# 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 <u>may not</u> 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.

# FOREIGN-TRADE ZONE NO. 40

**Operating under Authority of the U.S. Foreign-Trade Zones Board**

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**SCHEDULE OF**
**RULES, REGULATIONS, RATES**
**AND CHARGES OF FOREIGN-TRADE ZONE NO. 40**

**January 1, 2013**

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## CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY

**Grantee of Foreign-Trade Zone No. 40**

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**CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY**

**SCHEDULE OF**
**RULES, REGULATIONS, RATES AND CHARGES**
**OF FOREIGN-TRADE ZONE (FTZ) NO. 40**

# INTRODUCTION

This Schedule of Rules, Regulations, Rates and Charges (the Schedule) has been adopted under the authority of the U.S. Foreign-Trade Zones Board (the Board) by the Cleveland-Cuyahoga County Port Authority (CCCPA), as Grantee, through its administrative agent, the Northeast Ohio Economic & Trade Consortium (NEOTEC), of Foreign Trade-Zone Grant of Authority No. 40 (the Grant). The Board was created pursuant to, and the Grant was issued under, the Foreign-Trade Zones Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively the FTZ Act). This Schedule may be modified or amended or it may be repealed and a new Schedule may be adopted by CCCPA from time to time, in CCCPA's sole discretion, subject to the requirements of the FTZ Act.

# ADMINISTRATION DIRECTORY

| | |
|---|---|
| Grantee<br>Zone Office | Cleveland-Cuyahoga County Port Authority (CCCPA)<br>One Cleveland Center<br>1375 East Ninth Street, #2300<br>Cleveland, OH 44114<br>David Gutheil, VP Maritime & Logistics<br>216.241.8004 |
| Zone Administrator<br>Zone Administrator Office | Northeast Ohio Trade & Economic Consortium (NEOTEC)<br>NEOTEC<br>Kent State University Administrative Services Building<br>P.O. Box 5190<br>Kent, OH 44242<br>Ron DeBarr, President & CEO<br>330.672.4080 |
| Operator(s) | General-Purpose Zone Sites: Please see Appendix A<br>Subzone(s): Please see Appendix B |
| Customs | Lisa K. Santana Fox<br>Assistant Area Port Director Trade<br>U.S. Bureau of Customs & Border Protection<br>6747 Engle Road<br>Middleburg Heights, OH 44310<br>440.891.3800<br>Port Code: 4101 |
| Site Descriptions | Please see Appendix C. |

# DEFINITION OF FOREIGN-TRADE ZONE TERMS

The following defined terms are used throughout this Zone Schedule.

Activated Area: an area within the Zone that has been activated pursuant to the FTZ Act.

Activated User: a User located and/or doing business within an Activated Area.

Administrator or Administrative Agent: NEOTEC on behalf of Grantee, CCCPA.

Board: U.S. Foreign-Trade Zones Board of the United States Department of Commerce.

CCCPA: Cleveland-Cuyahoga County Port Authority, grantee of FTZ 40.

Customs: U. S. Bureau of Customs & Border Protection of the Department of Homeland Security.

Developer/Owner: means the owner and/or developer of an area within the Zone.

Developer/Owner License Agreement: a Developer/Owner License Agreement entered into between CCCPA and a Developer/Owner governing the Zone area described therein.

Domestic Merchandise: Merchandise which has been (i) produced in the United States and not exported there from, or (ii) previously imported into the Customs Territory of the United States and properly released from Customs' custody. Foreign Merchandise on which all necessary duties and taxes, as applicable, have been paid, and upon which no drawback has been claimed, is considered Domestic Merchandise when admitted to a foreign-trade zone.

Foreign Merchandise: imported Merchandise which has not been released from Customs' custody in the Customs Territory of the United States, including imported Merchandise upon which duties and taxes, as applicable, have not been collected.

FTZ: the Foreign-Trade Zone program contemplated by the FTZ Act.

FTZ Act: the Foreign-Trade Zones Act of 1934, as amended, and the rules and regulations of the Board promulgated thereunder.

General Purpose Zone: the general purpose zone established for multiple activities by multiple users under the FTZ Act pursuant to the Grant and all extensions, expansions and boundary modifications thereto.

Grant: grant of authority of the Board to the Cleveland-Cuyahoga County Port Authority (CCCPA) for Foreign-Trade Zone No. 40 issued on September 29, 1978, by Order No. 135 of the Board.

Grantee: CCCPA, as grantee of the Grant, which is administered by NEOTEC, as administrative agent of the CCCPA.

Merchandise: merchandise, including goods, wares and chattles of every description, except prohibited articles.

NEOTEC: Northeast Ohio Trade and Economic Consortium, an Ohio nonprofit corporation, as agent for the Cleveland-Cuyahoga County Port Authority (CCCPA), the Grantee.

Operator or Zone Operator: an Operator/User, a Warehouse Operator or a Subzone Operator.

Operator Agreement: an Operator/User Agreement, a Warehouse Operator Agreement or a Subzone Operator Agreement.

Operator/User: Operator and User under an Operator/User Agreement.

Operator/User Agreement: Zone Operator/User Agreement (Activated Area) entered into between CCCPA and an Operator/User for the Activated Area described therein.

Owner: owner of the Merchandise that is being admitted to, stored in, transferred from or otherwise availing of the benefits of the Zone.

Person: a firm, association, corporation, limited liability company, partnership, joint venture, trust, public or governmental body or other legal entity or natural person.

Procedures Manual: procedures manual adopted by an Operator pursuant to its Operator Agreement.

Rates and Charges: the Fee Schedule attached to this Schedule establishing the rates and charges for Zone No. 40, as from time to time amended by CCCPA.

Schedule or Zone Schedule: this Schedule of Rules, Regulations, Rates and Charges for Foreign-Trade Zone No. 40, including all Attachments hereto, adopted by the Grantee and as from time to time modified or amended or repealed and replaced, which has been submitted to the Board and to Customs.

State: State of Ohio.

Subzone: a special-purpose single-user ancillary zone site to Zone No. 40 authorized by the Board under the FTZ Act upon application of the Grantee for operations by individual Persons that cannot be accommodated within the existing area of the General Purpose Zone.

Subzone Operator: Operator of a Subzone under a Subzone Operator Agreement, which Subzone Operator may, but does not need to be, the Subzone User.

Subzone Operator Agreement: Subzone Operator Agreement (Activated Area) entered into between CCCPA and a Subzone Operator for the Subzone described therein.

User or Zone User: Person located and/or doing business within the Zone, whether or not within an Activated Area.

User Agreement: Zone User License Agreement (Non-Activated Area) entered into between CCCPA and a User for non-Activated area within the Zone.

Waiver Affidavit: a Waiver Affidavit signed by a User or a Developer/Owner requesting exemption from the Fee Schedule, thereby giving up any right or privilege of FTZ designation on the property of which can be eliminated by the Grantee at any time, without notice..

Warehouse Operator: Operator of a public warehouse under a Warehouse Operator Agreement.

Warehouse Operator Agreement: Zone Warehouse Operator Agreement (Activated Area) entered into between CCCPA and a Warehouse Operator for the Activated Areas described therein.

Warehouse User: user of an Activated Area located in a public warehouse operated by a Warehouse Operator.

Zone or Zone No. 40: General Purpose Zone and all Subzones existing pursuant to the Grant for Foreign-Trade Zone No. 40.

Zone Status: legal status of Merchandise in the Zone. The four categories of Zone Status are:

> *Privileged Foreign Status:* Foreign Merchandise or non-tax-paid Domestic Merchandise upon which the duty and applicable taxes have been determined at the time the status is approved using CF 214. The determined duty rate and taxes are not subject to future fluctuation. Once established, Privileged Foreign Status cannot be changed. If Merchandise has already been admitted into the Zone as Non-Privileged Foreign Status, Privileged Foreign Status may be obtained by filing CF 214, CF7502 and related documents. Application for Privileged Foreign Status must be filed prior to manipulation or manufacture.
>
> *Non-Privileged Foreign Status:* Foreign Merchandise or non-tax-paid Domestic Merchandise upon which the duty and applicable taxes will be determined at the time the Merchandise enters the Customs territory of the United States from the Zone for consumption.
> *Domestic Status:* Merchandise which includes (i) U. S. products on which all internal revenue taxes have been paid ; (ii) imported Merchandise on which all duty and/or taxes have been paid; and (iii) imported Merchandise which is free of duty and tax.
>
> *Zone Restricted Status:* Merchandise entered into the Zone for the purpose of exportation or destruction (other than alcoholic spirits or beverages). Merchandise with Zone Restricted Status may not be returned to the Customs territory of the United States for domestic consumption except as approved by the Board.

# I. PRINCIPLE GOVERNING REGULATIONS, MANUALS AND AGREEMENTS

## 1.1 BOARD ACT AND REGULATIONS

Zone No. 40 is governed by the Board under the FTZ Act (19 United States Code 81a-81u, as amended) and regulated by the Board Regulations (U.S. Code of Federal Regulations, Title 15, Part 400, as amended). Copies of the FTZ Act and the Board's regulations are maintained at the Zone offices for reference. Copies of the Board regulations shall be maintained, referred to and complied with by all Zone Operators and Users.

## 1.2 U.S. CUSTOMS REGULATIONS AND GUIDANCE

Zone No. 40 is subject to the regulations of the U.S. Customs and Border Protection (Customs) under U.S. Code of Federal Regulations, Title 19, Part 146. A copy of the regulations is maintained at the Zone offices for reference. Copies of these regulations shall be maintained, referred to and complied with by all Zone Operators and Users.

U.S. Customs and Border Protection publishes a Foreign-Trade Zones Manual to assist Operators in conforming with Customs Regulations. A copy of this publication is maintained at the Zone offices for reference. All Operators are required to maintain a current copy of the Customs Foreign-Trade Zones Manual in addition to the Customs regulations governing FTZs.

## 1.3 GOVERNMENT AGENCIES

Activated Users shall comply with all lawful regulations of government agencies in or about ports of entry insofar as they are not in conflict with Public Law 397 of the 73rd Congress and the regulations issued thereunder. All corporations, partnerships, and persons operating within activated zone areas are responsible to obtain, maintain, and keep current any and all licenses, permits, certificates or other authorizations required by any federal, state or local governmental authority that are or may be necessary in conducting business in or from Zone No. 40.

## 1.4 ZONE SCHEDULE

This Schedule has been prepared and adopted by the Grantee and contains the internal rules and regulations of Zone No. 40, governing the use of the Zone by Operators, Activated Users, other Users, Developers, Owners and other Persons. The Schedule includes the Rates and Charges for the Zone. CCCPA may from time to time amend or modify this Schedule and the Rates and Charges. CCCPA shall, in its discretion, interpret and determine the applicability of any provision of this Schedule and the imposition of the Rates and Charges provided for herein. However, any matter involving interpretation or action by Customs or another agency of the federal government will be determined by the Port Director of Customs or his duly appointed representative. A copy of this schedule is available at the Zone offices for reference.

### 1.5 PROCEDURES MANUALS

Each Operator shall draft and maintain a Procedures Manual in accordance with the Customs regulations as a condition of activation. The manual shall describe the inventory control, security and recordkeeping system(s) that will be used in the zone.

### 1.6 OPERATOR AGREEMENT

Each Operator will enter into one of the following agreements with CCCPA governing its ownership and/or use of an Activated Area within the Zone:

1. Operator/User Agreement
2. Warehouse Operator Agreement
3. Subzone Operator Agreement

### 1.7 DEVELOPER/OWNER AGREEMENT

Each Developer/Owner will enter into a Developer/Owner Agreement governing its ownership and/or development of areas with the Zone.

### 1.8 USER AGREEMENT

Each User of non-Activated areas within the Zone will enter into a User Agreement with CCCPA, unless such User is an Operator/User or a Subzone Operator and has entered into an Operator/User Agreement or a Subzone Operator Agreement.

## II. GENERAL RULES, REGULATIONS & POLICIES OF ZONE NO. 40

### 2.1 AVAILABILITY OF ZONE

All rates and charges for all services and privileges within the FTZ shall be fair and reasonable, and the Grantee, Administrator and Operator(s) shall afford to all who may apply for the use of the Zone and its facilities uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments. Users are subject to specific rules, rates, and charges of Operator(s).

All Zone services and facilities shall be administered fairly and reasonably. In addition, the availability of all said services and facilities is subject to the physical limitations of Foreign-Trade Zone No. 40, with said services and facilities available on a “first-come, first-served” basis.

## 2.2 PROPRIETARY INFORMATION

Proprietary information contained on Customs reports or in the inventory control and recordkeeping systems of Operators will not be disclosed to unauthorized persons. The Customs regulations provide for liquidated damages for unauthorized disclosure of proprietary information.

## 2.3 INDEMNITY BOND

Activated Users may be required upon notice by CCCPA to post an indemnity bond as a guarantee of payment of Customs duty or taxes or other obligations of or to CCCPA. CCCPA also may require the Operator or any Activated User to procure and maintain a so-called "back-to-back bond" to provide to CCCPA indemnity bond coverage.

## 2.4 LIABILITY OF GRANTEE/ADMINISTRATOR

The Grantee and the Administrator will not be held liable and cannot assume any responsibility for any loss or damage to freight, cargo or merchandise, or other property within the FTZ, or for any loss or damage arising from acts of commission or omission of Operators.

Insurance is carried by CCCPA and its Operators for their own property only. Merchandise stored, manipulated or transferred within Zone No. 40 is not insured by CCCPA or its Operators. The Rates and Charges imposed under this Schedule do not include insurance on Merchandise or other property.

## 2.5 USE OF ZONE FACILITIES

All Activated Areas will be used for the purpose of receipt, storage, handling, exhibition, manipulation, manufacturing and related processing and shipment of Foreign Merchandise and Domestic Merchandise considered necessary to the conduct of the normal business of an Activated User. Activated Users shall not use or permit to be used Zone No. 40 for any other purpose without the prior written consent of CCCPA. Users shall not do or permit to be done anything on or about Zone No. 40 that will in any way injure, obstruct or interfere with the rights of other Users or occupants of Zone No. 40.

## 2.6 INSPECTION OF ZONE AREA

CCCPA shall have the right to approve any sale of or lease for space within Activated Areas and to inspect any Activated Area at any and all reasonable times to ascertain whether or not the conditions related to the proper use of such Activated Areas are being observed.

## 2.7 SECURITY AND SAFETY REQUIREMENTS IN ZONE

In order to be approved for initial activation by Customs, all zone sites must meet certain security and safety requirements. All zone sites are subject to security inspections by Customs and/or the Grantee/Administrator. Procedures manuals shall include current information on the method of physical security and cargo security at the zone site(s). Each zone site will be considered separately to determine what Customs may require to protect the revenue of the United States, based on specific conditions of each zone site (i.e., description and value of merchandise, activities, overall risk assessment, etc.).

After a zone site has been activated, all security measures required to achieve the initial activation must be maintained at all times. Spot checks may be conducted by Customs and the Grantee/Administrator and liquidated damages or notices may be assessed if these requirements are found to be insufficiently met in any way.

Persons entering and leaving Activated Areas shall pass through the designated entrances to Activated Areas. Employees and other persons shall be subject to such examination upon entering and leaving Activated Areas as CCCPA or its Operator may deem necessary for the protection of the revenue and security of Zone No. 40.

All vehicles entering or leaving Activated Areas shall pass through their designated entrances of such Activated Areas. The vehicle, the driver and all contents of the vehicle shall be subject to such examination when entering, leaving or while within Activated Areas as CCCPA or its Operators or Subzone Operators may deem necessary for the protection of the revenue and security of Activated Areas.

No Merchandise, operation or process or treatment will be permitted in Zone No. 40 that is detrimental to the public interest, health and safety.

## 2.8 MERCHANDISE PERMITTED IN A ZONE

Foreign Merchandise and Domestic Merchandise of every description may be brought into Zone No. 40 without being subject to Customs laws, except as otherwise provided in the FTZ Act. Merchandise which is specifically prohibited by law shall not be admitted into the Zone. Any merchandise so prohibited by law which is found within a Zone shall be disposed of in the manner provided for in laws and regulations applicable to such merchandise.

## 2.9 ACTIVITIES PERMITTED IN ZONE

In general, Merchandise lawfully brought into Activated Areas in accordance with this Schedule and the FTZ Act may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with Foreign Merchandise and Domestic Merchandise or otherwise manipulated or be manufactured or processed, except as otherwise provided by the FTZ Act.

## 2.10 MANIPULATION OF MERCHANDISE

Before foreign merchandise may be manipulated within the Zone, the Operator will make application on CBPF 216 to Customs for approval. On approval, the contemplated manipulation may occur. A yearly, blanket CCBPFF 216 may be allowed by Customs.

## 2.11 MANUFACTURING IN THE ZONE

Manufacturing in the Zone will have been approved in writing by the Board prior to the commencement of any manufacturing activity. A CBPF 216 will also be required to be filed with Customs, after FTZ Board approval and prior to the manufacturing. A yearly, blanket CBPF 216 may be allowed by Customs.

## 2.12 STORAGE OF MERCHANDISE

Merchandise may be stored for an unlimited period of time in the Zone. Merchandise controlled under a Zone lot system must be physically segregated and marked by lot and lot number. Merchandise controlled under a UIN system does not need to be segregated or marked.

## 2.13 QUOTA CONTROLLED MERCHANDISE

Foreign merchandise subject to U.S. Government import quota controls may be placed in the Zone pending approval for transfer to Customs territory, or may be re-exported to a foreign destination.

## 2.14 EXHIBITION OF MERCHANDISE

Any merchandise admitted to the Zone may be exhibited. The Operator must obtain permission from Customs to exhibit merchandise by obtaining approval on a CBPF 216.

## 2.15 RETAIL TRADE WITHIN A ZONE

No retail trade shall be conducted within Activated Areas except under permits issued by CCCPA and approved by the Board. Only domestic, duty-paid and duty-free goods may be sold in such cases. Permits which are sent to the Board for approval will be accompanied by a sworn statement, subscribed to by the applicant before a duly authorized officer to administer oaths setting forth in detail the nature of the retail trade to be conducted, and containing an agreement that such applicants will sell no goods except of the kinds specifically authorized by the Act, which are brought into the Zone from Customs territory. No goods will be offered for sale or sold in a Zone which are not of the same kinds and quality permitted to be offered for sale or sold in the political jurisdiction in which the Zone is located. If the permittee violates any provisions of the regulations, his permit will be revoked by the Grantee, who will immediately report such action to the Board.

## 2.16 CHANGE IN ZONE STATUS

The Zone status of merchandise may be changed in the Zone. Merchandise in Nonprivileged Foreign (NPF) status may be changed to Privileged Foreign (PF) status if done prior to manipulation or manufacture effecting a change in tariff classification of the merchandise. PF status may not be changed to NPF status. Merchandise in PF or NPF status may be changed to Zone Restricted (ZR) status. The Operator will submit a CF 214 to Customs for approval of a Zone status change.

## 2.17 DESTRUCTION OF MERCHANDISE

Whenever Zone status merchandise is discovered damaged or merchandise is considered waste or scrap, it will be physically segregated, marked and otherwise secured to preserve its identity. Such merchandise may be held for return to the vendor, for destruction, or for Customs entry. All merchandise destroyed will be recorded in the Operator's inventory control and recordkeeping systems.

## 2.18 TEMPORARY REMOVAL FROM ZONE

Merchandise may be removed temporarily from the Zone for repair, restoration, or incidental operations upon application by the Operator to Customs and written approval from Customs.

## 2.19 RESIDENCE WITHIN A ZONE

No person shall be allowed to reside within Activated Areas except federal, state or municipal officers or agents whose resident presence is deemed necessary by the Board or Customs.

## 2.20 HOURS OF BUSINESS AND SERVICE

The Zone Administrator will be available for business activities during regular business hours. Regular business hours shall be between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except on holidays. The term "holiday", for the Grantee and Administrator, includes all federal holidays:

| | |
|---|---|
| New Year's Day | Labor Day |
| Martin Luther King Jr. Day | Columbus Day |
| President's Day | Veterans' Day |
| Memorial Day | Thanksgiving (Thursday – Friday) |
| Independence Day | Christmas Day |

Also, every day proclaimed by the President of the U.S. or the Governor of the State of Ohio to be a legal holiday.

Hours of business and service for Customs purposes shall be the same as those prescribed in Customs regulations.

### 2.21 RESPONSIBILITY FOR DUTIES AND TAXES

The Foreign-Trade Zone Board does not own or operate FTZs. Rather, it provides grants to applicants to establish, operate, and maintain Zones. CCCPA shall execute an Operator Agreement with one or more Persons for the operational management of Activated Areas within the Zone. Operators and/or Users are responsible and liable for payment of any and all charges, fees, duties or penalties 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 Customs.

## III. CCCPA FTZ OPERATIONS POLICY

### 3.1 GENERAL POLICY

CCCPA reserves the right to approve, disapprove, restrict, defer or withhold action or approval on any activity that does not meet the intent of this Schedule and the FTZ Act. CCCPA intends to operate its FTZ program as a public utility. It will consider the impacts of the FTZ projects and inform all public bodies that may be affected by its action. CCCPA reserves the right to make periodic reviews of the facilities and records of its Operators and their facilities.

All signage, marketing materials, and other documents utilized by Operators or Users, or promoting the use of Zone No. 40 must obtain the prior written approval by CCCPA.

### 3.2 MANUFACTURING/PROCESSING PERMITS

Any activity involving foreign merchandise which causes the merchandise to undergo a substantial transformation or changes the Customs tariff classification while in the Zone must be approved in advance by the Board before the activity may commence. The company must request that an application, completed by the company, be filed by CCCPA to the Board for approval of the contemplated operation.

### 3.3 GENERAL-PURPOSE ZONE POLICY

Each Activated User will enter into a Operator/User Agreement for its Activated Area. If the Activated User will not be the Operator for its Activated Site, the Activated User's designated Operator will enter into a Operator/User Agreement. CCCPA reserves the right to approve in advance an Operator designated by an Activated User.

A manufacturing operation shall not be permitted within an Activated Area without the prior approval of the Board.

A Person seeking to enter into an Operator Agreement with CCCPA must be able to demonstrate proficiency in the areas of warehousing, inventory control, provision of FTZ related services and to meet criteria of financial stability and integrity necessary to secure a U.S. Customs Bond and satisfy security requirements.

Nothing in this Schedule shall preclude CCCPA from acting as the Operator of one or more Activated Areas.

Each Operator, Developer/Owner and User of non-Activated area within the Zone will be charged the annual fees set forth in the Schedule of Rates and Charges.

CCCPA will periodically meet with and review each Operator's FTZ activity to insure that such Operator is able to adequately serve its Activated Users. The Operator will agree to pay all fees and expenses and to provide all information required by CCCPA.

**3.4 SUBZONE POLICY**

Subzones will be considered by CCCPA for operations by Persons that cannot be accommodated within the existing General Purpose Zone when it can be demonstrated that the activity (usually manufacturing) will result in significant public benefits.

An applicant or its agent seeking consideration by CCCPA for a Subzone operation must provide information in a reasonable form satisfactory to CCCPA that will allow CCCPA to make a decision whether to sponsor the proposed Subzone project. Any information designated as confidential by the applicant will be so maintained by CCCPA to the extent permitted by law.

Upon approval by CCCPA to sponsor a Subzone, the applicant shall prepare and submit to CCCPA for review and approval a complete application for Subzone grant that meets the requirements of this Schedule, the FTZ Act and any other applicable federal, state and local law for filing with the Board.

As part of the review of the applicant's Subzone application and before or after filing with the Board, CCCPA may require additional information or submissions in writing and subject the applicant to audit to verify the positions or statements made in the application in order to determine compliance by the applicant with this Schedule.

CCCPA reserves the right to refuse to sponsor or file any application with the Board. By submitting a request for a Subzone grant to CCCPA, the applicant acknowledges and agrees that CCCPA's determination of whether to sponsor or file an application with the Board shall be final and binding.

If an applicant desires to have a Subzone located within CCCPA's jurisdiction and if CCCPA has no site available in the General Purpose Zone or if such an available area is not suited for the proposed operations, CCCPA will assist the applicant in arranging for the acquisition of a suitable and available site.

Each Subzone User will enter into a Subzone Operators Agreement for the proposed Subzone. If the Subzone User will not be the Subzone Operator, the Subzone User's designated Subzone Operator will enter into a Subzone Operator Agreement. CCCPA reserves the right to approve in advance a Subzone Operator designated by an Subzone User.

Applicants for the establishment of a Subzone will bear all application costs and expenses relating to the preparation and filing of a Subzone application by CCCPA whether or not the application is favorably acted upon by the Board. Each applicant for Subzone status will pay to CCCPA the fees set forth in the Schedule of Rates and Charges applicable to that application and Activation. Such applicant shall pay or reimburse CCCPA for all costs incurred by CCCPA in processing and/or reviewing the Subzone application.

Each Subzone Operator will enter into a Subzone Operator Agreement with CCCPA. All Subzone Operators must be able to meet the operations requirements of CCCPA, the Board and Customs. A Subzone Operator shall pay to CCCPA such annual fees as shall be set forth from time to time in the Schedule of Rates and Charges.

### 3.5 RECORD RETENTION

Operators are required to retain records for five (5) years after merchandise is removed from the Zone. Records must be readily available for Customs review at the Zone site(s). Records must be made available to the Grantee and Administrator upon request.

### 3.6 CUSTOMS INSPECTION OF MERCHANDISE

Operators will make merchandise subject to Customs inspection immediately available to Customs at the Zone site(s) or a location designated by Customs, and will have the sole responsibility of opening crates and packages, handling the merchandise, and securing the crates and packages following the inspection.

### 3.7 FTZ OPERATOR'S BOND

Operators must maintain, for Customs purposes, an FTZ Operator's Bond in the amount required by Customs. This Bond is to assure compliance with Customs regulations. The bond is submitted on Customs & Border Protection Form (CBPF) 301. The bond provisions are set forth at 19 CFR 113.73, Customs Regulations. A failure to comply with the regulations may be deemed a "default" by Customs and result in the assessment of liquidated damages under the bond. The FTZ Operator's Bond is a separate bond type from an Importer's Bond.

### 3.8 INVENTORY CONTROL AND RECORDKEEPING SYSTEMS

Inventory control and recordkeeping systems used by Operators within the Zone to track zone merchandise must meet the requirements of the U.S. Customs Regulations. Under the Customs regulations, each Operator maintains the inventory records. U.S. Customs is relieved of the duty of actually keeping the records, but maintains assurance of the systems' accuracy by selective examinations of merchandise and spot checks and audits of Zone facilities. Each system must be capable of producing the following required results:

- Accounting for all merchandise, including domestic status merchandise, temporarily deposited, admitted, granted a zone status and/or status change, stored, exhibited, manipulated, manufactured, destroyed, transferred, and/or removed from a zone
- Producing accurate and timely reports and documents

- Identifying shortages and overages of merchandise in a zone in sufficient detail to determine the quantity, description, tariff classification, zone status, and value of the missing or excess merchandise
- Providing all the information necessary to make entry for merchandise being transferred to the Customs territory
- Providing an audit trail to Customs forms from admission through manipulation, manufacture, destruction or transfer of merchandise from a zone either by zone lot or Customs authorized inventory method

**3.9 INVENTORY PROCEDURES**

Operators are responsible for establishing and maintaining Inventory Control Systems acceptable to U.S. Customs for all merchandise in their care, custody, and control.

**3.10 ACTIVATION**

CCCPA will authorize and assist in all or some portion of the Zone becoming Activated Areas based on the following criteria as outlined in 19 CFR 146.6 and the Customs Foreign-Trade Zones Manual:

1) Written application to the Port Director of U.S. Customs & Border Protection
2) Procedures Manual establishing how the Zone Site will be operated, in conformance with Customs Regulations
4) Background information on company and key personnel responsible for zone management as required by U.S. Customs.
5) If activity involves processing/manufacturing, a description of the proposed activity and a copy of the Board approval
6) Appropriate form of Operator and User Agreements, duly executed, between all parties, covering the Zone site(s) for which activation is sought
7) Set up of a security inspection of the Zone site(s) by U.S. Customs with notice and invitation to participate given to Grantee
8) Written letter of commitment to arrange an electronic interface with Customs
9) Posting of FTZ Operator's Bond in amount specified by U.S. Customs
10) Blueprint of area to be activated
11) FTZ Signage

WARNING

THIS IS A U.S. FOREIGN TRADE ZONE. WHOEVER MALICIOUSLY ENTERS WITH INTENT TO REMOVE THEREFROM ANY MERCHANDISE, OR UNLAWFULLY REMOVES MERCHANDISE FROM THE BUREAU OF CUSTOMS & BORDER PROTECTION CUSTODY OR CONTROL SHALL BE GUILTY OF A FEDERAL CRIME AND FINED UP TO $250,000, IMPRISONED NOT MORE THAN 10 YEARS, OR BOTH. (18 U.S.C. 549, 3571, 659).

CCCPA will approve activation requests by resolution and provide the requisite activation concurrence to the applicant.

**3.11 DEACTIVATION**

An Operator may deactivate all or a portion of a Zone Site by notifying and obtaining the approval of the Grantee pursuant to the terms of the Operator Agreement between the Operator and the Grantee.

**3.12 ALTERATION**

An Operator may increase or decrease the amount of activated space within an authorized Zone site or Subzone by notifying and obtaining approval of the Grantee and Customs. See Schedule of Rates and Charges.

**3.13 THEFT OF MERCHANDISE**

Theft or suspected theft of any merchandise will be reported in writing to the District Director of Customs upon discovery. Every effort will be made by Operators to determine the facts and assist Customs and other federal or local agencies in any investigation and prosecution for theft.

**3.14 OVERAGES & SHORTAGES OF ZONE MERCHANDISE**

Operators will record all inventory overages and shortages of merchandise and report same as follows:

Overages – Excess foreign status merchandise, not properly admitted to the Zone, will be admitted to the Zone on a CBPF 214 or Customs entry will be made. The CBPF 214 or Customs entry will be filed with Customs along with a written report to Customs within five (5) days after identification of the overage.

Shortages – Shortages of one percent (1%) or more of the quantity of foreign status merchandise in a Zone lot or UIN, if the missing merchandise would be subject to duties and taxes of $100 or more upon entry to the Customs territory will be reported in writing to Customs upon identification of the shortages.

### 3.15 PHYSICAL INVENTORY

Operators will conduct an annual physical inventory of all merchandise in the Zone (unless cycle counts are taken as part of an ongoing inventory control program). Customs and the Administrator will be given at least ten (10) days notice prior to the date(s) when the annual physical inventory will be performed so that Customs and/or Administrator may participate if deemed necessary.

### 3.16 ANNUAL RECONCILIATION REPORT

Within ninety (90) days of the end of the Zone Operator(s) year, the Operator will prepare an annual reconciliation. An extension of the 90-day period may be requested from the Grantee and Customs for reasonable cause. The annual reconciliation will contain the following:

1. Description of merchandise for each Zone Lot Number or UIN
2. Zone Status
3. Quantity on hand at the beginning of the year
4. Cumulative Receipts (admissions) by unit
5. Cumulative transfers by unit
6. Quantity on hand at the end of the year
7. Cumulative positive and negative adjustments by unit to inventory with explanation

A copy of the annual reconciliation will be provided to the Grantee, but a copy need not be furnished to Customs unless requested. However, the Operator will submit to Customs and the Grantee within ten (10) working days after completion of the annual reconciliation, a letter declaring that the annual reconciliation has been prepared, is available for Customs review, and is accurate.

The letter will also contain any required reporting of shortages and overages of merchandise, verification that an annual internal review of the inventory and recordkeeping systems has been performed, the name and street address of the Operator where the required records are available for Customs review.

### 3.17 ANNUAL INTERNAL SYSTEMS REVIEW

Operators will also perform an annual internal review of the inventory control and record keeping systems under its supervision and will report to the Grantee and the Port Director of Customs any deficiency discovered and corrective action taken to ensure that the systems meet the requirement of the Customs Regulations.

### 3.18 FOREIGN-TRADE ZONES BOARD ANNUAL REPORT

The Grantee is responsible for preparing and filing with the Board an annual report summarizing all Zone activity from January 1 – December 31 of each year. The report will be filed by the Grantee by March 31 of the following year pursuant to current requirements of the Board, which can be found at www.ia.ita.doc.gov/ftzpage/annual-report.html.

In order for the Grantee to meet its responsibility in this regard, each Operator will complete a report, so that sufficient data is available to the Grantee to complete the Foreign-Trade Zone Board Annual Report. The Operator will complete the report based on the Board requirements and guidelines, and submit it to the Grantee by February 15 of each year for the previous calendar years' activity.

# Foreign-Trade Zone 40
# SCHEDULE OF RATES AND CHARGES
(Effective January 1, 2013)

## I. Activated-User/Operator- General Purpose Zone

Annual Administrative Fee: $20,000

## II. Non-Activated Company – company owning and/or occupying property

*Option 1. Flat fee of $1,500 per year for 1st year
Flat fee of $3,000 per year for 2nd year
Flat fee of $4,500 per year for 3rd year

Option 2. Waiver of fees (relinquishes any future rights to FTZ status – Grantee can remove designation at any time)

Note: Company can choose option 1 or 2

## III. Property Owner/Developer

*Option 1. Flat fee of $1,500 per year for 1st year
Flat fee of $3,000 per year for 2nd year
Flat fee of $4,500 per year for 3rd year

Option 2. Waiver of fees (relinquishes any future rights to FTZ status – Grantee can remove designation at any time)

Exemption: Ownership by Public entities.

## IV. Public Warehouse Operator

*Option 1. Activated: $2,500 per year
Non-Activated: $1,500 per year

Option 2. Waiver of fees (relinquishes any future rights to FTZ status – Grantee can remove designation at any time)

**Note:** Public Warehouse Operator can choose option 1 or 2

## V. General Purpose Zone Operator

*Option 1. $2,500 per year

## VI. SubZone Operator/User

Annual Administrative Fee: $20,000

# Foreign-Trade Zone 40
# SCHEDULE OF RATES AND CHARGES
(Effective January 1, 2013)

## New Site Designation/Change Order Fees

1. New GP Zone and Sub Zone parcel in CCCPA Service Area
   Application fee for new Zone parcel designation - $10,000

2. Changes to Pending Applications
   Request for change to pending Application for new Zone parcel designation - $2,000

## Existing Zone Area Boundary Modification and Change Order Fees

1. Application fee for existing Zone parcel boundary modification -$5,000

2. Request for change to pending Application for existing Zone parcel boundary modification fee - $2,000

### Application Processing Fees

**NOTE:** The fees listed above for new site and boundary modifications are one-time CCCPA administrative fees. An additional one-time fee to process an application and monitor the application through approval will be quoted based on the scope of the project.

## Fee for Consent to Transfer Ownership of Zone Property/Change of Control or Ownership of Company

1. Transfer of Zone Area
   Request for consent to sell and/or transfer ownership interest in Zone area - $500

2. Change of Control
   Request for consent to a change of control of ownership in Zone area - $500

## De-Activation & Re-Activation Fees

1. De-Activation: $2,500

2. Re–Activation: Based on scope of work required