

IMPORTANT INFORMATION ABOUT ZONE SCHEDULES

This zone schedule is being made available pursuant to 15 CFR 400.44(e), which states: “The Board shall make copies of zone schedules available on its Web site.”

Availability of this zone schedule on the FTZ Board’s website does not imply that the FTZ Board has approved any rate/charge, policy or other content of this zone schedule. In particular, while the FTZ Board staff intends to conduct spot checks over time, zone schedules are not reviewed for compliance with the public utility requirement (19 U.S.C. 81n, 15 CFR 400.42) prior to making the zone schedules available via the Board’s website.

Pursuant to 15 CFR 400.44(b)(4), a grantee may not assess any specific rate or charge for which the amount – or formula for calculating the amount – does not appear in the zone schedule that the grantee has submitted to the FTZ Board.

Complaints about a grantee’s compliance with statutory and regulatory requirements related to public utility and uniform treatment – including rate or charge amounts/formulas, a grantee assessing a rate or charge amount/formula that does not appear in its zone schedule, and a grantee not affording uniform treatment under like conditions – may be presented to the FTZ Board under 15 CFR 400.45 (which also allows for complaints to be made on a confidential basis, if necessary).

Questions or concerns may be addressed to the FTZ Board staff at (202) 482-2862 or ftz@trade.gov.

ZONE SCHEDULE No. 3

FOREIGN-TRADE ZONE NO. 98

GRANTEE: City of Birmingham, Alabama

Effective Zone Schedule Date: February 24, 2014

February 24, 2014

FOREIGN-TRADE ZONE NO. 98 ZONE SCHEDULE NO. 3

ADMINISTRATIVE PAGE

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TABLE OF CONTENTS

DESCRIPTION OF FOREIGN-TRADE ZONE NO. 98	1
ZONE POLICY	2
OPERATIONS IN ZONES	5
GENERAL REGULATIONS.....	9
REGULATIONS PERTAINING TO MERCHANDISE.....	13
RATES AND CHARGES	15
DEFINITIONS	18

DESCRIPTION OF FOREIGN-TRADE ZONE NO. 98

Foreign-Trade Zone No. 98 was established by Board Order No. 247 on May 7, 1984, and expanded (FTZ Board Order 330) to include additional sites in Birmingham. The Grantee is the City of Birmingham.

The General-Purpose Zone of Foreign-Trade Zone No. 98 consists of 13 sites totaling 8,796 acres.

- Site 1 116 acres within the Airport North/Northeast Industrial Park in Birmingham;
- Site 2 1.8 acres within the Shaw Warehouse Complex in Birmingham;
- Site 3 283 acres within the ACIPCO Industrial area in Birmingham;
- Site 4 29 acres within the Oxmoor Industrial Park in Birmingham;
- Site 5 50 acres within the Birmingham International Airport Air Cargo Center;
- Site 6 100 acres within the Munger/Valley East II Industrial Park in Birmingham;
- Site 7 32 acres within the Airport Industrial Center in Birmingham;
- Site 8 3 acres located at the facilities of Mid-America Engine in Warrior;

Activated Subzones include:

- 98-A. Operator: Mercedes-Benz U.S. International
- 98-D. Operator: NACCO Materials Handling Group

The Foreign-Trade Zone project is administered by the Birmingham Foreign-Trade Zone Corporation, the Zone Project Administrator. All activated General-Purpose sites and subzone sites are operated pursuant to an Operator Agreement between the Operator or Operators at each site and the Birmingham Foreign-Trade Zone Corporation, the Zone Project Administrator. Upon an Operator's request, its Operator Agreement may also include the City of Birmingham – the Zone Grantee – as a party to that Agreement. All Agreements to which the City of Birmingham is a party must receive the prior approval of the Birmingham City Council.

ZONE POLICY

SCHEDULE AUTHORITY

This Schedule is published pursuant to a Grant issued by the Foreign-Trade Zones Board, U.S. Department of Commerce, Washington, DC on May 7, 1984, to the City of Birmingham under provisions of Public Law No. 397, 73rd Congress, approved June 18, 1934, as amended. The Zone policy, rules, regulations, rates and charges of this schedule shall apply at Foreign-Trade Zone No. 98 and its Subzone unless otherwise provided for.

ZONE OPERATED AS A PUBLIC UTILITY

The rates and charges for privileges and services within a Zone shall be fair and reasonable, and the Grantee shall afford uniform treatment under like conditions to all users. The Board may determine whether the rates and charges are fair and reasonable.

BOARD REGULATIONS

Foreign-Trade Zone No. 98 is regulated by the Foreign-Trade Zones Board, Washington, DC under U.S. Code of Federal Regulations; Title 15, Chapter IV, Part 400. Copies of these regulations are maintained at the Birmingham Foreign-Trade Zone Corporation office for reference.

U.S. CUSTOMS REGULATIONS

Foreign-Trade Zone No. 98 is subject to special Customs regulations as defined in U.S. Code of Federal Regulations, Title 19, Chapter I, U.S. Customs, Part 146 - Foreign-Trade Zones; and the guidelines contained in the "CBP Foreign-Trade Zones Operations Manual." Copies of these publications are maintained at the offices of the City of Birmingham and those of the Birmingham Foreign-Trade Zone Corporation for reference.

INTERPRETATION OF SCHEDULE

The Grantee shall interpret and determine the applicability of any rates, rules, regulations, or services provided for in this schedule.

PRIVILEGES OF FOREIGN-TRADE ZONES

Section 3 of the Act, as amended, authorizes the following privileges:

"Foreign and domestic merchandise of every description, except such as prohibited by law, may, without being subject to Customs laws of the United States, except as otherwise as provided in this Act, be brought into a Zone and may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign and domestic merchandise, or otherwise manipulated, or be manufactured except as otherwise provided in this Act, and be exported, destroyed, or sent into Customs territory of the United States, therefrom, in the original package or otherwise; but when foreign merchandise is so sent from a Zone into Customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise:

Provided, that whenever the privilege shall be requested there has been no manipulation or manufacture affecting a change in tariff classification, the collector of Customs shall take under supervision and regulations prescribed by the Secretary of the Treasury, and whether mixed or manufactured with domestic merchandise or not may, under regulations prescribed by the Secretary of the Treasury, be exported or destroyed, or may be sent into Customs territory upon the payment of such liquidated duties and determined taxes thereon. If merchandise so taken under supervision has been manipulated or manufactured, such duties and taxes shall be payable on the quantity of such foreign merchandise used in the manipulation or manufacture of the entered articles. Allowance shall be made for recoverable and irrecoverable waste; and if recoverable waste is sent into Customs territory, it shall be dutiable and taxable in its condition and quantity and at its weight at the time of entry. When two or more products results from a manipulation or manufacture of merchandised in a Zone the liquidated duties and determined taxes shall be distributed to the several products in accordance to their relative value at the time of separation with due allowance for waste as provided for above:

Provided further, that subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles, the growth, product, or manufacture of the United States, on which all internal revenue taxes have been paid, or which have been admitted free of duty and tax may be taken into a Zone from the Customs territory of the United States, placed under the supervision of the collector, and whether or not they have been combined with or made part, while in such Zone, of other articles, may be brought back thereto free of quotas, duty or tax:

Provided further, that if in the opinion of the Secretary of the Treasury, their identity has been lost, such articles not entitled to free entry by reason of non-compliance with the requirements made hereunder by the Secretary of the Treasury shall be treated, when they re-enter Customs territory of the United States, as foreign merchandise under the provisions of the tariff and internal revenue laws in force at that time:

Provided further, that under the rules and regulations of the controlling Federal agencies, articles which have been taken into a Zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of:

- (a) The draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder, and;
- (b) The statutes and bonds exacted for the payment of drawback, refund, or exemption from liability of internal revenue taxes and for the purposes of the internal revenue laws generally and the regulations thereunder.

Such a transfer may also be considered an exportation for the purposes of the Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to Customs territory for domestic consumption except where the Foreign-Trade Zones Board deem such return to be in the public interest, in which event the article shall be subject to the provisions of the paragraph 1615 (F) of the Tariff Act of 1930, as amended:

Provided further, that no operation involving any foreign or domestic merchandise brought into a Zone which operation would be subject to any provision or provisions of Section 1807, Chapter 15, Chapter 16, Chapter 17, Chapter 21, Chapter 23, Chapter 24, Chapter 25, Chapter 26 or Chapter 32 of the Internal Revenue Code if performed in Customs territory, or involving the manufacture of any article provided for in Paragraph 367 or Paragraph 368 of the Tariff Act of 1930, shall be permitted in a Zone except those operations (other than rectification of distilled spirits and wines, or the manufacture of production of alcoholic products unfit for beverage uses) which were permissible under this Act prior to July 1, 1949.

Provided further, that articles produced or manufactured in a Zone and exported therefrom shall on subsequent importation into the Customs territory of the United States be subject to the import laws applicable to like articles produced or manufactured in a Zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the second provision of this section, may on such importation, be entered as American goods returned."

USE OF ZONE FACILITIES

Zone facilities will be used for the sole purpose of receipt, storage, handling, exhibition, manipulation, manufacturing, and related processing and shipment of foreign merchandise, and domestic merchandise as considered necessary to the conduct of an Operator's normal business in conjunction with the foreign merchandise. Operators shall not use or permit the Zone to be used for any other purpose without the proper written consent of the Grantee. Operators shall not do or permit anything to be done on or about the Zone which will in any way obstruct or interfere with the rights of other Operators or occupants of the Zone or injure or annoy them.

INSPECTION OF ZONE AREAS

The Grantee or Zone Project Administrator may inspect any activated area at any an all reasonable times to ascertain whether or not the conditions related to its proper use are being observed.

OPERATIONS IN ZONES

MERCHANDISE PERMITTED IN A ZONE

Foreign and domestic merchandise of every description, except in such as is specifically prohibited by law, may, without being subject to the Customs Laws of the United States, except as otherwise provided in the Act and the regulations made thereunder, be brought into a Zone.

- (a) Merchandise, which is specifically and absolutely prohibited by law, shall not be admitted into a Zone. Any merchandise so prohibited by law that is found within a Zone shall be disposed of in the manner provided for in laws and regulations applicable to such merchandise. A distinction is made between (i) Merchandise which is specifically and absolutely prohibited by law on the grounds of policy and morals, such as immoral or subversive literature, obscene articles, or lottery matter and (ii) Merchandise which is subject to conditional prohibition only, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal Agencies. Port Directors of Customs are required to exclude the first class of articles and may not permit them to be transferred to a Zone if they are aware of their prohibited status except that the Port Director may permit the temporary deposit of any such merchandise in the Zone pending final determination of its status. The transfer of articles of the second class to a Zone is subject to any requirements of the Federal agency concerned. There is no prohibition against placing over quota merchandise in a Zone pending its rights to transfer to Customs territory pursuant to the applicable quota's provisions.
- (b) The application for the admission of merchandise into a Zone shall be approved or disapproved by the Port Director as the representative of the Board, where the merchandise is not excluded by any other Federal agency having jurisdiction over the merchandise.
- (c) Zone procedures may not be used to circumvent the laws and regulations. Upon order of the Secretary of the Commerce, or his designee, the Commissioner of Customs, or his designee, shall direct that an importer place goods in a specific status for this purpose, subject to appeal to the Board.

DISPOSITION OF MERCHANDISE IN A ZONE

In general, merchandise lawfully brought into a Zone may in accordance with these and other regulations made under the provisions of the Act, may be exported, destroyed or sent into Customs territory of the United States in the original package or otherwise; but when foreign merchandise, and domestic merchandise whose identity has been lost, is sent from a Zone into the Customs territory of the United States, it shall be subject to the laws and regulations of the United States affecting imported merchandise.

MANIPULATION, MANUFACTURE, AND EXHIBITION OF MERCHANDISE

In general, merchandise lawfully brought into a Zone may, in accordance with these and other regulations made under the provisions of the Act, be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign and domestic merchandise, or

otherwise manipulated, or be manufactured or processed with the prior approval of the Board as otherwise provided by the Act.

- (a) Permission for any manipulation or exhibition in a Zone shall be obtained from the Port Director of Customs, as the representative of the Board, subject to such application and procedure prescribed by the Secretary of the Treasury for the protection of the revenue.
- (b) In the event of the denial of any application by the Port Director of Customs for any reason, the applicant, the Grantee, Zone Project Administrator, or the Operator of the Zone may appeal the adverse ruling to the Board. If any revenue protection considerations are involved in such an application, the Board shall be guided by the determinations of the Secretary of the Treasury with respect to them.

STATUS OF MERCHANDISE IN A ZONE

- (a) For the purpose of the Act and the regulations of this section, all merchandise within a Zone, except merchandise in-transit through a Zone as provided in Sections 146.14 and 146.13 of Customs Regulations, and except merchandise temporarily transferred to a Zone for manipulation as provided in paragraph (b) of this section, shall be given a Zone status as (i) Privileged Foreign Merchandise, (ii) Non-Privileged Foreign Merchandise, (iii) Domestic Merchandise, or (iv) Zone Restricted Merchandise.
- (b) Imported Merchandise, which has been entered and which has remained in continuous Customs custody, may be temporarily transferred to a Zone for manipulation under Customs supervision pursuant to Section 562, Tariff Act of 1930, as amended, and for return to Customs territory. Any such merchandise shall not be considered within the purview of the Foreign-Trade Zones Act, but shall be treated in all respects as though remaining in Customs territory. Therefore, no Zone form or procedure shall be considered applicable, but the merchandise shall remain subject in the Zone to such requirements as are necessary for the enforcement of Section 562 and other pertinent Customs laws.

USE OF ZONE BY CARRIERS

The cargo facilities, and service of a Zone area, are intended primarily for the use of vehicles, or aircraft lading or unlading Zone merchandise, and their use for other purposes may be terminated by the Commissioner of Customs if found to endanger the revenue, or by the Board if found to interfere with the primary uses of the Zone.

SUBSEQUENT IMPORTATION OF ZONE MERCHANDISE

Articles produced or manufactured in a Zone and exported therefrom shall, on subsequent importation into the Customs territory of the United States, be subject to the import laws applicable to like articles manufactured in a foreign country, except that articles produced or manufactured in a Zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the Second Proviso of Section 3 of the Act, as amended may, on such importation, be entered as American goods returned.

PUBLIC INTEREST PROVISION

Pursuant to 15(c) of the Act the Board has authority to restrict or prohibit any Zone operation "That in its judgment is detrimental to the public interest, health or safety".

In approvals of proposed production authority pursuant to § 400.14(a), the Board may adopt restrictions to protect the public interest, health, or safety. When evaluating production activity, either as proposed in an application or as part of a review of an operation, the Board shall determine whether the activity is in the public interest by reviewing it in relation to the evaluation criteria contained in 15 CFR § 400.27.

Other conditions/requirements, prohibitions and restrictions under Federal, State or local law may apply to authorized zones and subzones.

Ongoing zone operation(s) and activity may be reviewed by the Board or the Executive Secretary at any time to determine whether they are in the public interest and in compliance and conformity with the Act and regulations, as well as authority approved by the Board. Reviews involving production activity may also be conducted to determine whether there are changed circumstances that raise questions as to whether the activity is detrimental to the public interest, taking into account the factors enumerated in § 400.27. The Board may prescribe special monitoring requirements in its decisions when appropriate.

The Board may conduct a proceeding, or the Executive Secretary a review, to consider a restriction or prohibition on zone activity. Such proceeding or review may be either self-initiated or in response to a complaint made to the Board by a person directly affected by the activity in question and showing good cause. After a proceeding or review, the Board may restrict or prohibit any admission of merchandise or process of treatment in an activated FTZ site when it determines that such activity is detrimental to the public interest, health or safety.

RETAIL TRADE WITHIN A ZONE

Retail trade is prohibited in activated areas of zones, except that 1) sales or other commercial activity involving domestic, duty-paid, and duty-free goods may be conducted within an activated area of a zone under a permit issued by the zone grantee and approved by the Board, and 2) no permits shall be necessary for sales involving domestic, duty-paid or duty-free food and non-alcoholic beverage products sold within the zone or subzone for consumption on premises by individuals working therein. The Executive Secretary shall determine whether an activity is retail trade, subject to review by the Board when the zone grantee requests such a review with a good cause. Determinations on whether an activity constitutes retail trade shall be based on precedent established through prior rulings by CBP, as appropriate. Such prior rulings shall remain effective unless a determination is issued to modify their effect (after a notice-and-comment process, as appropriate).

RESIDENCE WITHIN A ZONE

No person shall be allowed to reside within a Zone except Federal, State, or Municipal Officers or agents whose resident presence is deemed necessary by the Board or U.S Customs and Border Protection.

CONTROLLED ACCESS TO ZONES

Plans for the controlled access of persons and vehicles to activated Zone areas shall be subject to the approval of the Port Director as part of his/her review for operation approval. All persons and vehicles entering such areas shall be subject to the requirements of U.S. Customs and Border Protection, Zone User, and the Zone Schedule.

HOURS OF BUSINESS AND SERVICE

Hours of business and service, for Customs purposes, shall be the same as those prescribed in Customs regulations. Hours for other business and service shall be those set forth in this Schedule.

SUBJECT TO CUSTOMS SUPERVISION

Zone operations are subject to the control of U.S. Customs and Border Protection, exercised mainly through the Port Director who shall be in charge of the Zones within the Port for purposes of enforcement of the requirements of the Act and regulations, the Board, and U.S. Customs and Border Protection.

Requirements for such matters as Zone forms, inventory control systems, cargo security standards, and physical security shall be determined by the regulations in 19, CFR Part 146.

GENERAL REGULATIONS

APPLICATION OF REGULATIONS

All persons and merchandise of every description entering or leaving activated Zone areas for any purpose whatsoever, shall be bound by the lawful regulations of the Foreign-Trade Zones Board, U.S. Customs and Border Protection, and Grantee of the Zone.

CONFIDENTIAL RELATIONSHIPS

The Grantee and Zone Project Administrator will take precaution to avoid the divulging of information regarding merchandise and services thereon performed in the Zone. Any Zone employee violating this confidential relationship will be suitably disciplined or discharged.

REPORTS TO GOVERNMENTAL AGENCIES

The Grantee is required to submit periodic reports to the Foreign-Trade Zones Board, or may be required to perform other acts as the Grantee of the Zone in compliance with governmental regulations. Operators are required to and shall cooperate with the Grantee in the creation and filing of any reports necessary to ensure compliance with governmental requirements.

GOVERNMENTAL LICENSES

Operators are responsible to obtain, maintain, and keep current any and all licenses, permits, certificates, or other authorizations required by any Federal, State, or Local governments that are or may be necessary in the conduct of business in or from the Zone.

OPERATOR AGREEMENTS

The Grantee requires that a Zone Operator Agreement be executed between the Operator and the Zone Project Administrator prior to any person or firm conducting Zone business in Foreign-Trade Zone No. 98 or any of its Subzones, and/or before any application, petition or request is formally submitted to the Foreign-Trade Zones Board. Upon an Operator's request, its Operator Agreement may also include the City of Birmingham – the Zone Grantee – as a party to that Agreement. All Agreements to which the City of Birmingham is a party must receive the prior approval of the Birmingham City Council.

PUBLIC INTEREST, HEALTH, AND SAFETY

No merchandise, operation, or process of treatment will be permitted in the Zone that is detrimental to the public interest, health, and safety.

PUBLIC WAREHOUSE OPERATIONS

Public warehousing services may be performed in the Zone by private firms under an Operator Agreement with the Zone Project Administrator. Upon an Operator's request, its Operator Agreement may also include the City of Birmingham – the Zone Grantee – as a party to that Agreement. All Agreements to which the City of Birmingham is a party must receive the prior approval of the Birmingham City Council.

INDEMNITY BOND

Operators shall be required upon notice by the Grantee to post an indemnity bond executed on a form and by a U.S. Surety acceptable to the Grantee, or other security payable to the Grantee as a guarantee of payment of Customs duty or taxes or other obligations of or to the Grantee under the following circumstances:

- (a) Operator does not have a sufficient beneficial interest in inventoried merchandise to pay the estimated duty/taxes;
- (b) Operator accepts delivery of a shipment of unusually high duty/tax liability;
- (c) Value of Operator or user inventory is insufficient to compensate U.S. Customs and Border Protection for possible duty/tax obligations payable on merchandise inventory shortages and/or financial obligations;
- (d) A significant increase in duty/tax liability due to changes in Customs regulations, foreign currency valuations, etc;
- (e) Other situations, which require appropriate security to protect past, present, or future obligations or liabilities of the Grantee or Zone Project Administrator.

INSURANCE

Insurance is carried by the Grantee and Zone Project Administrator on their own property only and does not include insurance on any contents stored within the Zone. Operators and Users shall not do or permit anything to be done in or about the Zone nor bring or keep anything in the Zone which will in any way increase the existing rate of or effect any fire or other insurance upon the building or any of its contents, or cause cancellation of any insurance policy covering any Zone building or any part thereof or any of its contents. Insurance on commodities or other property stored in the Zone, if desired, must be carried by and at the expense of the Operator, User, or owner of the commodities or other properties. Merchandise stored, manipulated, or transferred within the Zone is not insured by the Grantee or the Zone Project Administrator. The Zone Schedule rates do not include insurance on merchandise.

INDEMNIFICATION

Each Operator shall indemnify and hold harmless the Grantee and the Zone Project Administrator from and against any and all loss, cost (including attorney's fees), damages, expense, and liability (including statutory liability and liability under Workman's Compensation Laws) in connection with claims for damages as a result of injury or death of any person or persons or property damages to any property sustained by Operator, User and/or all other persons which arise from or in any manner grow out of any act or neglect on or about the Zone by Operator, Operator's partners, agents, employees, customers, invitees, contractor, or subcontractors. Additionally, the Operator shall be responsible for and pay any fines, (including Customs fines, penalties, and liquidated damages), penalties, claims, legal fees, suits, or other costs, arising out of any action or omission, accident, or any other occurrence at its Zone site and shall hold harmless the Grantee and the Zone Project Administrator from any and all liabilities and costs arising out of any fines, (including Customs fines, penalties, and liquidated damages,) penalties, claims legal fees, suits, or other costs arising out of any action or omission, accident, or any other occurrence at the Operator's Zone site.

RELEASE OF GRANTEE AND ZONE PROJECT ADMINISTRATOR FROM LIABILITY

In consideration of permission granted Operator to enter the Zone and participate in it activities, Operator, for itself, its heirs, legal representatives, agents, partners, employees, customers, invitees, and assignees, releases, premises, and discharges the Grantee and Zone Project Administrator and their directors, officers, servants, agents and employees of and from all damage, claim, demand, action, and cause of action of any sort of loss, damage, or destruction to buildings or contents, or to property or merchandise of any kind located or stored in the Zone by the Operator or by any other person with the consent or knowledge of the Operator and without regard to whether such loss or damage be the result of negligence or misconduct of any person in the employ of the Grantee or Zone Project Administrator.

LIABILITY INSURANCE

All persons or firms conducting business operations within the Zone or Subzone, in accordance with an Operator Agreement with the Zone Project Administrator shall carry, and keep in force, those insurance levels required by the Operator Agreement.

PERSONS ENTERING AND LEAVING ZONE

Employees and other persons entering and leaving activated Zone areas shall pass through the designated entrances to the activated Zone area. Employees and other persons shall be subject to such examination upon entering and leaving the Zone area as the Operator or Grantee may deem necessary for the protection of the revenue and security of the Zone.

REGULATIONS APPLICABLE AT SUBZONES

Manufacturing or production activities within the General-Purpose Zone may only be conducted with the prior approval of such activity by the Foreign-Trade Zones Board. "Subzones" are special-purpose ancillary Zone sites authorized by the Board through Grantees of public Zones for operations by individual firms that cannot be accommodated within an existing Zone when it can be demonstrated that the activity, usually manufacturing or production, will result in significant public benefits. They are considered noncontiguous extensions of Zones for single users, usually at their own facilities, and in this sense, are private rather than public Zone facilities. Separate Zone sites within an industrial or commercial complex subject to common management and covenants may be considered contiguous, and thus a part of the general purpose Zone, rather than as Subzones.

In reviewing proposals for Subzones the Foreign-Trade Zones Board and the Grantee will, in addition to the economic factors for public Zones consider:

- (1) Whether the operation can be accommodated in the public Zone serving the area;
- (2) Whether efforts have been made to accommodate the operation, such as enlarging the public Zone area, the cost of locating in a public Zone not being a determining factor.

All persons and entities doing business within a Subzone established by the Grantee must comply with the provisions of the Foreign-Trade Zones Act; with the rules, regulations, and procedures of the Foreign-Trade Zones Board; with such laws and regulations of the United States, the operators, occupants, their employees, and invitees, and operators of Subzones; and with such of the provisions of this Schedule and subsequent issues and modifications thereof as may be applicable to the operations conducted in the Subzone.

All persons and entities who request the Grantee to apply for authority to conduct production activities under Zone procedures, authority to alter the boundaries of the Zone, or establish a Subzone must first enter into an agreement with the Zone Project Administrator concerning proposed Zone or Subzone operations. This agreement will contain provisions including, but not limited to, those relating costs incident to public hearings and legal proceedings; charges for providing required Customs services; and, Startup and Activation and Operator Fees. (Upon an Operator's request, its Operator Agreement may also include the City of Birmingham – the Zone Grantee – as a party to that Agreement. All Agreements to which the City of Birmingham is a party must receive the prior approval of the Birmingham City Council.) Applicants for the establishment of a Subzone will bear application costs and charges resulting to preparing and filing of application whether or not the Foreign-Trade Zones Board favorably acts upon the application.

REGULATIONS PERTAINING TO MERCHANDISE

CUSTOMS PERMIT

Merchandise will not be delivered to or through Customs territory unless a delivery order is accompanied by a Customs permit.

TRANSPORTATION

Transfer of foreign merchandise between Customs territory and the Zone, or through Customs territory, must be made by Customs bonded trucks or other carriers and in accordance with Customs regulations.

TENDER FOR ACCEPTANCE

All merchandise for Zone movement shall be delivered at designated points properly marked and packed and accompanied or preceded by necessary documents for preserving the identity of such merchandise.

CUSTOMS INSPECTION OF MERCHANDISE

The consignee, the Zone Operator, or agent, shall at all times be immediately available to make merchandise available and ready for inspection as may be required by U.S. Customs and Border Protection, and shall have the sole responsibility of opening crates and packages, handling the merchandise, and securing the crates and packages following inspection. In the event that the consignee or his agent is not immediately available for inspections, Zone personnel are authorized to open such packages for U.S. Customs and Border Protection and shall not be liable for any loss or damage to the goods for any reason.

INVENTORY PROCEDURES

Zone Operators are responsible for establishing and maintaining an Audit Inspection Inventory Control System acceptable to U.S. Customs and Border Protection, and the Grantee for all merchandise in their care, custody, and control. Inventory actions may be conducted by the Operator or through an agent authorized to maintain inventory records and to represent the Operator in inventory matters. The Zone Project Administrator may monitor records as necessary, and may conduct periodic selective inventories of merchandise.

FOREIGN-TRADE ZONE FORMS

The following U.S. Customs Service Forms are available upon request to the Zone Project Administrator:

- (1) Customs Form 214 - Application for Foreign-Trade Zone Admission and/or Status Designation of Merchandise;
- (2) Customs Form 216 - Application for Foreign-Trade Zone Activity Permit (manipulation, Manufacture, Exhibition or Destruction of Merchandise).

PERMIT TO MANIPULATE, MANUFACTURE, PROCESS AND EXHIBIT

Before merchandise may be manufactured, processed, manipulated, or exhibited within the Zone, application must be presented the Port Director of Customs for approval.

TRANSITING MERCHANDISE

Merchandise transiting the Zone under the provision of CR 146.14 must leave the Zone within five (5) working days after arrival. Working days do not include Saturday, Sunday or Holidays. Items remaining in the Zone beyond five (5) working days will lose the "transiting" status and will be admitted into the Zone as merchandise under supervision of U.S. Customs and Border Protection unless the Port Director of Customs authorizes an extension.

MARKING

All merchandise handled in the Zone, before entry to Customs territory, must be truly marked in accordance with Customs regulations as to the country of origin and in accordance with all other government regulations, and no merchandise will be permitted to leave the Zone for any purpose that carries any false or misleading label or mark. When repacked or labeled in the Zone, the goods should, when possible, be marked to indicate that fact.

PROHIBITED MERCHANDISE

A list of merchandise specifically prohibited from admission to the Zone is available upon request to the Zone Project Administrator.

PUBLIC WAREHOUSE OPERATING REQUIREMENTS

Private firms may enter into an Operator agreement with the Zone Project Administrator to offer public warehousing facilities and services within the Zone. The warehouse firm will be required to comply with the Foreign-Trade Zone No. 98 public warehouse minimum standards as may established by the Grantee. Upon an Operator's request, its Operator Agreement may also include the City of Birmingham – the Zone Grantee – as a party to that Agreement. All Agreements to which the City of Birmingham is a party must receive the prior approval of the Birmingham City Council.

UNIFORM PROCEDURES REGARDING CONSTRUCTION OF BUILDINGS AND FACILITIES

All uses and development of the lands of the Zone shall be in compliance with all applicable Zoning Ordinances of the appropriate local government, which has zoning jurisdiction, and applicable covenants that run with the land.

RATES AND CHARGES

RESPONSIBILITY FOR DUTY AND TAXES

Operators and/or Users of the Zone are responsible and liable for payment of any duties, taxes, fines, penalties, or liquidated damages, due any agency of the Federal, State or Local government arising from use of the Zone, including liabilities on merchandise which is not accounted for to the satisfaction of U.S. Customs and Border Protection. In the event the Grantee or Operator is required to pay any duty or tax to U.S. Customs and Border Protection under conditions of the Customs Bond maintained by Grantee or Operator, the person responsible for payment of the duty or tax will immediately reimburse the Grantee or Operator for such payments. Such person shall be liable to the Grantee or Operator for all costs, expenses, and attorney fees, which may be incurred or sustained by the Grantee or Operator by reason of collection of such duty or taxes. Any sums due to the Grantee or Operator under the provisions of this paragraph shall constitute a lien against the interest of the User in the Zone and all its property situated in the Zone to the same extent and on the same condition as delinquent rent would constitute a lien on such premises and property.

CUSTOMS FEES

The Operator shall pay any Customs fees connected with its conducting business within the Zone. Such Customs Fees may include activation and deactivation fees, alteration fees, transaction fees, and annual fees. (Note: Such fees were suspended for the period in which Merchandise Processing Fees are imposed by U.S. Customs and Border Protection.)

CUSTOMS BOND FEES

Each Operator provides a Foreign-Trade Zones Operator's Bond to U.S. Customs and Border Protection, which is applicable to all merchandise in the Zone that is under U.S. Customs and Border Protection supervision. The amount of the bond required for a specific facility is established by U.S. Customs and the appropriate cost of the bond will be borne by the Operator, and may subsequently be billed to any User operating under that Operator's bond.

OPERATOR FEES

Each Operator within Foreign-Trade Zone No. 98 and its Subzones shall pay the Zone Project Administrator User fees as set forth in the table herein listed on the following two pages:

NON-MANUFACTURING/PRODUCTION OPERATORS

I. START-UP FEE

Amount: \$10,000

Payable: Upon execution of Foreign-Trade Zone Operator Agreement.

For: Review of development of Foreign-Trade Zone inventory control system, preparation of systems and procedures manual, and activation application to CBP.

II. MONTHLY USER FEE

Amount:

Option A: \$35.00 per transaction; or

Option B: \$833.33 per month, which includes all shipments to other FTZ 98 Zone sites and an additional twenty transactions per month. An additional fee shall be charged for each transaction over twenty transactions as follows:

Transactions 21 through 60 \$20.00 each

Transactions 61 through 100 \$15.00 each

Transactions 101 and over \$10.00 each

Option C: \$2000.00 per month, which includes an unlimited number of transactions.

Payable: Fixed monthly user fee is due and payable in advance on the first day of each month. Transactions fees are due and payable thirty (30) days from the date of invoice. Operator fees commence upon activation by the U.S. Customs Service.

For: Routine Foreign-Trade Zone operations

Note: The term "transaction" means the movement or manipulation of any merchandise requiring a CF 214, CF 216, CF 7512, local transfer document, local control or authorization number, or customs entry. Multiple shipments made by individual zone users operating under Option "B" or utilizing a single customs or transfer document, and made on the same day, are considered as a single transaction. Documents made under Weekly Entry or Weekly Export/In-Bond procedures will count as 5 transactions per week.

MANUFACTURING/PRODUCTION OPERATORS

I. START-UP FEE

Amount: \$10,000

Payable: Upon execution of Foreign-Trade Zone Operator Agreement.

For: Review of development of Foreign-Trade Zone inventory control system, preparation of systems and procedures manual, and activation application to CBP.

II. ANNUAL USER FEE

	All Primary Manufacturers and their First Tier Suppliers	Second Tier Suppliers of Primary Manufacturers	Third Tier Suppliers of Primary Manufacturers
Amount:	\$35,000	\$30,000	\$25,000

Payable: Operator Fee is due and payable upon activation and each anniversary thereafter. Quarterly payments are optional.

For: Routine Foreign-Trade Zone operations.

Note: The term "Primary Manufacturer" refers to a Zone or Subzone manufacturer (operating under Manufacturing or Production Authority granted by the Board) whose products are of the highest value within the FTZ No. 98 production sequence (e.g. Mercedes-Benz).

CHARGES BY OTHER GOVERNMENT AGENCIES

Charges made by government agencies that are not included in this Schedule should be arranged for and paid by the Operator.

WHEN CHARGES ARE PAYABLE

Zone charges are due and payable as they accrue.

ENFORCEMENT OF CHARGES

For the purpose of enforcing the payment of charges provided for in this Schedule, the Grantee and the Zone Project Administrator may take possession of the merchandise, and may remove and store same at the charge, risk, and expense of the owner or consignee thereof and may sell the goods by public auction, and may avail itself of such other remedies as may be provided by law.

DEFINITIONS

ACT:

The Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 98-1003; 19 U.S.C. 81a-81u), as amended by Pub. L. 566, 81st Congress, approved June 17, 1950 (64 Stat. 246), and Pub. L. 791, 85th Congress, approved August 28, 1958 (72 Stat. 945).

ACTIVATION:

Approval by the Grantee and the Port Director of Customs for operations and for the admission and handling of merchandise in Zone status.

ADMISSION:

Physical arrival of goods in the Foreign-Trade Zone with the approval of the Zone Operator and Customs. The word "admission" is to be used instead of "entry" of goods into a Zone to avoid confusion with Customs entry processes under parts 141-144 of the Customs regulations.

ADMIT:

To bring merchandise into a Zone with Zone status.

AUDIT-INSPECTION INVENTORY CONTROL SYSTEM:

The procedures used to maintain the records necessary for inventory control of merchandise that is under the supervision and control of U.S. Customs and Border Protection (CBP).

BOARD:

The Foreign-Trade Zones Board established by the Act. The Board consists of the Secretary of Commerce and the Secretary of the Treasury. Each Board member designates an official of his/her Department, usually an Assistant Secretary, to serve as his/her alternate.

CITY OF BIRMINGHAM:

The City of Birmingham serves as the Grantee for U. S. Foreign-Trade Zone No. 98. The Grantee, as part of its trade and economic development services, provides zone services for the benefit of the public.

CUSTOMS TERRITORY:

The territory of the United States in which the general tariff law of the United States applies, but which does not include any activated Foreign-Trade Zone areas.

DOMESTIC MERCHANDISE:

Merchandise of every description (except articles specifically and absolutely prohibited by statute), which has been:

- (1) grown, produced or manufactured in the United States and not exported therefrom, or;
- (2) previously imported into Customs territory and properly released from Customs custody.

EXAMINER:

An employee of one of the Board agencies designated under the regulations to conduct or participate in an investigation concerning the establishment or expansion of a Zone or Subzone or other matter requiring a fact-finding determination and recommendation for Board action.

FOREIGN MERCHANDISE:

Merchandise of every description (except articles specifically and absolutely prohibited by statute), which has not been properly released from Customs custody into Customs territory.

FOREIGN-TRADE ZONE:

A Foreign-Trade Zone is a restricted access site, in or adjacent to a Customs port of entry, operated under public utility principles under the sponsorship of a corporation granted authority by the Foreign-Trade Zones Board. U.S. Foreign-Trade Zones are restricted areas, under supervision of U.S. Customs and Border Protection, in which, when activated under Zone procedures, merchandise is treated for Customs and taxation purposes as if it is outside the Customs territory of the United States. Foreign-Trade Zones are the U. S. version of what are generally known internationally as Customs free trade zones; however, U.S. Foreign-Trade Zones are different in several important respects from other types of free trade zones. Located in or near U. S. Customs Ports of Entry, Zones are operated under public utility principles by qualified corporations. Authority for establishing these facilities is granted by the Foreign-Trade Zones Board under the Act and regulations. The term "Foreign-Trade Zone" typically refers to a Zone environment known as a "General Purpose Zone." The General Purpose Zone is established to accommodate various Zone activities carried on by multiple users. Storage, distribution, testing, repair, and repackaging are typical of activities carried on within a General Purpose Zone. Manufacturing or processing activity within a General Purpose Zone requires prior approval by the Foreign-Trade Zones Board. "Foreign-Trade Zone" might, as a general term, include special purpose Subzones. If the Zone is designed to serve a special type of activity, the term "Subzone" may be used. Like the General Purpose Zone, Subzones are established under the sponsorship of a corporation granted authority by the Foreign-Trade Zones Board. (See "Grantee".) When a Zone consists of more than one site under the same Grantee, the sites shall be considered part of the same Zone project. Foreign and domestic merchandise may be moved into Zones for operations not otherwise prohibited by law involving storage, exhibition, assembly, manufacture or other processing. The usual formal Customs entry procedures and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the importer generally has a choice of paying the duty rate which applies to either the original foreign material or to the finished product. Quota restrictions do not normally apply to foreign goods in Zones, except that special procedures may apply when manufacturing is involved. Domestic goods moved into a Zone for export may, at the request of the exporter, be considered exported upon admission to the Zone for purposes of excise tax rebates and drawback.

GRANTEE:

The City of Birmingham, to which the privilege of establishing, operating, and maintaining Foreign-Trade Zone No. 98 and its Subzones has been granted.

HOLIDAYS:

The Zone will be closed on those days designated as Federal Holidays by the United States Government and recognized by U.S. Customs.

IMPORTS:

Foreign merchandise of every description (except articles specifically and absolutely prohibited by statute) entered into Customs territory to become a part of the domestic supply for the purpose of domestic commerce or consumption, and particularly that which is entered into Customs territory through the Zone and foreign merchandise which, under the laws and regulations of various other Federal agencies having jurisdiction within the Zone, is said to be "imported" into Foreign Trade Zones, Customs Bonded warehouse, or Customs custody. This latter merchandise, in relation to operations of the Zone, is considered to be foreign merchandise until its entry into the commerce of the United States.

IN-TRANSIT MERCHANDISE: The term "in-transit merchandise" includes all foreign merchandise transported into and out of the United States, whether in and out of the same port or across the country to another port, with or without transshipment, warehousing, breaking bulk, or change in mode of transportation, which originated in one foreign country and is destined at the same time of the original shipment to another foreign country. Its distinctive feature is that it is being transported from one foreign country through the United States to another foreign country, under a bill of lading or other documentation or a completed journey. The term is particularly applied to foreign merchandise shipped in-transit through a Foreign-Trade Zone.

MANIPULATION:

Means breaking up, repacking, assembling, distributing, sorting or grading, cleaning mixing with foreign or domestic merchandise, or other processing which does not constitute a manufacture.

NON-PRIVILEGED FOREIGN MERCHANDISE:

- (1) Foreign merchandise properly in the Zone that does not have status of:
 - (a) privileged-foreign merchandise, or;
 - (b) zone-restricted merchandise.
- (2) Waste recovered from any manipulation or manufacture of privileged foreign merchandise, or;
- (3) Domestic merchandise taken into a Zone whose identity has been lost.

OPERATOR:

A person or company that operates within a Zone or Subzone under the terms of an agreement with the Zone Grantee or third party on behalf of the Grantee, with the concurrence of U.S. Customs and Border Protection. A Zone or Subzone Operator is that party that accepts Customs liability for Zone or Subzone operations through a bond filed with U.S. Customs and Border Protection.

PORT DIRECTOR, U.S. CUSTOMS AND BORDER PROTECTION:

The U.S. Customs and Border Protection official so designated for Birmingham, Alabama. The Port Director is the Board's local representative for Foreign-Trade Zone No. 98 and any of its Subzones.

PORT OF ENTRY:

Places designated by the U.S. Government, at which a Customs officer is assigned with authority to accept entries of merchandise, collect duties, and enforce the various provisions of the Customs laws. Operators within Foreign-Trade Zone No.98 are under the supervision of the Birmingham, Alabama Customs Port of Entry.

PRIVILEGED-FOREIGN MERCHANDISE:

Foreign merchandise for which an application (CF 214) has been made for a determination of taxes and liquidation of duties, and which has been taken under supervision by the Port Director of Customs.

RE-EXPORTS OR RE-SHIPMENTS:

Merchandise from one foreign country initially destined to the United States which, after being unladen, stored, and/or manipulated or manufactured in this country, is transited under a new bill of lading or other new documentation to another foreign country. The term is particularly applied to re-exports or re-shipments through a Foreign-Trade Zone.

It includes privileged, non-privileged, or zone-restricted foreign merchandise which:

- (1) is in the same condition as when transported into the United States, or;
- (2) has been manipulated without any change in its form or nature, or;
- (3) has been manipulated or processed in such a manner as to change its form, whether or not mixed with domestic merchandise, provided the domestic merchandise is not a component part or substantial ingredient thereof.

Generally, it includes all merchandise of foreign origin, which has not been so manipulated or manufactured as to be deemed a product of the United States, and which has not been released from Customs custody into Customs territory.

SECRETARY:

The Secretary of Commerce.

STORAGE:

The keeping of merchandise in or upon the premises within the Foreign-Trade Zone. Covered storage means keeping within a covered and enclosed structure affording weather protection. The term "storage", with or without designation, ordinarily implies covered storage.

SUBZONES:

Special-purpose ancillary Zone sites authorized by the Board through Grantees of public Zones for operations by individual firms that cannot be accommodated within an existing Zone. Subzones are considered noncontiguous extensions of Zones for single users, usually at their own facilities and, in this sense, are private rather than public Zone facilities. Separate Zone sites within an industrial or commercial complex subject to common management and covenants may be considered as contiguous, and thus a part of the General Purpose Zone, rather than as Subzones.

All activated Subzones of FTZ No. 98 will be operated pursuant to Operator Agreements between the Subzone Operator and the Birmingham Foreign-Trade Zone Corporation. Upon an Operator's request, its Operator Agreement may also include the City of Birmingham – the Zone Grantee – as a party to that Agreement. All Agreements to which the City of Birmingham is a party must receive the prior approval of the Birmingham City Council.

TRANSSHIPMENT MERCHANDISE:

Foreign merchandise that enters and leaves the United States through the same port, being transferred from one vessel to another directly or by way of a Foreign-Trade Zone or Customs bonded warehouse. The term is particularly applied to such merchandise transferred through a Foreign-Trade Zone.

UNITED STATES:

The several states, District of Columbia and Puerto Rico. The term "United States" includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island Midway Islands, Kingman Reef, and the Island of Guam.

USER:

A person or firm using a Zone under an agreement with a Zone Operator.

ZONE:

The term "Zone" refers to any General Purpose Zone or Subzone site.

ZONE PROJECT: All of the Zone and Subzone sites established by the Board under a single Grantee, normally in a single Port of Entry area.

ZONE PROJECT ADMINISTRATOR:

Foreign-Trade Zone No. 98 is managed under contract with the Birmingham Foreign-Trade Zone Corporation, which serves as the Zone Project Administrator (also referred to as "Administrator"). The Zone Project Administrator is responsible for providing services to the City of Birmingham that enable it to fulfill its duties, obligations and responsibilities as a Zone Grantee.

ZONE-RESTRICTED MERCHANDISE:

Foreign or domestic merchandise taken into the Zone under the rules and regulations of the controlling Federal agency for the sole purpose of exportation or destruction (except destruction of distilled spirits, wine, and fermented malt liquors) or storage pending exportation or destruction.