

I am Jeffrey Sims; I serve as Assistant Secretary of Dairy Cooperative Marketing Association, Inc. a Capper Volstead marketing agency in common operating in the southeast United States. My business address is 13400 U.S. Highway 42, Suite 162, Prospect, Kentucky 40059. I testify today on behalf of Dairy Farmers of America, Inc. headquartered in Kansas City, Missouri; Lone Star Milk Producers, Inc. headquartered in Windthorst, Texas; Maryland & Virginia Milk Producers Cooperative Association, Inc.; headquartered in Reston, Virginia; and Southeast Milk, Inc., headquartered in Belleview, Florida. Together these cooperatives will be hereafter collectively referred to as the proponents. Exhibit 13, pages 1 through 4 are letters from each of the proponent cooperatives authorizing me to speak on their behalf in this matter.

Dairy Farmers of America, Inc.; Lone Star Milk Producers, Inc.; and Maryland & Virginia Milk Producers Cooperative Association, Inc. all market member milk in the Appalachian, Florida and Southeast Federal Orders. Southeast Milk, Inc., currently markets member milk in the Florida and Southeast Federal Orders, and in the past has marketed member milk on the Appalachian Federal Order. Together the cooperatives market in excess of 75 percent of the producer milk pooled on the Appalachian and Southeast Orders, and market in excess of 90 percent of the producer milk pooled on the Florida Order.

The proponents of these temporary emergency amendments wish to thank the Secretary for hearing this proposal on an expedited schedule and for considering emergency action and the omission of a recommended decision under the rules of practice and procedure.

The proponents offer the following testimony in support of Proposal number one as listed in the notice of hearing.

During August and September 2004 four hurricanes have ravaged the southeast. According to published news reports insured losses from the four hurricanes have been estimated at eighteen billion dollars. On August 13 Hurricane Charley made landfall at Cayo Costa, Florida; on September 5 Hurricane Frances made landfall at St. Marks, Florida; on September 16 Hurricane Ivan made landfall at Mobile, Alabama; and on September 25 Hurricane Jeanne made landfall at Stuart, Florida. According to published news reports it has been over 100 years since a single state was struck by four hurricanes in one season.

As a result of these storms, bulk milk deliveries in the southeast have been in shambles for more than seven weeks. Only now, a week and a half after the latest hurricane has been through, have delivery schedules and routes begun to truly normalize. Every week since the August 2-6, 2004 issue, Dairy Market News has reported on milk transport disruptions and milk losses resulting from the four hurricanes, as well as Tropical Storms Bonnie and Gaston. We ask that official notice be taken of Dairy Market News, issues numbers 31 through 39.

Cooperative associations in the southeast have borne the vast majority of the costs associated with replacing lost milk, rerouting tankers and reestablishing any semblance of a normal bulk milk delivery structure. As of this date, we estimate that the additional charges for added bulk milk transportation resulting from Hurricanes Charley, Frances Ivan and Jeanne have cost cooperative associations in excess of one and one half million dollars. These hauling

costs are over and above the costs incurred on procuring extra milk at a time of seasonal shortage, and the losses at the farm of milk and cows. Procuring milk during the late summer and fall months is especially costly for the southeast, and has been even more so this year as a result of these unusual climatic conditions.

The proponents come before the Secretary today asking for emergency relief under the Federal Milk Marketing Order to help compensate marketers of milk for the extraordinary costs of moving bulk milk in the southeast resulting from hurricanes Charley, Frances, Ivan and Jeanne.

Representatives for the individual cooperative proponents of this action will testify as to the costs they incurred in moving this milk, the kinds of extraordinary milk movements that occurred, dates of these movements, and the impact on milk supplies and market delivery disruptions. I will testify as to need for these temporary emergency amendments, the need for emergency action, the technical nature of the Order proposal, and how we envision the amended provisions functioning.

Need for the temporary emergency amendments.

As the proponents will demonstrate through testimony and exhibits to follow, the cost of moving bulk milk in the southeast as a result of the four named hurricanes has been substantial. We have identified in excess of one and one half million dollars in extra bulk milk hauling to date. Unfortunately, there is little opportunity to recoup these losses through revenue streams outside of the Federal Milk Marketing Order program. For that reason, we

seek recovery of these costs through the Marketwide Service Payment provisions available under the Federal Milk Marketing Order program.

Without these temporary emergency amendments, marketers of milk, principally cooperative associations, and thereby the member producers of these cooperative associations, will bear the cost of these extraordinary milk movements, while in reality it is the consumers of Class I milk who should shoulder these losses.

Dairy Cooperative Marketing Association, Inc., hereafter abbreviated DCMA, is a Capper Volstead marketing agency in common, of whom all the proponent cooperatives are members. DCMA operates as the over order pricing agency for the southeast United States, through which Capper Volstead cooperatives coordinate over order prices to distributing plant customers located predominantly in the Appalachian, Florida and Southeast Federal Milk Order areas.

Over order prices are a product of many factors, including levels of over order prices in neighboring areas; costs and availability of bulk and packaged alternative supplies; general price level; regional supply and demand relationships; national supply and demand relationships; as well as other factors. All these issues come into play in various ways and in varying amounts at different times. The competitive nature of supplying raw milk puts practical limits on how high, and how low, over order prices will be.

For the last few years cooperative associations in the southeast, through their marketing agency in common DCMA, have utilized a structured system of over order prices. Specifically,

over order prices increase when Federal Order Class I prices are at low levels, and conversely, over order prices decrease when Federal Order Class I prices are at higher levels. Handlers of milk are well aware of this pricing system, and have come to understand and expect cooperatives to adjust over order prices accordingly as Federal Order prices rise and fall. Over the history of this plan over order prices have on occasion varied off of the established schedules, but only rarely, and at times of disastrously low Federal Order Class I prices. Both handlers and producers have benefited from this pricing plan through decreased Class I price volatility, as well as some limiting of upside and downside price peaks. In addition, the retail customers of fluid milk processors are likewise sophisticated buyers, and have come to understand the nature of Federal Order and over order pricing.

Changing over order prices versus the established price schedule has not occurred in the vast majority of the southeast in any month in 2004. Over order prices were adjusted from the 2003 established schedule in a small portion of the southeast in April of this year, but since that time each month of 2004 over order prices have followed the pricing plan.

In Atlanta, Georgia - considered by many to be the benchmark city for over order prices for the southeast - the range of over order prices for 2004 varies from \$0.95 to \$1.95 per hundredweight, prior to the addition of a fuel cost surcharge. Exhibit 13, page 5 describes and shows the 2004 Class I over order price schedule for Atlanta, and page 6 of the exhibit shows the Class I over order prices announced each month for Atlanta. In each month of 2004 the Class I over order price was announced as according to the established schedule. Such was the case in August 2004 when \$0.95 per hundredweight was announced; in September 2004 when \$1.45 per hundredweight was announced; and October 2004 when

\$0.95 per hundredweight was announced. Changes, both up and down, in the Class I over order prices which have occurred in the late summer and early fall months of 2004 have been reflective of the established pricing system.

As mentioned earlier, one of the goals of the DCMA over order pricing system is to reduce Class I price volatility. This is well demonstrated by the Atlanta total Class I price for August, September, and October 2004. I define total Class I price for this purpose as Federal Order Class I price plus announced cooperative Class I price. In August 2004 the Federal Order Class I price at 3.5 percent butterfat was \$17.72 per hundredweight, and the announced cooperative Class I price was \$0.95 per hundredweight, for a total Class I price of \$18.67 per hundredweight. In September 2004 the Federal Order Class I price at 3.5 percent butterfat was \$17.04, and the announced cooperative Class I price was \$1.45, for a total Class I price of \$18.49. In October 2004 the Federal Order Class I price at 3.5 percent butterfat was \$17.88, and the announced cooperative Class I price was \$0.95, for a total Class I price of \$18.83. Changes in the total Class I price for Atlanta were buffered by \$0.50 per hundredweight less than the volatility of the Federal Order Class I price as a result of the cooperative Class I pricing system.

Marketers of bulk milk must be aware of Class I over order prices in areas adjoining their customers. Rigorous competition for Class I packaged sales makes even seemingly small differences in price significant. Handlers often report that a fraction of a cent a gallon can sway customers from one packaged milk supplier to another. This means that Class I price differences of well less than \$0.10 per hundredweight may cause a competitive influence.

Just like the seller of any other product, dairy farmers desire a reasonable price for their product, and their product is raw milk. Cooperative associations, working through marketing agencies in common like DCMA, seek to achieve reasonable prices for their dairy farmer members. Sometimes this is through improved Federal Order prices and provisions; sometimes it is through participation in national dairy policy processes; sometimes it is through over order prices. The desire to increase short term prices must be weighed against pricing commitments to customers and evaluated in light of many other economic and marketing factors, many of which have been stated already. In the southeast, at least in the most recent months, maintaining price relationships with neighboring areas and respecting pricing commitments have not allowed alterations in over order prices versus the established price schedule.

Based on the DCMA members' experience in Class I over order pricing, DCMA members feel that increases in the Class I over order prices in the southeast to help cover the costs of milk movements resulting from the hurricanes would be highly unlikely. For that reason the proponents seek these revenues and cost reimbursements through the Federal Milk Marketing Order program.

Handler equity in Class I costs also suggests that the revenues necessary to cover these extraordinary hauling costs be generated through the Federal Order program. Placing the generation of revenue and disbursement of the allowable extraordinary hauling costs under the Federal Order program will insure all market participants that the rate of payment is equal for all Class I pool handlers and that the costs paid for are accurately associated with the hurricane emergency.

Need for emergency action.

The extraordinary cost of moving bulk milk supplies across the southeast as a result of the hurricanes has been concentrated over a very short time. From the time hurricane Charley hit in mid August through hurricane Jeanne in late September, only six to seven weeks ~~past~~ ^{PASSED}. Just when milk delivery schedules seemed to begin to normalize, another hurricane or tropical storm hit the region. As the occurrence of these milk delivery disruptions have occurred over a relatively short time, payment for these extraordinary costs will be paid to haulers over an equally short time. The resulting impact on dairy cooperative member pay prices will be substantial when applied in only a month or two's milk checks.

Prolonging this amendment process by requiring a recommended decision is not warranted by the very nature of the problem. The costs were and are being incurred over a short time window, and should be returned to the dairy farmers and other handlers who are paying those costs as soon as possible. Prolonging the process will not change the result or the amount of costs, because the costs are what they are. Whatever it has cost to move the milk is what is sought, nothing more. The temporary nature of the problem and the temporary nature of the proposed solution both require immediate action. If four hurricanes in six weeks do not create an emergency situation, the proponents are at a loss to understand what will.

Proponents recognize some time is necessary to hold this hearing and implement the amended procedures. As a result of this recognition proponents have proposed January

through March 2005 as months upon which the Class I milk value adjustment will apply with reimbursement from the market administrators for the Orders to be made along with normal pool settlements in the middle part of the subsequent month. In practical terms that will result in reimbursements for the extraordinary hauling costs really occurring in February through April 2005, which will be some six to eight months after the August 2004 extraordinary hauling costs were incurred, and five to seven months after the September 2004 extraordinary hauling costs were incurred. Producer members of the cooperative associations providing these services of marketwide benefit had their August 2004 final settlement milk check already reduced as a result of these extraordinary costs, and will have their milk checks further reduced for September 2004 milk. It is imperative that any costs for which reimbursement is due under this process not be delayed any longer than absolutely necessary. It is as a result of this need for the timely reimbursement of these costs and the economic impact already borne by cooperative association members, as well as other handlers, that we request emergency action for this proceeding. Cooperative associations and other handlers of milk will carry some financing costs on the losses as the date for reimbursement of the requested costs is well into the future.

Technical nature of the Order proposal.

The four proponent cooperatives propose temporarily amending section .60, Handler's Value of Milk, by adding new language in paragraph (a), and adding a new paragraph (g), with new subparagraphs (1) through (8), in each of the three orders noticed for this hearing. After reviewing the particulars of the milk movements which occurred as a result of the hurricanes, the proponents wish to modify their proposal slightly. We ask that a new subparagraph

.60(g)(5) be added, which reads: "(5) The cost of transportation on loads of bulk milk transferred or diverted to a plant regulated under another Federal order or to other nonpool plants, which were delivered as a result of hurricanes Charley, Frances, Ivan and Jeanne." A number of the extraordinary milk movements fall into this category, and represent the reimbursement of same kind of costs which moving milk to and between pool plants is meant to cover. We ask that the remaining subparagraphs of .60(g) be renumbered (5) to (6); (6) to (7); and (7) to (8).

To generate the revenue necessary to pay for the extraordinary hauling costs associated with moving milk incident to the hurricanes, an adjustment to the handler's value of milk would be made by adding a temporary amount per hundredweight to the handler's Class I milk value. Language to accomplish this is the new portion of paragraph (a) of section .60, as announced in the notice of hearing. Proponents propose that this temporary increase be for three consecutive months, beginning January 2005, and would be \$0.04 per hundredweight in the Appalachian and Southeast Orders, and \$0.09 per hundredweight in the Florida Order, or such lesser amount necessary to pay the defined extraordinary hauling costs, as determined by the market administrator. This provision sets an effective cap on the amount of new Class I revenue which can be generated under the temporary amendments, as well as sets the effective amount of new Class I revenue at not more than the demonstrated costs of moving the milk. In this way, consumers of Class I products are protected from a blank check approach to raising revenue and accounting for and claiming reimbursement for the extraordinary hauling costs. Total revenues generated under this system will be limited to the costs incurred so no marketer of milk will profit from the payment for these defined extraordinary hauling costs, but rather will simply be reimbursed for incurring the costs.

Likewise, the blend price to producers under the Orders will not increase since the money collected cannot exceed the money spent.

In order to have transparency in the revenues generated from this proposal, proponents ask that the temporary adjustments in the Class I milk value be shown on the Market Administrator's Class price announcements issued pursuant to section .53 of the three orders.

The variation in the amount of Class I milk value adjustment proposed for the three Orders is borne of expected differences in the defined extraordinary hauling costs incurred in supplying the three Orders. Not surprisingly, Florida was hardest hit by the hurricanes, and marketers of milk in the Florida Order area have experienced the greatest costs. That, coupled with the fact that the Florida Order generally has less Class I producer milk in terms of monthly volume than either the Appalachian and Southeast Orders, results in a higher required per hundredweight Class I adjustment than has been proposed for the Appalachian and Southeast Orders.

While the maximum rate of Class I milk value adjustment is proposed to be the same for the Appalachian and Southeast Orders, proponents fully recognize that the final effective rate of adjustment to the Class I milk value between the Appalachian and Southeast Orders will be different. Differing amounts of extraordinary hauling costs associated with supplying the two Order areas, together with differing volumes of Class I producer milk under the two Orders will result in differences in the final effective rate of Class I value adjustment.

Exhibits and testimony from the proponent witnesses to follow will describe the nature of collecting and assembling the extraordinary hauling costs for which the proponents propose reimbursement. I will describe the methodology used to determine the rate of Class I milk value adjustment proposed for each order.

Of the total of \$1.6 million dollars in extraordinary hauling costs which will be demonstrated by the witnesses to follow, \$102,206 is identified as being associated with serving the Appalachian Order; \$1,134,469 is identified as being associated with serving the Florida Order; and \$370,085 is identified as being associated with serving the Southeast Order. Exhibit 3, page 7 provides a summary of data pertaining to the number of loads, miles of extraordinary milk movements and cost of hauling for the extraordinary milk movements. These summary data are taken from exhibits which will be presented by proponent witnesses to follow. Proponents used the following estimates of monthly Class I producer milk for each of the three Orders: Appalachian, 373 million pounds; Florida, 218 million pounds; and Southeast 392 million pounds. Dividing the amount of cost identified for each of the three Orders by three, which is the number of months of payout of the costs, and then dividing by the estimated pounds of Class I provides a result of approximately \$0.0091 per hundredweight per month for the Appalachian Order; approximately \$0.1735 per hundredweight per month for the Florida Order; and approximately \$0.0315 per hundredweight per month for the Southeast Order. The original estimates of extraordinary cost used when this hearing was requested included costs of other losses in addition to the hauling costs for which this request asks reimbursement. The result was that certain estimated costs were overstated, and this is particularly true of the costs associated with extraordinary milk movements in the Appalachian Order area. At that time extraordinary

costs of hauling as a result of the hurricanes was underestimated in the Southeast Order. Certain milk movements which were initially identified as Order 5 movements have since been more rightly determined to be Order 7 movements. As such, the rate of Class I value adjustment for the Appalachian Order requested when this hearing was requested is now known to be overstated. The proposed provisions contain rates for the adjustment of Class I milk value which were thought to be somewhat greater than necessary in order to cover the extraordinary costs identified by the proponent cooperatives, plus any hurricane related extraordinary milk movements by marketers of milk other than the proponent cooperatives which would qualify for reimbursement under these proposed provisions. In addition, there may be additional costs discovered in the future by proponents or other marketers which have heretofore not been identified. The allowance for the higher rate of adjustment to the Class I handler's value offers the opportunity for additional costs not now identified to be paid.

The enormity of the costs of moving milk in and out of Florida was not fully known when the proposals were submitted, and is not fully known even today, as will be demonstrated by the proponent witnesses to follow. Thus, for the Florida Order, the requested maximum rate of Class I milk value adjustment will be sufficient to fund only about half of the currently identified extraordinary hauling costs.

There were many costs incurred in excess of transport costs. Milk was routed and re-routed into manufacturing plants where the resulting products brought lower returns. Additional packaged milk was brought into the area at higher costs to fill retailer orders that we are not claiming any cost reimbursement for. There were costs for milk "being staged" at locations

before, after and during the storm that was later routed back into the affected areas that incurred costs that are not included in our estimates. On farm cow losses will be heavy in some areas that can be calculated but are not claimed. Finally milk was dumped on the farm that is not included in any of our claim calculations. For several of these items we considered early on to include in our estimates but have now removed them because of the difficult nature of meeting a proof standard. We have chosen to focus our efforts on "transaction" costs for which we can produce "bills" to document our costs.

The four cents per hundredweight maximum increase in Class I milk value requested for the Southeast Order likely will still be sufficient to cover the extraordinary costs which may be claimed. The four cents per hundredweight maximum increase in Class I milk value requested for the Appalachian Order will certainly be sufficient to cover the extraordinary costs which may be claimed. In fact the extraordinary hauling costs for the Appalachian Order may only require a Class I value increase in Order 5 for one month with a Class I value increase of four cents per hundredweight. In this case we would ask that the market administrator set the rate of Class I value increase for Order 5 such that the funds will be collected over the fewest number of months. This will hasten the recovery of these extraordinary costs by handlers, at least as they apply to Order 5 movements.

Proponents have provided language to temporarily amend section .60 of each of the three Orders to add a new paragraph (g), which defines which extraordinary hauling costs would be eligible for reimbursement, the manner of payout of these costs, limits to these costs, and market administrator discretion in determining which costs meet the criteria for reimbursement.

The payment for extraordinary hauling costs for which reimbursement is sought under the proponents' proposal is authorized as a service of marketwide benefit under the Agricultural Marketing Agreement Act, section 8(c)(5)(J). The relief asked for here falls squarely within the marketwide services language of the Act, particularly: subsection (J)(ii) "handling on specific days quantities of milk that exceed the quantities needed by handlers", and subsection (J)(iii) "transporting milk from one location to another for the purpose of fulfilling requirements for milk of a higher use classification or for providing a market outlet for milk of any use classification".

The proponents' originally submitted Order language specified four specific bulk milk hauling transactions which would be eligible for hauling cost reimbursement under this temporary amendment. These are the costs of transportation on loads of: (1) producer milk delivered or rerouted to a pool distributing plant, (2) producer milk delivered or rerouted to a pool supply plant which was then transferred to a pool distributing plant, (3) loads of bulk milk delivered or rerouted to a pool distributing plant from a pool supply plant, and (4) loads of bulk milk delivered or rerouted to a pool distributing plant from an other order plant, each of these type transactions having occurred as a result of hurricanes Charley, Frances, Ivan and Jeanne. As was mentioned earlier proponents offer a modification which also allows reimbursement for costs of transportation on loads of bulk milk transferred or diverted to a plant regulated under another Federal order or to other nonpool plants. Many other extraordinary movements occurred during this emergency, like milk moving along indirect routes from origin to destination to avoid severe weather, milk moving along indirect routes from origin to destination to avoid closed roads, milk moving to a plant and not being unloaded, but rather

held on the lot until it could move, as well as other extraordinary types of movements. Proponents believe that certain latitude must be afforded the Market Administrators in assessing these type movements and the costs associated with them, even though the extraordinary milk movement may not have been to or through a plant. The proponent witnesses to follow will provide direct testimony citing examples and volumes of the various kinds of hauling transactions. As will be demonstrated, each of these types of milk movements occurred in varying amounts during the hurricane emergencies.

The proposed Order language provides substantial Market Administrator discretion in determining which actual milk movements would qualify for reimbursement of the costs of those movements. The market administrators of the Orders are in the unique position to evaluate discrete movements of milk and determine if those movements were a result of the hurricanes. Proponents understand and freely admit that there are substantial volumes of milk which normally move into the southeast during the late summer and early fall from other regions, and as such marketers of milk will have to be diligent and thorough in providing data and information to the market administrators in order that they might determine which movements qualify for reimbursement. In addition, the audit function already operated by the market administrators can contribute significant data, expertise, and information for the objective determination of which movements of milk qualify for reimbursement. It is our intent that all of these functions and special abilities of the Market Administrators be fully available for use in determining and evaluating the claims that may be submitted by the handler requesting reimbursement.

In addition to the requirement for marketers to prove to the satisfaction of the market administrator that milk movements were indeed extraordinary and a result of the hurricane emergencies, two additional limits are placed on the reimbursement of these extraordinary costs. First, the total amount of reimbursement of extraordinary transportation costs is limited to the amount of funds collected under the adjustment to the Class I milk value. If the demonstrated extraordinary transportation costs exceed the amount of funds generated from increasing the Class I handler value, then the remaining demonstrated extraordinary transportation costs will go unpaid. Second, the rate per mile of transportation is limited to \$2.25 per loaded mile. This limit, which is based on actual prices being paid to third party haulers, insures that marketers of milk can not garner excessive profits by the inflation of hauling costs. The proponent witnesses to follow will provide direct testimony and evidence showing actual invoices for milk hauling from third party over the road milk haulers to substantiate that the \$2.25 per loaded mile, which is equivalent to \$1.125 per running mile, is a reasonable rate for over the road hauling given today's diesel fuel prices.

The proposed temporary amendments provide a systematic process for the reimbursement of the demonstrated extraordinary transportation costs. Following is how the proponents envision this process working. The market administrator will review all data, documents, transaction records and the like which marketers of milk provide in support of their request for reimbursement of the extraordinary transportation costs. These data must by necessity be related to milk movements within one of the three Orders. Upon determination by the market administrator that a submitted milk movement and its associated cost qualify for reimbursement, the market administrator will total all of the costs qualified for reimbursement for that Order. The market administrator will then estimate the total amount of Class I milk

expected to be pooled on the subject Order for the months of January through March 2005 and divide the costs qualified for reimbursement by the expected hundredweights of Class I producer milk for those three months. If the resulting per hundredweight rate exceeds the maximum specified for the adjustment to Class I milk value, meaning the extraordinary hauling costs per hundredweight of Class I exceed the new revenue, then the market administrator will announce the adjustment to Class I milk value on the announcement of Class prices at the stated maximum rate for each of the three months. If the resulting per hundredweight rate is less than the maximum specified for the adjustment to Class I milk value, meaning the extraordinary hauling costs per hundredweight of Class I are less than the stated maximum, then the market administrator will announce the adjustment to Class I milk value on the announcement of Class prices at some amount less than the maximum rate, with this lower-than-maximum rate to be established such that the expected revenues from the adjustment to Class I milk value are less than or equal to the total extraordinary hauling costs submitted by all marketers of milk and approved by the market administrator for reimbursement. The amount by which the Market Administrator lowers the Class I milk value adjustment below the maximum rate can be reduced more or less equally for the three month collection and payout period, or can be variable based on market administrator determinations of allowable reimbursable costs and estimations of Class I producer milk.

It is the desire on the part of the proponents that the revenues generated from the adjustment to Class I milk value in each of the three Orders be less than or equal to the total reimbursed costs in each Order, thus preventing any blend price enhancement. The marketers of milk seek simply to be reimbursed the costs incurred in moving milk during a

time of extreme hardship, but seek no more than to be reimbursed for providing these services of marketwide benefit.

In reviewing the specific load data which proponent witnesses will provide, it appears some milk movements for which reimbursement might be claimed under this proposal and delivered to Appalachian and Southeast Order plants may be eligible for payments from the transportation credits balancing fund pursuant to section .82 of the two Orders. Proponents do not desire to double dip in claiming any transportation reimbursement on these loads, so proponents offer a modification to the noticed provisions for the Appalachian and Southeast Orders such that the amount of any Transportation Credit due under section .82 be reduced by the amount of any emergency hauling cost reimbursement due under this temporary amendment.

There are administrative benefits from utilizing a money-in equals money-out approach to the collection of funds and disbursement for the extraordinary hauling costs. First, the amount of re-programming of market administrator computer systems to accommodate this amendment should be minimal. Second, accounting for these revenues and costs will be very straightforward. The method employed by the market administrator for each of the Orders in accounting for, applying, making payment for, and general reporting of these temporary revenues and payments is best left to the prudence of the market administrator. Proponents would expect that payment for the demonstrated extraordinary costs would be made on or about the time the market administrator makes typical monthly payments from the producer-settlement fund, that is on or about the thirteenth of the month following the month for which payments are to be made.

It is certainly anticipated that the reimbursed costs for the extraordinary milk movements will exceed the amount of Class I revenue which could be generated at the maximum rate in any single month in the Florida and Southeast Orders. The proposed amendments provide a proration procedure for paying out reimbursable hauling costs if those reimbursable costs exceed the monthly funds generated from the adjustment to Class I milk value, and rolling any amounts unpaid from the first to the second month, and then any unpaid amounts remaining after the second month to the third. If any reimbursable costs remain unpaid after the third month, these unpaid costs will remain unpaid. Likewise, if the total reimbursed costs for the extraordinary milk movements are anticipated to exceed the total Class I revenue which would be generated over the three month period, reimbursement of the extraordinary hauling costs would be prorated to marketers claiming the allowable reimbursements. Proration under this procedure will be based on each handler's share of the total reimbursable extraordinary costs. In the Appalachian Order it appears from the data available at this time, that all costs identified to date could be paid in a single month at a Class I milk value adjustment rate less than the maximum \$0.04 per hundredweight allowed.

As the proponents have previously stated, the market administrators for the Orders are uniquely qualified and capable of ascertaining which movements of milk would qualify for reimbursement under these temporary amendments. In fact much of the information which may be required to make these determinations is available to the Market Administrators and in practical terms, nowhere else publicly. A number of the extraordinary milk movements were to pool distributing plants on the Orders which then bottled Class I products for shipment to the areas where plants were closed and not processing milk as a result of the

hurricanes. The market administrators have historic data on Class I milk route distribution from pool distributing plants and can thus evaluate any unusual distribution patterns and shipments from these plants in tandem with reported extraordinary bulk milk deliveries.

Proponent witnesses to follow will testify that milk was moved to supply plants and held until the severe weather passed, and then was transferred to reopened plants. The dates, times and volumes of milk received at plants and then transferred will give support to the requests marketers of milk will make for reimbursement of these hauling costs. Market administrators have access to receiving records, bulk milk manifests and hauler billings to support these type requests. Witnesses from the proponents to follow will testify that milk has been dumped because roads were impassable, farms were without electricity, and because trucks and trailers were not available. This dumped milk had to be replaced from often unusual and particularly distant sources. Farm production histories, milk purchase documents, bulk milk manifests and hauler billings will support these type requests. The records routinely examined in the course of a market administrator audit of handler obligations will provide substantial evidence of the extraordinary milk movements for which marketers will apply for reimbursement.

Summary.

Cooperative associations and perhaps other marketers of milk have experienced unprecedented costs and disruptions in supplying bulk milk to the southeast as a result of four hurricanes. These extraordinary costs of moving milk have occurred at a time of seasonal milk shortage, and high and rising diesel fuel prices. Severe weather has caused

losses of milk, shortages of haulers, temporary plant closures, and impassable roads. Shortages of milk nationally have exacerbated the problems caused by the severe weather.

The proponent cooperatives will demonstrate, through the witnesses to follow, real life examples of extraordinary milk movements and the costs of moving those supplies. The amount of costs identified to date from these extraordinary movements totals in excess of \$1.5 million. Without intervention through the Federal Milk Marketing Order program these costs will be borne by a portion of the marketers of milk, and then the majority of the costs will eventually be shouldered by cooperative member producers. Congress foresaw the need for the equitable distribution of providing services of marketwide benefit, of which the hauling costs described here certainly qualify. The proposal also provides an equitable system for generating the revenue to reimburse these costs.

Proponents have offered testimony on the emergency nature of this action, and the emergency conditions which have and do exist, and ask that a recommended decision be omitted under the rules of practice and procedure 7 CFR 900.12 (d).

The proponents support Proposal number 2 as included in the notice of hearing.

This concludes my prepared statement.