

**§ 1160.210**

**7 CFR Ch. X (1-1-05 Edition)**

prepare and promptly report minutes of each Board meeting to the Secretary and submit such reports from time to time to the Secretary as the Secretary may prescribe, and to account with respect to the receipt and disbursement of all funds entrusted to it;

(g) To enter into contracts or agreements, with the approval of the Secretary, with such persons and organizations as the Board may approve for the development and conduct of activities authorized under this subpart and for the payment of the cost thereof with funds collected through assessments pursuant to §1160.211 and income from such assessments. Any such contract or agreement shall provide that:

(1) The contractors shall develop and submit to the Board a plan or project together with a budget(s) showing the estimated cost of such plan or project;

(2) Any such plan or project shall be adopted upon approval of the Secretary; and

(3) The contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of all activities conducted pursuant to the contract or agreement, and provide accounts of all funds received and expended, and such other reports as the Secretary or the Board may require. The Secretary or employees of the Board periodically may audit the records of the contracting parties;

(h) For the initial fiscal period, the Board shall contract, to the extent practicable and subject to the approval of the Secretary, with an eligible organization to carry out the provisions of this subpart;

(i) To prepare and make public, at least annually, a report of its activities and an accounting for funds received and expended;

(j) To have an audit of its financial statements conducted by a certified public accountant in accordance with generally accepted auditing standards, at the end of the first 15 months of the initial fiscal period, at the end of the initial fiscal period, and at least once each fiscal period thereafter as well as at such other times as the Secretary may request, and to submit a copy of each such audit report to the Secretary;

(k) To give the Secretary the same notice of meetings of the Board and committees of the Board, including actions conducted under §1160.206(b), as is given to such Board or committee members in order that the Secretary, or a representative of the Secretary, may attend such meetings;

(l) To submit to the Secretary such information pursuant to this subpart as may be requested;

(m) The Board shall take reasonable steps to coordinate the collection of assessments, and promotion, education, and research activities of the Board, with the National Dairy Promotion and Research Board established under section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)); and

(n) The Board shall conduct advertising using third parties only through contracts which shall prohibit the third party from selling, offering for sale, or otherwise making available advertising time or space to private industry members conducting brand-name advertising which immediately precedes, follows, appears in juxtaposition, or appears in the midst of Board-sponsored advertising.

[58 FR 62503, Nov. 29, 1993, as amended at 61 FR 27003, May 30, 1996; 62 FR 3983, Jan. 28, 1997]

**§ 1160.210 Expenses.**

(a) The Board is authorized to incur such expenses (including provision for a reasonable reserve) as the Secretary finds are reasonable and likely to be incurred by the Board for its administration, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart; except that, after the Board's first year, it shall not spend on its administration more than 5 percent of the assessments collected during any fiscal period subsequent to the initial fiscal period. Such administrative expenses shall be paid from assessments collected pursuant to §1160.211.

(b) The Board shall reimburse the Secretary for administrative costs incurred by the Department from assessments collected pursuant to §1160.211.

(c) Within 30 days after funds are remitted from Regions 14 and 15, the Board shall provide a grant of 80% of

such funds to the entity authorized by the laws of the State of California to conduct an advertising program for fluid milk products in that State for the purpose of implementing a coordinated advertising program in the markets within those regions. Such grant shall be provided with the approval of the Secretary on the following conditions:

(1) The granted funds shall be utilized to implement a fluid milk promotion campaign within the markets within those regions. Verification of the implementation of this program shall be provided to the Board.

(2) The Board shall ensure that the recipients of these funds implement a research and evaluation program to determine the effect of such program on consumption of fluid milk within the region.

(3) The recipient of these funds must provide to the Board data from the research and evaluation programs so that the Board can determine the effect of the program on consumption of fluid milk.

**§ 1160.211 Assessments.**

(a) (1) Each fluid milk processor shall pay to the Board or its designated agent an assessment of \$.20 per hundredweight of fluid milk products processed and marketed commercially in consumer-type packages in the United States by such fluid milk processor. Producer-handlers required to pay assessments under section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)), and not exempt under §1160.108, shall also pay the assessment under this subpart. No assessments are required on fluid milk products exported from the United States. The Secretary shall have the authority to receive assessments on behalf of the Board.

(2) The Secretary shall announce the establishment of the assessment each month in the Class I price announcement in each milk marketing area by adding it to the Class I price for the following month. In the event the assessment is suspended for a given month, the Secretary shall inform all fluid milk processors of the suspension in the Class I price announcement for that month. The Secretary shall also

inform fluid milk processors marketing fluid milk in areas not subject to milk marketing orders administered by the Secretary of the establishment or suspension of the assessment.

(3) Each processor responsible for remitting an assessment shall remit it to the Board not later than the last day of the month following the month that the assessed milk was marketed.

(b) Such assessments shall not:

(1) Reduce the prices paid under the Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

(2) Otherwise be deducted from the amounts that handlers must pay to producers for fluid milk products sold to a processor; or

(3) Otherwise be deducted from the price of milk paid to a producer by a handler, as determined by the Secretary.

(c) Money remitted to the Board or the Board's designated agent shall be in the form of a negotiable instrument made payable to the Board or its agent, as the case may be. Processors must mail remittances and reports specified in §§1160.108, 1160.211(a)(1), 1160.213, 1160.214, and 1160.401 to the location designated by the Board or its agent.

[58 FR 62503, Nov. 29, 1993, as amended at 62 FR 3983, Jan. 28, 1997]

**§ 1160.212 Influencing governmental action.**

No funds collected by the Board under this subpart shall in any manner be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this subpart.

**§ 1160.213 Adjustment of accounts.**

Whenever the Board or the Secretary determines through an audit of a processor's reports, records, books or accounts or through some other means that additional money is due the Board or to such processor from the Board, the Board shall notify that person of the amount due or overpaid. If the processor owes money to the Board, it shall remit that amount by the next date for remitting assessments as provided in §1160.211. If the processor has