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APPRAISAL OF FOOD DISTRIBUTION ORDERS 11 AND 13

A report based upon an investigation in 23
Northeastern cities conducted by the
Program Analysis and Appraisal Division,
Northeast Region, and the Program Analysis
and Appraisal Branch of the Food Distribution
Administration.

by

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Washington?
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3. The provision directing distributors to load delivery vehicles only on advance or standing orders is virtually ignored on wholesale deliveries and is only partially observed on retail deliveries. The limited economies resulting from the provision clearly do not justify continuation thereof for wholesale deliveries. Economies in home deliveries may justify continuation, but the evidence obtained is not conclusive.
4. Excellent compliance was found with the provision which prohibits the return of milk to distributors. Economies due to this provision clearly warrant its retention.
5. There is general compliance with the requirement of deposits on bottles sold through retail stores. There is widespread non-compliance with the requirement of deposits on bottles delivered to homes. Increases in bottle returns were found to be considerable in all cities where a deposit had not previously been required. However, a 1¢ deposit apparently is not sufficient to realize the maximum benefit and it is recommended that a minimum charge of 5¢ be required for all bottles.

Little attention is being paid to the requirement of deposits on cans and cases. As the investigation revealed no evidence of loss due to non-compliance, it is recommended that this requirement be eliminated.

6. The ban on heavy cream is well observed in all of the 23 cities. It is recommended that the exemption for farmers be eliminated in cities of 5,000 population or over. It is also recommended that the validity of a doctor's prescription for heavy cream be limited to 30 to 60 days.

ORDER 11 PROVISION 1

This provision directs distributors to package milk only in containers of one quart or larger when the milk is to be sold for consumption in homes.

Compliance:

Compliance was believed to be complete in 15 of the 23 cities investigated. In the remaining 8 cities, only minor violations were reported.

In one small city, grocers handled a relatively large volume of chocolate milk in half pints, an undetermined portion of which was purchased for home consumption. It is probable that some stores in other cities were permitting a few half-pints of chocolate milk (the bulk of which was for consumption on the premises) to be taken home. One case was cited by a distributor in one of the larger cities where a store stocked with pints of milk for workers in a nearby plant might permit a few to be taken home. In another city, a small distributor was found who openly violated the order by continuing to deliver 15 to 18 pint containers of milk to homes.

Economies:

Definite, though small, economies have resulted from the operation of this provision. The amount of milk for home consumption handled in less than quart containers prior to the order was small in most cities. This was especially true in those cities which had adopted every-other-day deliveries to homes. The time and effort involved in handling pints and half pints is considerable even where the volume is small. For this reason distributors generally were in favor of this provision.

Recommendation:

It is felt that this provision, as it stands, is serving its intended purpose, and it is recommended that it be left unchanged.

ORDER 11 PROVISION 2

This provision directs retail storekeepers and other wholesale buyers of milk to confine their purchases to not more than two distributors unless the delivery from each distributor is in excess of 300 quarts.

Compliance:

Seven of the 23 cities were not affected by this provision because it had not been the practice for retail storekeepers or other wholesale buyers of milk to purchase from more than two distributors. Among the remaining 16 cities, 8 were in virtually complete compliance. In each of the other 8 cities, violations were common, and in 7 of these there had apparently been no effort on the part of storekeepers or distributors to conform with the provision.

Although storekeepers in some of the smaller cities purchased milk from more than two distributors prior to the order, this practice was more common in the larger cities. Compliance is, however, more complete in the larger cities. The extent to which the market is organized through distributors' associations was found to be a factor in compliance. Storekeepers, who knew of this provision, had usually been informed of it by their distributors. In the absence of positive pressure, storekeepers were usually reluctant to drop distributors.

Economies:

The provision was generally favored by storekeepers and distributors. Even those who were not in compliance were usually in favor of the principle if it were carried out by all. The only serious objections to the provision came from small distributors who claimed that they had lost business to larger distributors because of the provision.

In Cumberland, Md., practically all of the wholesale business became concentrated in the hands of the two largest companies which were under single ownership. One of the smaller distributors lost 38 out of his 40 wholesale customers. This loss forced him out of business.

In all cities where market practices were affected by this provision, it has brought about more efficient distribution to stores and to other wholesalers.

Recommendations:

It is recommended that this provision be retained in its present form. However, there is great need for educational work. Meetings arranged by the Administrator with representatives of distributors' and grocers' associations would bring good results.

ORDER 11 PROVISION 3

This provision directs distributors to load delivery vehicles only on advance or standing orders.

Compliance:

Compliance with this provision was poor in all cities visited. All distributors were violators of that part of the provision relating to wholesale business. Most of them also violated that part relating to home delivery. Many distributors claimed that, when the order was first issued, they had attempted to comply but that the order proved to be unworkable, particularly with respect to wholesale outlets. Storekeepers and restaurateurs refused to order in advance. Because of uncontrollable factors, which affect the sale of milk, retailers are not able to judge in advance how much milk they will need in a given day.

Economies:

In spite of a situation of general non-compliance, this provision has in some cases tended to reduce the volume of returns. Many distributors, with this provision as justification, now refuse to accept returns from drivers. This tends to make the drivers more careful about overloading and thus reduces the amount of returned milk, even though the drivers do not have specific orders for every quart of milk.

Even in the rare instances where distributors are trying to comply with this provision, it is questionable whether there are any real economies.

One distributor stated that, in order to be able to comply, he had to hire an extra man on the loading platform to handle telephone calls. This expense was greater, he reported, than the savings which might have resulted from the elimination of overloading.

The situation is not as bad in the retail trade as in wholesale. Housewives, because they buy only for one family, can better judge their needs than can retailers. But even with housewives, there are obstacles to full compliance. Because of the cancellation of an order, a driver may occasionally be able to give an extra quart of milk to a customer without an advance order. Since it is difficult to explain why this can be done at one time but not at another, this practice should be discontinued if the provision is to be made effective. It will be necessary to evaluate the advantage of strict enforcement in comparison with losses that might result from the cancellation of all or part of a customer's order.

The objections to the provision as it relates to wholesale deliveries which were most often mentioned were:

- (1) The aim of this provision runs contrary to long established practice in the milk industry. In most cases, storekeepers have always left the exact amount of each day's order to the judgment of the driver.
- (2) Store and restaurant sales fluctuate from day to day and operators do not check until next morning the amount unsold.
- (3) The ban on returns of unsold milk by stores (provision 4 of Order 11) makes it necessary to permit some flexibility in ordering.
- (4) Enforcement of this provision would mean waste of milk through spoilage in stores and restaurants and much extra labor for store and restaurant operators as well as for drivers.
- (5) This provision presents particularly difficult enforcement problems, and an individual distributor should not be expected to attempt compliance so long as he believes others are probably violators.

Recommendations:

It is recommended that this provision be amended so that it does not apply to wholesale deliveries of milk. Economies with respect to home deliveries may justify continuation of this aspect of the provision, but the evidence obtained in this investigation is not conclusive.

ORDER 11 PROVISION 4

This provision directs retail storekeepers, restaurant operators and others not to return milk or cream previously delivered, and directs milk distributors not to accept returns from them.

Compliance:

Only rare violations were found in 22 of the 23 cities studied. In the single city where violations were found half of the storekeeper respondents reported that milk left over at night was replaced by the distributor the next morning. In the 22 cities where compliance was general, a few dealers and storekeepers stated that milk could be returned where spoilage had occurred.

Economies:

This provision seems to be very well accepted by the industry. There was considerable variation in the effect of the application of this provision on the markets investigated. In about one-third of cases no change was made as it had never been the practice for distributors to accept returns from stores or other wholesalers. In the remaining cities, however, competition was such that some or all distributors had been making daily collections of unsold milk prior to the order. Larger dealers were usually in better position to do this economically because they had equipment for making byproducts.

In the cities where this provision effected changes, it has made possible substantial economies to milk distributors while helping, at the same time, to conserve milk for bottled uses. Milk returned to distributors by stores and restaurants was too old to be redistributed since it had been bottled at least 24 hours. Distributors utilized this milk for byproducts (cottage cheese, etc.). This meant (1) wasted operations (pasteurizing, bottling, delivery, return delivery, and emptying); (2) wasted materials (bottle caps); and (3) loss of milk. Distributors had always looked upon this as a wasteful practice but because of competition were not in a position to end it until the order was issued.

An important result of this provision is that it places responsibility on the storekeeper to see that milk left over from the previous day is sold first the next morning. Prior to the order, milk delivered to storekeepers was left only on consignment. Under the order it becomes the property of the storekeeper as soon as it is received.

This provision makes it necessary for the driver to maintain the store's supplies in closer conformity with the needs of its customers. This has added to the difficulty of distributors in complying with provision 3 of Order 11, as a store's requirements are most accurately determined at the time that the driver arrives. Many distributors still take the usual seller's responsibility for taking back milk previously delivered in an unsatisfactory condition, but some use this prohibiting provision to prevent abuse of this custom by storekeepers. A number of instances were reported where distributors had refused to take back milk on the grounds that spoilage occurred after delivery. In no city did store operators appear to be seriously inconvenienced by this provision.

Recommendation:

It is recommended that this provision be continued in its present form.

ORDER 11 PROVISION 5

This provision directs milk distributors and retail storekeepers to charge minimum rates of deposit on all glass bottles, milk cans and milk cases.

Compliance:

Deposits are charged on store bottles in all of the 23 cities. In only a few of these were any violations found. In 14 of the cities, the deposit charge was 5¢, while in the remaining cities the amount was either 1¢ or 2¢. Those cities charging 5¢ deposits had had such deposits in effect prior to the order and were therefore not affected by this provision.

Very few distributors made any attempt to comply with the provision as it related to home deliveries. Some said that they had tried to comply when the order first went into effect but had given up the attempt because they found it either too difficult or because their competitors were not complying.

In some cases, the driver is charged with all the bottles he takes out. If, in any month, he does not return the same number of bottles he is charged for the difference. Even in these cases, the driver usually does not charge his customers for the bottles that are missing. It is often to his advantage to pay for the bottles himself rather than run the risk of losing a good customer. No deposits are charged on cases or cans in most cities, probably because drivers can easily keep track of them.

Economies:

Many distributors felt that it was unnecessary to make regular deposit charges on home-delivered milk bottles because: (1) Returns of home-delivery bottles are very good. (2) The expense and time required to keep accurate records and enter charges on bills nullifies savings. The requirement of deposits on home-delivered bottles does, however, give drivers a talking point in urging consumers to return bottles.

Though many distributors contended that the extra labor involved in charging deposits on home delivery bottles more than offset the savings made in bottle returns, others contradicted this. One distributor, the largest in Meadville, Pa., claimed that charging home deposits involved very little additional labor and that returns

of bottles more than compensated for the extra work. He had charged deposits on home delivery bottles for months before the order went into effect and found it to be a very effective means of getting returns. His drivers were required to enter on their charge slips the amount of milk left at homes and the number of bottles taken out. At the end of the month, the customer was simply charged or credited with the net difference between the number of quarts left by the driver and the number of bottles collected by him.

Most distributors who expressed opinions felt that a 1¢ deposit, while it was definitely better than no deposit at all, was not sufficient. Five cents is closer to the actual value of a bottle, although those with colored lettering usually cost closer to seven cents. The experience of the distributor referred to above, with both a 1¢ and a 5¢ deposit during the past year, is noteworthy. Prior to the adoption of this order, this distributor charged a 5¢ deposit on both home and store bottles, despite opposition from the other distributors in the market. Because this deposit system was effective, he did not have to buy new bottles for several months. When this order went into effect and all the other distributors in the market agreed to charge a 1¢ deposit he set his deposit charge at 1¢. After the deposit was reduced to 1¢, he noticed that the bottles were not coming back from a large housing project. A search at the project uncovered almost 1,000 bottles that had not been returned even though 1¢ deposit had been charged. Because of this experience, he now charges a 5¢ deposit on all bottles delivered to the project and his returns of bottles are greatly improved.

The larger distributors often oppose 5¢ deposits. They fear that a higher deposit might induce people to take home-delivered bottles to the stores to collect the deposit. This might happen in cities where the same type of bottle was used for both store and home deliveries.

Two cities, Fredonia and Dunkirk, N. Y., had a 5¢ deposit charge on all store bottles. As the same type bottles are used for home deliveries, for which deposits are not charged, distributors issued tickets with the store bottles to prevent people from bringing home-delivered bottles to stores to collect deposits. It should be noted that the problem would not arise if distributors observed the entire provision and kept account of home-delivered bottles and charged for those not returned.

and charged for those not returned.

The effect of the store bottle deposit is reflected in the report of the numbers of bottles received at the Syracuse Bottle Exchange for the four weeks ending January 30, 1943 (when the deposit was instituted) and the numbers received for the four weeks after this date.

<u>Week ending</u>	<u>Number of bottles received</u>
1/9/43	40,788
1/16/43	41,660
1/23/43	49,948
1/30/43	44,405
Average: 4 weeks prior to deposit	- 44,200
2/6/43	25,419
2/13/43	23,536
2/20/43	15,433
2/27/43	13,782
Average: 4 weeks with deposit	- 19,542

As a result of the decline of more than 50 percent in the number of bottles handled, the Exchange was able to drop two men.

Recommendations:

It is recommended that this provision be amended to raise the minimum deposit on milk bottles to 5¢. It is also recommended that this deposit be enforced on home-delivered as well as store bottles. The requirement for deposits on cases and cans should be eliminated since losses of these items are rare.

ORDER 13

This order bans the delivery of heavy cream for general consumer use.

Compliance:

Compliance appears to be complete, or nearly so, in all of the 23 cities.

Reports of non-compliance were confined to a few small distributors. Non-compliance was not always intentional. It was often due to the difficulty of controlling the fat percentage of cream.

In most cities, farmers who distributed less than a gallon of cream a day prior to the order, were not taking advantage of their right to distribute heavy cream. This was probably partly due to the general shortage of milk in the Northeast. In fact, the shortage made the ban on heavy cream more acceptable to the industry than it would otherwise have been.

In a few cities, the sale of heavy cream by farmers brought complaints from distributors who believed they were affected by this competition. Some small distributors complained that they did not have alternative outlets for the cream.

In a number of cities, some heavy cream was sold on doctors' prescriptions. One or two instances of abuse of the use of prescriptions were reported.

Recommendations:

This provision appears to be serving its intended purpose. The exemption (up to 1 gallon a day) for farmers appears to make enforcement more, rather than less, difficult. It is recommended that this exemption be rescinded in cities of 5,000 population or over. It is also recommended that a doctor's prescription be valid for a period of 30 or 60 days after which time a new prescription would be required. These would be kept on file by the distributor.

CITIES IN WHICH INVESTIGATION OF FOOD DISTRIBUTION ORDERS
NOS. 11 AND 13 WAS CONDUCTED

Area 1

Portland, Me.	73,643
Westbrook, Me.	11,087
Bath, Me.	10,235
Brunswick, Me.	7,003

Area 2

Springfield, Mass.	149,554
Northampton, Mass.	24,794
Westfield, Mass.	18,793
Palmer, Mass.	9,149
Windsor, Conn.	6,100
Great Barrington, Mass.	5,824

Area 3

Syracuse, N. Y.	205,967
Auburn, N. Y.	35,753
Fulton, N. Y.	13,362
Oneida, N. Y.	10,291

Area 4

Erie, Pa.	116,955
Meadville, Pa.	18,919
Dunkirk, N. Y.	17,713
Fredonia, N. Y.	5,738

Area 5

Cumberland, Md.	39,483
Hagerstown, Md.	32,491
Martinsburg, W. Va.	15,063
Frostburg, Md.	7,659
Keyser, W. Va.	6,177

CHANGE IN DISTRIBUTOR PRACTICES DUE TO PROVISIONS
2 AND 5 OF FOOD DISTRIBUTION ORDER 11

City	Provision 2	Provision 5
<u>Area 1</u>		
Portland, Me.	some stores affected (compliance incomplete)	no change
Westbrook, Me.	no change (non-compliance)	no change
Bath, Me.	no change (non-compliance)	no change
Brunswick, Me.	some stores affected	no change
<u>Area 2</u>		
Springfield, Mass.	some stores affected	no change
Northampton, Mass.	virtually no change required	no change
Westfield, Mass.	some stores affected	no change
Palmer, Mass.	no change required	no change
Windsor, Conn.	no change required	no change
Great Barrington, Mass.	no change required	no change
<u>Area 3</u>		
Syracuse, N. Y.	some stores affected	2¢ deposit on store bottles
Auburn, N. Y.	some stores affected	no change
Fulton, N. Y.	no change required	2¢ deposit on restaurant bottles
Oneida, N. Y.	no change required	deposit put on store bottles
<u>Area 4</u>		
Erie, Pa.	some stores affected	1¢ deposit on store bottles
Meadville, Pa.	no change (non-compliance)	1¢ deposit on store bottles
Dunkirk, N. Y.	no change (non-compliance)	1¢ deposit on store bottles
Fredonia, N. Y.	no change (non-compliance)	1¢ deposit on store bottles
<u>Area 5</u>		
Cumberland, Md.	some stores affected	no change
Hagerstown, Md.	no change (non-compliance)	2¢ deposit on store bottles
Martinsburg, W. Va.	no change (non-compliance)	2¢ deposit on store bottles
Frostburg, Md.	some stores affected	1¢ deposit on store bottles
Keyser, W. Va.	no change required	1¢ deposit on store bottles

STATE OF COMPLIANCE WITH FOOD DISTRIBUTION ORDERS 11 AND 13
IN 23 CITIES OF NORTHEAST REGION

City	Order 11					Order 13	
	Provi- sion 1	Provi- sion 2	Provi- sion 3	Provi- sion 4	Provi- sion 5	store	home
<u>Area 1</u>							
Portland, Me.	good	partial	poor	good	good	poor	good
Westbrook, Me.	good	poor	poor	good	good	poor	good
Bath, Me.	good	poor	poor	good	good	poor	good
Brunswick, Me.	good	good	poor	good	good	poor	good
<u>Area 2</u>							
Springfield, Mass.	good	good	partial	good	good	partial	good
Northampton, Mass.	good	good	partial	good	good	poor	good
Westfield, Mass.	good	good	partial	good	good	partial	good
Palmer, Mass.	good	good	poor	good	good	partial	good
Windsor, Conn.	good	good	poor	good	good	poor	good
Great Barrington, Mass.	good	good	poor	good	good	poor	partial
<u>Area 3</u>							
Syracuse, N. Y.	good	good	poor	good	good	poor	good
Auburn, N. Y.	good	good	poor	good	good	partial	good
Fulton, N. Y.	good	good	poor	good	good	poor	good
Oneida, N. Y.	good	good	poor	good	good	partial	good
<u>Area 4</u>							
Erie, Pa.	good	good	poor	good	good	poor	good
Meadville, Pa.	good	poor	poor	good	good	poor	good
Dunkirk, N. Y.	good	poor	poor	partial	good	poor	good
Fredonia, N. Y.	good	poor	poor	good	good	poor	good
<u>Area 5</u>							
Cumberland, Md.	good	good	poor	good	good	partial	good
Hagerstown, Md.	good	good	poor	good	good	partial	no report
Martinsburg, W. Va.	good	partial	poor	good	good	poor	good
Frostburg, Md.	good	good	poor	good	partial	poor	good
Keyser, W. Va.	partial	good	poor	good	partial	poor	good

EFFECTIVENESS OF FOOD DISTRIBUTION ORDERS 11 AND 13
IN 23 NORTHEASTERN CITIES*

Food Distribution Order No. 11 prescribed marketing simplifications which were intended (1) to conserve manpower, fuel, rubber and delivery equipment and (2) to reduce marketing costs for fluid milk and cream. This order became effective February 1, 1943.

Order No. 13 was designed to conserve butterfat through prohibiting the delivery of heavy cream for consumer use. This order superseded WPB Order M-259 which became effective November 25, 1942.

To determine the state of compliance and the economic effects of these orders, investigations were conducted in 23 cities of the Northeastern Region, centered around and including Cumberland, Md.; Erie, Pa.; Portland, Me.; Springfield, Mass.; and Syracuse, N. Y.

A list of the 23 cities appears on page 12. In each of these cities, interviews were held with milk distributors, store and restaurant operators, and milk inspectors.**

SUMMARY

1. The provision prohibiting the sale of milk in small containers was found to be well observed. Small but unmistakable economies were effected. There is no apparent need for change in the requirement.
2. The practice of wholesale purchasing from more than two distributors continues in half of the cities in which this practice was common prior to the order. It appears that economies are possible through compliance with this provision. Meetings with industry representatives would help to improve compliance.

* This report is made by the Program Analysis and Appraisal Branch, Northeast Region, in cooperation with the Program Analysis and Appraisal Branch of the Food Distribution Administration. It is based upon an investigation conducted by these agencies at the request of the Dairy and Poultry and Compliance Branches which also participated in planning it.

** Separate reports for each of the 23 cities are on file in the Northeast Regional Office of the Food Distribution Administration, 150 Broadway, New York City. Sets of these reports are also on file in the Program Analysis and Appraisal Branch, the Dairy and Poultry Branch and the Compliance Branch.

IN SENATE
January 10, 1911

REPORT
OF THE

COMMISSIONERS OF THE LAND OFFICE
IN RESPONSE TO A RESOLUTION
PASSED BY THE SENATE

APRIL 1, 1910

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