the 10th day of the calendar month following the calendar month for which the report is intended.

(3) Each processor who manufactures mix shall correctly complete Form "Dairy Products Report No. 4—Ice Cream," for each calendar month during which the respective processor manufactures frozen dairy foods and mix, and shall, on or before the close of the 10th calendar day of the calendar month next succeeding the calendar month during which the processor manufactured frozen dairy foods and mix, mail such completed form to the United States Department of Agriculture P. O. Box 6910-A, Chicago, Illinois. This report shall be submitted for each plant of the processor.

(4) Each processor who purchases all of his mix shall correctly complete and submit "Dairy Products Report No. 5—Frozen Dairy Foods" for each calendar month during which the respective processor purchases mix, and shall, on or before the close of the 10th calendar day of the calendar month next succeeding the calendar month during which the respective processor purchased mix, mail such completed form to the United States Department of Agriculture, Division of Agricultural Statistics, Bureau of Agricultural Economics, Washington 25, D. C. The foregoing report shall be submitted for each plant of the processor.

(5) The Director shall be entitled to obtain such additional information from, and require such additional reports and the keeping of such records by, any person, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order, subject to the approval of the Bureau of the Budget, in accordance with the Federal Reports Act of 1942.

(6) Each person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in frozen dairy foods and mix.

(h) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of frozen dairy foods and mix of any person, and to make such investigations, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order.

(i) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional or unreasonable hardship on him may file a petition for relief with the order administrator. Such petition shall be addressed to Order Administrator, War Food Order No. 8, Dairy and Poultry Branch, Office of

Marketing Services, War Food Administration, Washington 25, D. C. Petitions for such relief shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. The order administrator may take any action with reference to such petition which is consistent with the authority delegated to him by the Director. If the petitioner is dissatisfied with the action taken by the order administrator on the petition, he shall obtain, by requesting the order administrator therefor, a review of such action by the Director. The Director may, after said review, take such action as he deems appropriate, and such action shall be final. The provisions of this paragraph (i) shall not be construed to deprive the Director of authority to consider originally any petition for relief from hardship submitted in accordance herewith. The Director may consider any such petition and take such action with reference thereto that he deems appropriate, and such action shall be final.

(j) *Violations.* Any person who violates any provision of this order may, in accordance with the applicable procedure, be prohibited from receiving, making any deliveries of, or using frozen dairy foods and mix. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(k) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order; and one such employee shall be designated by the Director to serve as order administrator.

(l) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise provided herein or in instructions issued by the Director, be addressed to the Order Administrator, War Food Order No. 8, Dairy and Poultry Branch, Office of Marketing Services, War Food Administration, Washington 25, D. C.

(m) *Territorial scope.* This order shall apply only to the area included in the 48 States of the United States and the District of Columbia.

(n) *Certain Director's orders are terminated.* War Food Order No. 8.1 (8 F.R. 1330), issued on February 1, 1943, specifying the allocation periods, and War Food Order No. 8.2 (8 F.R. 15204), issued on November 4, 1943, and War Food Order No. 8.3 (9 F.R. 4675), issued on May 1, 1944, are hereby terminated.

(o) *Effective date.* The provisions of this amendment shall become effective at 12:01 a. m., e. w. t., March 1, 1945. With respect to violations, rights accrued, liabilities incurred, or appeals

taken under said War Food Order No. 8, as amended, prior to the effective time of the provisions hereof or under War Food Order No. 8-1, War Food Order No. 8-2, or War Food Order No. 8-3 prior to the effective time of the provisions hereof, the provisions of said orders, in effect prior to the effective time hereof, shall be deemed to continue in full force and

effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

NOTE.—All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in

accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 28th day of February 1945.

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO-8, Amendment 7.

Effective at 12:01, March 1, restrictions on the use of milk solids-not-fat in the manufacture of ice cream and other frozen dairy foods will be eliminated, the War Food Administration announced today.

WFA pointed out that restrictions on the use of butterfat in ice cream continue, and that frozen dairy foods manufacturers may use each month not more

than 65 percent of the butterfat which they used in the corresponding month of the base period (Dec. 1941-Nov. 1942). Previously—that is, since February 1943, when War Food Order 8, the ice cream limitation order, was issued to conserve butterfat and other milk solids, the 65 percent quota applied to the total use of all milk solids, both fat and nonfat (except for three months during the 1944 flush milk production season).

Elimination of a "ceiling" on total milk solids permissible in ice cream produc-

tion may result in some increase in gallonage and will permit manufacturers to make a more nutritious product, the WFA said. Milk solids-not-fat contain many of the essential nutrients of whole milk, such as riboflavin and calcium.

The provisions of today's action, contained in amendment 5 to WFO 8, was discussed at a recent meeting of the ice cream industry advisory committee and are in accord with recommendations by members of that committee.

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WAR FOOD ADMINISTRATION

[WFO 8, Amdt. 8]

PART 1401—DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

War Food Order No. 8 (8 F.R. 953), as amended (8 F.R. 12163, 9 F.R. 4321, 4319, 4735, 5767, 9584, 10 F.R. 103, 2473), is further amended to read as follows:

§ 1401.31 *Frozen dairy foods and mix, limitations with respect to the production thereof*—(a) *Definitions*. (1) "Processor" means any person engaged in the manufacture of frozen dairy foods or mix.

(2) "Frozen dairy foods" means any frozen or partially frozen food products (including ice cream, French ice cream, ice milks, milk ices, frozen custards, sherbets, and other similar preparations) containing milk fat and sugar, together with stabilizers, extracts, fruits, nuts, coloring, or flavoring materials.

(3) "Mix" means any liquid or dried unfrozen preparation (including ice cream mix, ice cream powders, milk ice mix, ice milk mix, milk shake mix, and other similar preparations), containing milk fat and sugar, that is used directly in the freezing of a frozen dairy food.

(4) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(5) "Government agency" means (i) the Armed Services of the United States with respect to purchases made with funds appropriated by Act of Congress; (ii) post messes, excluding post messes for civilian employees, organized and operating under Army Regulation 210-60; (iii) Commissioned Officers' Messes Closed of the U. S. Navy as defined in the regulations of the Bureau of Naval Personnel; (iv) Commissioned Officers' and Warrant Officers' Messes Closed as defined by the Commandant, U. S. Marine Corps, Letter of Instruction 949; (v) the United States Army Exchange Service and Post Exchanges, excluding purchases made for use in

(a) Service clubs;
(b) Officers' clubs;
(c) Noncommissioned officers' clubs;
(d) Post restaurants as defined in Army Regulation 210-100;
(e) Post messes for civilian employees as defined in Army Regulation 210-60; and
(f) Similar activities which are not owned and operated by the Exchange Service;

(vi) United States Marine Corps Post Exchanges; (vii) War Shipping Administration; (viii) United States Navy Ships' Service Departments; (ix) Veterans Administration; (x) contract schools, maritime academies, and marine hospitals as defined in War Food Order No. 73 (8 F.R. 7523), as amended (8 F.R. 13879, 15655, 9 F.R. 4321, 4319, 10036, 13741, 10 F.R. 103); (xi) licensed ship suppliers as defined in War Food Order No. 74 (8 F.R. 13880), as amended (8 F.R. 15655, 9 F.R. 4321, 4319, 8002, 10 F.R. 103); (xii) American Red Cross, if the frozen dairy foods and mix purchased by it are to be used by mobile units of the

American Red Cross overseas for distribution to members of the United States Armed Forces; and (xiii) any other instrumentality or agency designated by the War Food Administrator.

(6) "Armed Services of the United States" means the Army, the Navy, the Marine Corps, and the Coast Guard of the United States.

(7) "Director" means the Director of Marketing Services, War Food Administration.

(8) "Base period" means the period from December 1, 1941, to November 30, 1942, both dates inclusive.

(9) "Quota period" means any calendar month.

(10) "Dairy and Poultry Branch Field Representative" means the person in charge of the appropriate field office of the Dairy and Poultry Branch, Office of Marketing Services, as follows:

(i) For the States of California, Washington, Oregon, Nevada, Arizona, Wyoming, Utah, Idaho, and Montana:

Western Field Office, Dairy and Poultry Branch, Office of Marketing Services, 821 Market Street, San Francisco, Calif.

(ii) For the States of Arkansas, Colorado, Kansas, Louisiana, New Mexico, Texas, and Oklahoma:

Southwest Field Office, Dairy and Poultry Branch, Office of Marketing Services, 425 Wilson Building, Dallas, Tex.

(iii) For the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia:

Southern Field Office, Dairy and Poultry Branch, Office of Marketing Services, Western Union Building, Atlanta, Ga.

(iv) For the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin:

Midwest Field Office, Dairy and Poultry Branch, Office of Marketing Services, 5 South Wabash Avenue, Chicago, Ill.

(v) For the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia:

Northeast Field Office, Dairy and Poultry Branch, Office of Marketing Services, 150 Broadway, New York, N. Y.

(b) *Restrictions on production of frozen dairy foods and mix*. No processor may, during any quota period, utilize in the production of frozen dairy foods or mix more than 65 percent of the total milk fat used by the respective processor in the production of such products, respectively, during the corresponding month of the base period, exclusive of all such products delivered to a governmental agency by such processor during such base period.

(c) *Conversion of milk solids to milk fat*. (1) With respect to any authorization granted to a processor under War Food Order No. 8, as amended, prior to

the effective time of the provisions hereof, such processor shall, for the quota periods covered by the letter of authorization, determine the amount of milk fat to which he shall apply the percentage specified in (b) hereof by applying 55 percent to the amount of total milk solids set forth in his letter of authorization.

(2) With respect to a processor who has agreed or has been required to compensate for excessive utilization of total milk solids under War Food Order No. 8, as amended, prior to the effective date of the provisions hereof, such processor shall, until the expiration of the period of time required for the complete compensation for such excessive utilization of total milk solids, determine the amount of milk fat which he shall deduct from his permissible quotas, in accordance with the provisions hereof, by applying 55 percent to the amount of milk solids which he has agreed or has been required to deduct.

(3) With respect to a processor who, subsequent to the effective date hereof, agrees or is required to compensate for an excessive utilization of total milk solids prior to March 1, 1945, the amount of milk fat which shall be deducted from such processor's permissible quotas, in accordance with the provisions hereof, shall be determined by applying 55 percent to the amount of milk solids for which compensation is to be made by such processor.

(4) With respect to a processor who has not included in his report on Form FDO 8-1 the number of pounds of milk fat utilized by such processor during the base period in the production of frozen dairy foods and mix for civilians, the milk fat quotas of such processor shall be determined by applying the percentage in (b) hereof to 50 percent of the total milk solids reported by such processor as having been used by him during each month in the base period: *Provided*, That if such processor reports the number of pounds of milk fat utilized by him during the base period in the production of frozen dairy foods and mix for civilians, the milk fat quotas of such processor shall thereafter be determined pursuant to (b) hereof.

(d) *Government agency exemption*. Frozen dairy foods or mix delivered to a governmental agency shall be exempt from (b) hereof if the processor making such delivery maintains for at least two years, after the date of such delivery, the following certificate with respect to the respective delivery, such certificate being duly executed by the person to whom the delivery is made and with the appropriate information being inserted in the blank spaces:

The undersigned certifies and represents to the War Food Administrator that gallons of frozen dairy foods or mix containing _____ pounds of milk fat have been delivered to _____ (Indicate specific name of receiving agency) a quota exempt agency as defined in (a) (5)

of War Food Order No. 8, as amended, the terms of which order, as amended, are familiar to me; and the specific type of governmental agency receiving such frozen dairy foods or mix is indicated by a check mark opposite the name of such agency, as follows:

- Armed Services of the United States with respect to purchases made with funds appropriated by Act of Congress
- Post messes, excluding post messes for civilian employees, organized and operating under Army Regulation 210-60
- Commissioned Officers' Messes Closed of the U. S. Navy as defined in the regulations of the Bureau of Naval Personnel
- Commissioned Officers' and Warrant Officers' Messes Closed as defined by the Commandant, U. S. Marine Corps, Letter of Instruction 949
- The United States Army Exchange Service and Post Exchanges, excluding purchases made for use in
 - (a) Service clubs;
 - (b) Officers' clubs;
 - (c) Noncommissioned officers' clubs;
 - (d) Post restaurants as defined in Army Regulation 210-100;
 - (e) Post messes for civilian employees as defined in Army Regulation 210-60; and
 - (f) Similar activities which are not owned and operated by the Exchange Service
- United States Marine Corps' Post Exchanges
- War Shipping Administration
- United States Navy Ships' Service Departments
- Veterans Administration
- Contract schools, maritime academies, and marine hospitals as defined in War Food Order No. 73, as amended
- Licensed ship suppliers as defined in War Food Order No. 74, as amended
- American Red Cross, if the frozen dairy foods and mix purchased by it are to be used by mobile units of the American Red Cross overseas for distribution to members of the United States Armed Forces
- Any other instrumentality or agency designated by the War Food Administrator

 (Name)

 (Date) (Title)

(e) *Equitable distribution.* It is hereby declared to be the policy of the War Food Administration that every processor shall make equitable distribution among those persons supplied by such processor during the base period of the frozen dairy foods and mix manufactured by such processor. All processors shall observe such policy in selling or distributing the frozen dairy foods and mix which they process. In the event the Director finds that the distribution made by a processor in any particular instance is not equitable, the Director may prohibit the particular processor from making any further distribution of such frozen dairy foods and mix except such as may be specified by the Director as being equitable. Any failure to observe any such direction by the Director shall be a violation of this order.

(f) *Option with respect to multiple plant operations.* Upon approval by the Director of a written request by an operator having multiple plant operations, such plants shall be considered separately in the application of the provisions hereof; *Provided*, That any such processor shall promptly report to the Director any transfer of a milk fat quota from one plant to another plant. The foregoing report shall be submitted to

the Dairy and Poultry Branch Field Representative for the area where such processor's main office is located during the first quota period affected by any such transfer. Such report shall be accompanied by a statement of the reasons for making such transfer.

(g) *Records and reports.* (1) Each processor who has not correctly completed Form FDO 8-1, entitled "Production Report of Frozen Dairy Foods and Mix," and filed such report with the Administrator, WFO 8, United States Department of Agriculture, Washington 25, D. C., shall correctly complete said Form FDO 8-1 and mail the completed form to the Dairy and Poultry Branch Field Representative for the respective region in which the processor's plant is located. The report shall be mailed to the Dairy and Poultry Branch Field Representative within 21 calendar days after the effective date hereof.

(2) Each processor who manufactures mix shall correctly complete and submit "Dairy Products Report No. 1" (i. e., USDA Form C. E. 9-119, revised) to the United States Department of Agriculture, P. O. Box 6910-A, Chicago, Illinois, except that a processor who used less than 5,000 pounds of milk solids in the manufacture of mix during the base period and who manufactures no other dairy product is exempted from this reporting requirement. The aforesaid report shall, for each plant of the processor, be submitted each calendar month not later than the close of the 10th day of the calendar month following the calendar month for which the report is intended.

(3) Each processor who manufactures mix and who utilized 5,000 pounds or more of milk solids in the manufacture of frozen dairy foods or mix, or both, during the base period shall correctly complete form "Dairy Products Report No. 4—Ice Cream", for each calendar month during which the respective processor manufactures mix, and shall, on or before the close of the tenth calendar day of the calendar month next succeeding the calendar month during which the processor manufactured mix, mail such completed form to the United States Department of Agriculture, Post Office Box 6910A, Chicago, Illinois. This report shall be submitted for each plant of the processor.

(4) Each processor who purchases all of the mix used by him in the manufacture of frozen dairy foods and who utilized 5,000 pounds or more of milk solids in the manufacture of frozen dairy foods, during the base period, shall correctly complete and submit "Dairy Products Report No. 5—Frozen Dairy Foods" for each calendar month during which the respective processor purchases mix, and shall, on or before the close of the 10th calendar day of the calendar month next succeeding the calendar month during which the respective processor purchased mix, mail such completed form to the United States Department of Agriculture, Division of Agricultural Statistics, Bureau of Agricultural Economics, Washington 25, D. C. The foregoing report shall be submitted for each plant of the processor.

(5) The Director shall be entitled to obtain such additional information from,

and require such additional reports and the keeping of such records by, any person, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order, subject to the approval of the Bureau of the Budget, in accordance with the Federal Reports Act of 1942.

(6) Each person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in frozen dairy foods and mix.

(h) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of frozen dairy foods and mix of any person, and to make such investigations, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order.

(i) *Petition for relief from hardship.* Any person affected by this order, who considers that compliance herewith would work an exceptional and unreasonable hardship on him, may file a petition for relief with the Dairy and Poultry Branch Field Representative serving the area in which such person resides or does business. Petitions for such relief shall be in writing, and shall set forth all pertinent facts and the nature of the relief sought. If such person is dissatisfied with the action taken on the petition by the Dairy and Poultry Branch Field Representative, he may, by requesting the Dairy and Poultry Branch Field Representative therefor, secure a review of such action by the Director. The Director may, after such review, take such action as he deems appropriate, and such action shall be final. The provisions of this paragraph (i) shall not be construed to deprive the Director of authority to consider originally any petition for relief from hardship submitted in accordance herewith. The Director may consider any such petition and take such action with reference thereto that he deems appropriate, and such action shall be final.

(j) *Violations.* Any person who violates any provision of this order may, in accordance with the applicable procedure, be prohibited from receiving, making any deliveries of, or using frozen dairy foods and mix. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoy any violation of, any provision of this order.

(k) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(l) *Communications.* All reports required to be filed hereunder shall be addressed in conformity with the instructions specified in the respective form re-

quired to be submitted. All other communications concerning this order shall, unless instructions to the contrary are issued by the Director, be addressed to the Dairy and Poultry Branch Field Representative serving the area in which the person affected by this order resides or does business.

(m) *Territorial scope.* This order shall apply only to the area included in the 48 States of the United States and the District of Columbia.

(n) *Certain Director's orders are terminated.* War Food Order No. 8-1 (8 F.R. 1330), issued on February 1, 1943, specifying allocation periods, and War Food Order No. 8-2 (8 F.R. 15204), issued on November 4, 1943, and War Food

Order No. 8-3 (9 F.R. 4675), issued on May 1, 1944, are terminated.

(o) *Effective date.* The provisions of this amendment shall become effective at 12:01 a. m., e. w. t., April 14, 1945. With respect to violations, rights accrued, liabilities incurred, or appeals taken under said War Food Order No. 8, as amended, prior to the effective time of the provisions hereof or under War Food Order No. 3-1, War Food Order No. 8-2, or War Food Order No. 8-3 prior to the effective time of the provisions hereof, the provisions of said orders, in effect prior to the effective time hereof, shall be deemed to continue in full force and effect for the purpose of sustaining

any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

NOTE: All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 12th day of April 1945.

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO-8 Amendment 8.

A new WFA action will exempt deliveries of ice cream for officers messes from quota restrictions beginning April 14, 1945.

Deliveries of ice cream for enlisted men's messes already are quota exempt. Military authorities have requested that

the restrictions on production for officers messes also be removed. WFA officials, in announcing that officers messes would be added to the list of those agencies to which ex-quota deliveries of ice cream may be made, pointed out that the exemption does NOT apply to Army Officers' Clubs and their counterparts in the Navy and the Marine Corps, nor to service clubs, non-commissioned officers

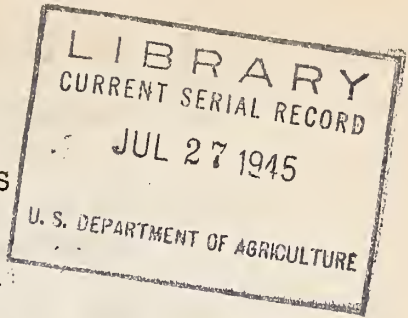
clubs, Post restaurants and Post messes for civilian employees.

Amendment 8 to War Food Order 8, which embodies the action announced today, also specifies that communications and petitions for relief from hardship shall be addressed to the nearest field office of the WFA. Field offices are located in New York, Chicago, Dallas, Atlanta and San Francisco.

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WAR FOOD ADMINISTRATION
Washington, D. C.
May 1945



QUESTIONS AND ANSWERS RELATING TO AMENDMENTS
7 AND 8 TO WAR FOOD ORDER NO. 8

FROZEN DAIRY FOODS AND MIX

1. Q. What is the primary objective of the recent changes in the restrictive provisions of WFO 8?
 - A. The recent changes were designed to remove the restriction on the use of milk solids-not-fat and to continue the conservation of milk fat.

2. Q. Why is it possible to remove the restriction on the use of milk solids-not-fat at this time?
 - A. The facilities for manufacturing non fat dry milk solids have been increased greatly since WFO 8 went into effect, and the supply of that product is considerably larger than it was 2 years ago. The supply of milk fat in relation to the demand for milk fat is still very short.

3. Q. Are the recent changes in WFO 8 consistent with other regulations affecting the ice cream industry?
 - A. Yes. They are coordinated with the price regulation (MPR 577) recently issued by the Office of Price Administration and they have the general approval of the Ice Cream Industry Advisory Committee.

4. Q. Does the restriction on the utilization of milk fat apply to both the mix manufacturing quota and the freezing quota?
 - A. Yes. In neither the mix manufacturing quota nor the freezing quota are processors permitted under the order, as amended, to utilize more than 65 percent of the milk fat utilized by them in the production of such products, respectively, during the corresponding months of the base period.

5. Q. Under WFO 8, as originally issued, the maximum milk solids content of ice cream was limited to 22 percent by weight. Under the amendments to the order, is that restriction removed?
 - A. Yes. In order to permit the utilization of increased quantities of milk solids-not-fat, there is now no limit specified in the recently amended orders with respect to the total milk solids content of ice cream.

6. Q. What is the base period designated in the order?

A. The base period is December 1, 1941, through November 30, 1942--- the same as it has been since WFO 8 became effective.

7. Q. Are the quota periods under the amended order the same as the allocation periods under WFO 8 previous to amendments 7 and 8?

A. Yes. the quota period, each calendar month, is the same as in the past.

8. Q. What will be the effect of changing the restriction from total milk solids to milk fat on the volume of ice cream produced?

A. Where between the effective date of the order and March 1, 1945 a processor reduced his utilization of milk fat below 65 percent of such utilization during the base period, and that processor now utilizes the 65 percent to which he is entitled and maintains the same fat content in his frozen dairy foods, his gallonage will be increased. If, however, since the effective date of the order, he used more than 65 percent of the milk fat utilized by him during the base period and maintains the same fat content, his volume will probably be reduced.

9. Q. Is there any way, under the amended order, by which processors may compensate for a reduction in volume resulting from their operations under section (b) of the amended order?

A. Yes. Processors may increase their volume by making a larger quantity of frozen dairy foods other than ice cream, inasmuch as the restrictions on the use of milk solids-not-fat in the production of those products have been removed.

10. Q. Although the order sets forth no maximum fat content with respect to mix, ice cream, and frozen dairy foods other than ice cream, is the utilization of milk fat in the preparation of these products restricted?

A. Yes. While there is no restriction on the maximum fat content of frozen dairy foods or mix all milk fat used in the preparation of frozen dairy foods or mix for civilians must be accounted for within the quotas of processors for civilian use.

11. Q. Must milk fat contained in milk powder be accounted for in the milk fat quotas of processors?

A. Yes. In no instance is the milk fat in any product used in the manufacture of ice cream excluded.

12. Q. Will petitions for relief from hardship from processors whose volume has been reduced by the amended order receive favorable consideration?
- A. All petitions for relief from hardship will be carefully reviewed. It is not contemplated that, as a general rule, relief can be granted with respect to such petitions, however, because all processors had the opportunity of reducing their utilization of total milk fat to 65 percent since the effective date of WFO 8, and those who did not do so in the meantime have enjoyed an advantage over those who did so reduce their utilization of milk fat.
13. Q. How does a processor determine the amount of milk fat to which he must apply the quota percentage indicated in the order?
- A. In general, the amount of milk fat which a processor is entitled to use as a base is determined by the amount of milk fat utilized by him during the corresponding month of the base period.
14. Q. Are there any exceptions to the foregoing answer?
- A. Yes. There are three exceptions relating to:
- (1) Any authorization granted to a processor under WFO 8 prior to the effective date of amendment 7.
 - (2) A processor who has agreed or has been required to compensate for excessive utilization of milk solids under The order.
 - (3) A processor who has not included in his report on Form FDO 8-1 the number of pounds of milk utilized by him during the base period in the production of frozen dairy foods, and mix for civilians.
15. Q. What provisions are made for each of the three exceptions included in the answer to question 14?
- A. The provisions for each type of exception are set forth in section (c) of amendments 7 and 8 to WFO 8.
16. Q. Are sales of frozen dairy foods to Officers' Messes now quota exempt under the order?
- A. Yes. In Amendment 8, Officers' Messes of the Army, Navy, and Marine Corps have been added to the list of Government agencies eligible to make quota exempt purchases.
17. Q. Does that exemption include sales to Officer's Clubs, Service Clubs, Non-Commissioned Officers' Clubs, and similar establishments?

- A. No. Officers' Clubs, the USO and other service clubs, Non-Commissioned Officers' Clubs, defense plants, civilian hospitals, restaurants at which civilians may be served, and similar organizations have never been exempt under WFO 8 and are not exempt now.
18. Q. How should a processor determine whether a Government agency, as defined in the order, is quota exempt?
- A. The wording of the order should be carefully reviewed and followed to the letter. If there is any doubt concerning the quota exempt status of any agency, a ruling with respect to it should be obtained from the nearest field representative of the Dairy and Poultry Branch, Office of Marketing Services, War Food Administration, or from the office of the Order Administrator, WFO 8, Dairy and Poultry Branch, Office of Marketing Services, War Food Administration, Washington 25, D. C.
19. Q. Are processors required to maintain any records concerning quota exempt sales?
- A. Yes. Processors making delivery to quota exempt agencies shall maintain for at least 2 years, after the date of such deliveries, certificates with respect to such deliveries.
20. Q. What information shall such certificates contain?
- A. The certificates shall set forth the information specified in section (d) of the amended order.
21. Q. Why are sales of frozen dairy foods and mix to the American Red Cross for overseas use quota exempt, whereas sales to that organization for domestic use are not quota exempt?
- A. The total production of ice cream in the United States during 1944 was in excess of 400 million gallons. And ice cream is more readily available to members of the armed forces here than it is overseas. In addition to the quantities available to members of the armed forces from civilian quotas, substantial amounts of frozen dairy foods are available domestically to members of the armed forces on a quota exempt basis.
22. Q. To what extent does the list of quota exempt agencies in WFO 8 carry the approval of military authorities?
- A. The distinction made between quota exempt and non-quota exempt agencies in the order, as amended, carries the approval of officials of the Army, Navy, and Marine Corps.
23. Q. In what way do the recent amendments to WFO 8 change the requirements with respect to multiple plant operators?

- A. Multiple plant operators now are required to report promptly to the Director any transfer of a milk fat quota from one plant to another plant.
24. Q . When should such reports be submitted?
- A. Such reports should be submitted during the first quota period affected by such transfer.
25. Q. To whom are such reports to be submitted?
- A. They are to be submitted to the Dairy and Poultry Branch's field representative for the area where such processor's main office is located.
26. Q. What information should accompany the report of the transfer?
- A. A statement of the reasons for making such transfer should accompany the report.
27. Q. Where are the field offices of the War Food Administration located?
- A. WFA's field offices are located in the following cities: Western Union Building, Atlanta, Ga.; 5 South Wabash Avenue, Chicago, Ill.; 425 Wilson Building, Dallas, Tex.; 150 Broadway, New York, N. Y.; and 821 Market Street, San Francisco, Calif.
28. Q. Where are the reporting requirements under WFO 8 set forth?
- A . The reporting requirements are now embodied in section (g), WFO 8, as amended.
29. Q. Has the number of reports required under the order been increased?
- A. No. Form FDO 8-1, Dairy Products Report No. , Dairy Products Report No. 4, and Dairy Products Report No. 5 are required, as in the past.
30. Q. Has the amount of information required in reports under the order been increased?
- A. No. As a matter of fact, less information is required of processors under the revised reports.
31. Q. To whom are communications and petitions for relief from hardship to be addressed?
- A. Until further notice, such communications should be addressed to the Dairy and Poultry Branch's field representative for the area in which the petitioner does business.

32. Q. In what form should petitions for relief from hardship be submitted?
- A. Petitions for relief under the order shall be in writing and set forth all pertinent facts and the nature of the relief sought.
33. Q. Can the quota percentage be changed by the Order Administrator?
- A. No. Such change can be brought about only by amendment to the order.
34. Q. How may WFO 8 be terminated?
- A. The War Food Administrator may terminate the order. It is intended that the provisions of the order be relaxed or terminated as soon as conditions which necessitate the order no longer exist.

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Cap 3

WAR FOOD ADMINISTRATION

[WFO 8, Amdt. 9]

PART 1401—DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

War Food Order No. 8 (8 F.R. 953), as amended (10 F.R. 4057), is further amended by deleting therefrom the provisions in § 1401.31 (b) and inserting, in lieu thereof, the following:

(b) *Restrictions on the production of frozen dairy foods and mix.* During the quota period beginning on June 1, 1945, no processor may utilize in the production of frozen dairy foods or mix a quantity of milk fat in excess of 75 percent of the total milk fat used by the respective processor in the production of such products, respectively, during the corresponding month of the base period, exclusive of all such products delivered to a governmental agency by such processor during such base period. A processor may, however, during the quota period beginning on May 1, 1945, utilize in the production of frozen dairy foods or mix

a quantity of milk fat in excess of 65 percent of the quantity of milk fat used by such processor in the production of such products, respectively, during the corresponding portion of the base period (exclusive of all such products delivered to a governmental agency by such processor during such base period): *Provided*, That such processor compensates for said excessive utilization of milk fat in the period beginning on May 1, 1945, by utilizing during the quota period beginning on June 1, 1945, an amount of milk fat which is not more than such processor's quota, as aforesaid, for June 1945 less the said excessive utilization in May 1945. During each quota period beginning after June 30, 1945, no processor may, during any quota period, utilize in the production of frozen dairy foods or mix more than 65 percent of the total milk fat used by the respective processor in the production of such products, respectively, during the corresponding month of the base period, exclusive of all such products delivered to a govern-

mental agency by such processor during such base period.

The provisions of this amendment shall become effective at 12:01 a. m., e. w. t., May 16, 1945. With respect to violations, rights accrued, liabilities incurred, or appeals taken under said War Food Order No. 8, as amended, prior to the effective time of the provisions hereof, the provisions of said War Food Order No. 8, as amended, in effect prior to the effective time hereof shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with regard to any such violation, right, liability, or appeal.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 15th day of May 1945.

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO 8, Amendment 9.

The War Food Administration has amended War Food Order 8 to increase by ten percent the amount of total milk fat which may be used in the manufacture of ice cream and other frozen dairy foods during June 1945. The amendment also permits manufacturers of these products, who are confronted with the problem of handling greater quantities of milk in May, to use, at their option, all or a part of their increased June quota during May provided they compensate for such excessive utilization of the May

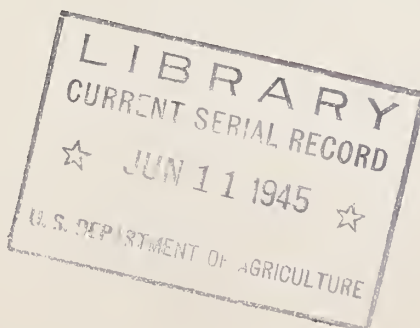
quota by a like deduction during June. This action, taken as a result of an increase in milk production over that of last year's flush season (May and June) will accordingly increase civilian supplies of ice cream both in quality and quantity.

The present action does not affect quotas following June. Beginning July, a manufacturer's utilization of total milk fat will again be limited to 65 percent of the quantity used by him during the corresponding month in 1942, rather than the 75 percent in effect June only.

Although the purpose of WFO 8 is to restrict the use of total milk fat in ice

cream so as to divert as much as practicable to the manufacture of dairy products for the armed forces and for essential civilian needs, this quota increase during June should not be construed to indicate a sufficiency of dairy products. The amendment is designed solely to assist the dairy industry in full utilization of heavy milk production during these two quota periods.

The increase in milk fat quotas for ice cream is particularly important in fluid milk areas where manufacturing facilities for dairy products other than ice cream are limited.



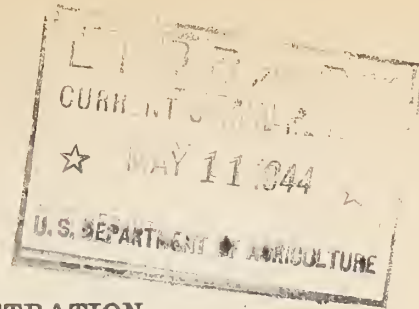
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WAR FOOD ADMINISTRATION
Office of Distribution
Washington 25, D. C.

CORRECTION NOTICE - WFO 8-3 Dairy Products

In printing War Food Order No. 8-3, the following errors occurred.

In section 1401.17 (b)(1) the word "computed" should read "completed" and "Administrator FDO-8" should read "Administrator WFO-8", so that the sentence reads, "Each processor who has not correctly completed Form FDO 8-1 - "Production Report of Frozen Dairy Fooda and Mix," and filed such report with the Administrator WFO-8". . .

In paragraph (d) "Effective date 12:01 a.m. c.w.t." should read "12:01 a.m. e.w.t., May 1, 1944."



A
WAR FOOD ADMINISTRATION

[WFO 8-3]

PART 1401—DAIRY PRODUCTS

REPORTS RELATIVE TO FROZEN DAIRY FOODS
AND MIX

Pursuant to the authority vested in me by War Food Order No. 8, 9 F.R. 4319 (formerly designated as Food Distribution Order No. 8, as originally issued by the Secretary of Agriculture on January 19, 1943, 8 F.R. 953, and as amended, 8 F.R. 12163), and to effectuate the purposes of said order, it is hereby ordered as follows:

§ 1401.17 *Reports relative to frozen dairy foods and mix*—(a) *Definition.* When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof, each term defined in War Food Order No. 8 shall, when used herein, have the same meaning as is set forth for such term in said War Food Order No. 8.

(b) *Reports required.* (1) Each processor who has not correctly computed Form FDO 8-1, "Production Report of Frozen Dairy Foods and Mix," and filed such report with the Administrator FDO-8, United States Department of Agriculture, Washington 25, D. C., shall correctly complete said Form FDO 8-1, and mail such completed form to Administrator WFO-8, United States Department of Agriculture, Washington 25, D. C., within 21 calendar days after the effective date hereof.

(2) Each processor who manufactures mix shall correctly complete Form "Dairy Products Report No. 4—Ice Cream," for each of the calendar months of April 1943 to March 1944, both dates inclusive,

during which the respective processor manufactured frozen dairy foods and mix, and shall mail such completed form to the United States Department of Agriculture, P. O. Box 6910-A, Chicago, Illinois, within 21 calendar days after the effective date hereof.

(3) Each processor who manufactures mix shall correctly complete Form "Dairy Products Report No. 4—Ice Cream," for each calendar month during which the respective processor manufactures frozen dairy foods and mix, and shall, on or before the close of the tenth calendar day of the calendar month next succeeding the calendar month during which the respective processor manufactured frozen dairy foods and mix, mail such completed form to the United States Department of Agriculture, P. O. Box 6910-A, Chicago, Illinois.

(4) Each processor who purchases all of the mix used by him in the manufacture of frozen dairy foods and who utilized 5,000 pounds or more of milk solids in the manufacture of frozen dairy foods during the base period shall correctly complete Form "Dairy Products Report No. 5—Frozen Dairy Foods," for each of the calendar months of January, February, and March 1944 during which the respective processor purchased mix, and shall mail such completed form to the United States Department of Agriculture, Division of Agricultural Statistics, Bureau of Agricultural Economics, Washington 25, D. C., within 21 calendar days after the effective date hereof.

(5) Each processor who purchases all of the mix used by him in the manufacture of frozen dairy foods and who utilized 5,000 pounds or more of milk solids

in the manufacture of frozen dairy foods during the base period shall correctly complete Form "Dairy Products Report No. 5—Frozen Dairy Foods," for each calendar month during which the respective processor purchases mix, and shall, on or before the close of the tenth calendar day of the calendar month next succeeding the calendar month during which the respective processor purchased mix, mail such completed form to the United States Department of Agriculture, Division of Agricultural Statistics, Bureau of Agricultural Economics, Washington 25, D. C.

(c) *Exceptions.* Each person referred to in (b) (2) or (b) (4) hereof shall not be required to complete and mail the forms as required by (b) (2) or (b) (4) hereof for any month designated therein if such person shall have correctly completed and mailed the required form for such month prior to the effective time of this order.

(d) *Effective date.* This order shall become effective at 12:01 a. m., c. w. t., May 1, 1944.

NOTE: All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334; 8 F.R. 5423; E.O. 9392, 8 F.R. 14783; FDO-8, 8 F.R. 953, 12163; 9 F.R. 4319)

Issued this 1st day of May 1944.

C. W. KITCHEN,
Acting Director of Distribution.

