

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).

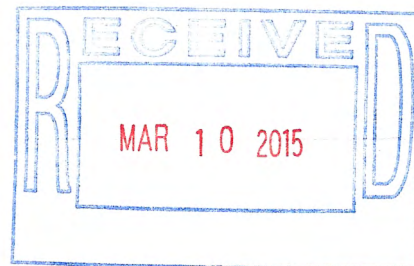
Questions or concerns may be addressed to the FTZ Board staff at (202) 482-2862 or ftz@trade.gov.



2301 Airport Drive
Grand Forks, ND 58203
701-795-6981
701-795-6979 fax
www.gfkairport.com

February 27, 2015

Mr. Andrew McGilvray
Executive Secretary/Staff Director
Foreign-Trade Zone Board
United States Department of Commerce
1401 Constitution Ave., NW, Room 21013
Washington, D.C. 20230



RE: Letter Dated February 5, 2015

Dear Mr. McGilvray:

Please find the attached, Board Approved rates and charges for Foreign Trade Zone 103 as requested per your letter dated February 5, 2015.

We have also met with the North Dakota Office of Foreign Trade and are working on a plan to partner with Grand Forks County and the Grand Forks Region Economic Development Corporation (EDC) to improve our Foreign Trade Zone. We had a collaborative meeting on February 27, 2015 and the ND Foreign Trade office is going to work with us to review consultants for update of our application. Future discussions will be had on the partnership levels of the EDC and County.

Grand Forks is just starting what is a new venture of Unmanned Aircraft and feel there are real opportunity to utilize the Foreign Trade Zone with future businesses that are interested in our new development area called Grand Skies. Northrup Grumman will soon sign to anchor the park located seven miles west of the Grand Forks International Airport on the Grand Forks Air Force Base.

We look forward to working with your office for future improvements to Foreign Trade Zone 103.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. Dame".

Patrick B. Dame, C.M.
Executive Director

Attachment

RATES AND CHARGES FOR FOREIGN-TRADE ZONE USE

The following fees may be due and payable to the Grantee, and may change from time to time upon approval by the Grand Forks Regional Airport Authority Board of Directors:

General Purpose Zone Fees:

Application Fees

New Site / Activation	\$3,000
Expansion of Zone	\$3,000
Boundary Modification	\$3,000
Manufacturing Authority	\$3,000

Annual Fees

	<u>Active Site</u>	<u>Non-Active Site</u>
Up to 10 Acres	\$2,500	\$5,000
Additional Acres (per acre)	\$300	\$400

Subzone Fees:

Application Fees

New Site / Activation	\$5,000
Expansion of Zone	\$3,000
Boundary Modification	\$3,000
Manufacturing Authority	\$3,000

Annual Fees

	<u>Active Site</u>	<u>Non-Active Site</u>
Mfg. Operations	\$5,000	\$2,500
Distribution Ops.	\$4,000	\$2,500

Operator Annual Fees:

GPZ User / Operator	n/a
GFRAA as Operator	n/a
Subzone User / Operator	n/a
GPZ Warehouse Operator	\$2,500
Third Party Operator	\$5,000

Note: Grantee Fees do not cover the actual preparation of the various applications. Users/Operators are responsible for all fees that are payable directly to the FTZ Board and any consultants used for completing the appropriate applications. Additional FTZ Board, Customs & Border Protection, and User fees to Operators may apply.

RATES AND CHARGES FOR FOREIGN-TRADE ZONE USE

Summary Descriptions:

Application Fee – covers Grantee expenses for obtaining the necessary approvals/resolutions for the submission of the Application to the FTZ Board and any support required in the Application process.

Activation Fee – covers Grantee expenses for preparation and processing of the Operating Agreement, providing the Grantee Concurrence Letter to Customs, and any necessary Grantee support required in the Customs Activation Process.

Annual Fee – covers Grantee expenses associated with oversight of the Zone Project, maintenance of common areas and utilities within the zone, marketing, promoting the Project, and submission of the Annual Report to the FTZ Board.

Operator Fee – covers Grantee expenses for monitoring of Operator activity and Project oversight.

Detail Descriptions & Rates:

Application Fee: An application fee will be assessed to an Applicant (Property Owner, Operator, Subzone User) when the Grantee must request approval from the Foreign-Trade Zones Board for (a) expansion to include new Zone space or a new Zone Site, (b) boundary modification to accommodate expanded operations, (c) for manufacturing authority of scope requests, and (d) for Subzone designation.

The fee covers Grantee expenses for obtaining the necessary approvals/resolutions of the Applications, submission to the Foreign-Trade Zones Board, and support services required in the approval process. The fee does not include actual preparation of Applications or requests or fees assessed by the Foreign-Trade Zones Board. The fee is based on the following schedule:

Expansion Application	\$3,000	Boundary Modification	\$3,000
Manufacturing Request	\$3,000	Subzone Application	\$5,000

All fees are payable in advance of application requests, with the exception of a Subzone application, which requires \$2,500 to be paid in advance and \$2,500 payable upon FTZ Board approval.

Application Preparation Fee: The Applicant firm will be responsible for any/all fees necessary for the Grantee to prepare any Application(s) for submission to the FTZ Board including professional fees of any consultants deemed necessary by the Grantee to assist with the preparation of the Application(s).

Activation Fee: An activation fee will be charged to a User when seeking to Activate any Zone Site (including Subzones). The fee covers Grantee expenses for the preparation and processing of the Operator Agreement, providing the Grantee concurrence letter to Customs and Border Protection, and review of Activation and operations procedures. The fee does not include preparation of actual Activation request, Procedures Manual, or other documents required by Customs regulations. This fee shall be waived for Applicants who have also paid the Application Fee, and activate the property immediately upon approval as a Zone site by the FTZ Board.

The Activation fee is \$2,500, payable in advance of requesting Activation from Customs.

Annual GPZ Fee: For purposes of the General Purpose Zone Annual Fee, property with FTZ

RATES AND CHARGES FOR FOREIGN-TRADE ZONE USE

designation shall be categorized as an activated FTZ Site or a non-activated FTZ Site. The activated FTZ Site category shall apply to any property that is being used, in whole or in part, by a business that has, through Customs and Border Protection, Activated a portion of the property and thereafter continuously and actively uses the activated area to engage in foreign commerce. The Non-Activated FTZ Site fee shall apply to any property located within the boundaries of FTZ No. 103 that has not Activated the site with Customs and Border Protection.

There shall be an annual fee applied to all property designated with Foreign-Trade Zone status within Foreign-Trade Zone No. 103, except for those properties that are specifically exempted herein. The annual fee covers the administration of the Zone Project by the Grantee, preparation of the annual report to the Foreign-Trade Zones Board, marketing and promotion of the Zone Project, resolutions, coordination with Customs and Border Protection and economic development agencies, and support services for the Grantee staff.

The party leasing the land or FTZ User, shall be responsible for payment of the annual fee. The party leasing the land or facility with GPZ designation is responsible for the annual fee for activated and non-activated GPZ or FTSZ Sites. Combination or multiuse facilities or sites, such as warehouse or manufacturing facilities containing offices in a multiuse facility, shall be subject to the Annual User Fee for the entire site. Property sites, on which more than one building is located, shall be charged a single user fee. A property site shall be defined as that area covered by the deed for the property. A property that becomes eligible for the Activated Zone User Fee during the calendar year shall have its fee for the year recalculated on a prorated basis and shall be given a credit against the fee due for the following calendar year.

The Annual User Fee shall be based upon the parcel size of the leased property as outlined below.

Parcel Size	Activated Zone Users	Non-Activated Users
Up to 10 acres:	\$2,500	\$5,000
Over 10 acres: (Per Acre)	\$300	\$400

Aeronautical Use Exception:

The Annual GPZ User Fee shall not be applicable to developed airside / aeronautical use land at Grand Forks International provided that all the following requirements are met:

1. The land and/or building is leased from GFRAA; and
2. The land and buildings are used for aeronautical use or aeronautical support activity, including office, education, medical, restaurant, or hotel facilities.
3. No portion of the building thereon is an activated foreign-trade zone site.

A Grand Forks International Airport airside property that is an activated FTZ site shall pay the applicable GPZ Annual User Fee.

Aeronautical use or aeronautical support activities are defined as airline operations, ground handling, airplane fueling, aircraft maintenance and repair, avionics installation and repair, aircraft or aircraft components manufacturing, aircraft storage, terminal services, aircraft and

RATES AND CHARGES FOR FOREIGN-TRADE ZONE USE

aircraft parts sales, and those companies who directly, or through an agent, charter all or a portion of an aircraft that enplanes and/or deplanes cargo at the Grand Forks International Airport. To qualify for this aeronautical use or aeronautical support exemption, substantial use must be made of airport facilities on a regular, recurring basis. The aeronautical use or aeronautical support activity exemption shall terminate and the GPZ Annual User Fee shall be payable when GFRAA determines that substantial aeronautical use of airport facilities on a regular, recurring basis no longer exists. In the case of multi-tenant buildings, all tenants must qualify for the aeronautical use or aeronautical support activity exemption or the GPZ Annual User Fee shall be applicable.

In all areas of the GPZ, the Annual User Fee shall not be applicable to developed sites that are used exclusively for office, education, daycare, medical, restaurant, or hotel facilities. Combination or multiuse facilities or sites, such as warehouse or manufacturing facilities containing offices or a daycare in a multiuse facility, shall be subject to the Annual User Fee for the entire site.

Annual Subzone (or other zone site not located within the GPZ) **Fee:** shall be due and payable within thirty days of the date the Subzone is approved by the FTZB, and shall be payable on the anniversary date of the Subzone's approval thereafter.

If a Subzone is approved by the FTZB, but due to changes in the User's business and/or the US trade agreements and tariff schedules it is no longer economically feasible for the User to activate, and yet the User wants to continue its Subzone status, the fee while the User remains in this escrow status will be \$5,000 annually. If conditions change yet again and the User decides it is once again economically feasible to activate, upon submission of the application for activation to Customs, User shall pay to the GFRAA the entire annual fee that would have been due for the prior 12 month period plus the fee for the current annual period under the normal Subzone annual fee schedule set forth above. A credit will be given for any escrow fees already paid for either annual period. While in escrow status, User must agree that they will not attempt to secure any Subzone benefits, including inventory tax abatement.

Subzone Annual Fee	Activated Subzone User	Non-Activated Subzone User
Manufacturing Operations	\$5,000.00	\$2,500
Distribution Operations	\$4,000.00	\$2,500

Operator Fee:

There shall be an annual Operator's Fee which shall apply to individuals or companies authorized to act as an FTZ Operator within FTZ No. 103. The Operator shall pay the Grantee an Annual Operator's Fee in accordance with the following schedule:

User Operator - No Annual Fee

A company that (1) owns or leases a building or a portion thereof that is located within the GPZ and for whose property an Annual User Fee has been assessed and paid, and (2) serves as an FTZ Operator for its own business pursuant to an Operator Agreement with GFRAA and Customs approval.

Warehouse Operator - \$2,000 Annual Fee

A company that (1) owns or leases a building or a portion thereof that is located within the GPZ

RATES AND CHARGES FOR FOREIGN-TRADE ZONE USE

and for whose property an Annual User Fee has been assessed and paid, (2) provides warehouse space to unrelated companies, and (3) conducts FTZ operations for those companies within that space pursuant to an Operator Agreement with GFRAA and Customs approval.

Third Party Operator - \$5,000 Annual Fee

A company that (1) does not own or lease a building or a portion thereof that is located within the GPZ, but (2) pursuant to an Operator Agreement with GFRAA and Customs approval, provides FTZ operator services to unrelated companies conducting FTZ activities in the GPZ in the User's space or in the warehouse space of a third party.

GFRAA Operator - No Annual Fee

The Grantee may serve as an Operator on behalf of unrelated companies.

Subzone Operator - No Annual Fee

A company that has been granted FTZ Subzone designation for its facility and serves as the Operator for the Subzone.

The Operator's Fee shall become effective and payable on the date the Operator's Agreement is executed with the GFRAA. If the agreement is executed after the first of the year, the payment for that year shall be prorated based upon the number of months and days remaining in the year. Payments for subsequent years shall be due, in full, on January 31.

Payee:

All payments shall be made to "Grand Forks Regional Airport Authority". For Activated Sites, the annual fee shall be due and payable within thirty days of the date of Activation by Customs and Border Protection, and shall be payable on January 1 of subsequent years thereafter.

Late Fee: \$100 per day. All Operators are required to submit sufficient data to the Grantee in order for the Grantee to timely file the required Annual Report with the FTZ Board. Operator data is required to cover the period October 1 thru September 30 of each year. In the event that such required data for the Grantee is not received by November 30th of each year, there shall be a \$100 per day late fee until the necessary documentation has been received by the Grantee. This late fee is apart from and in addition to the obligation to reimburse the Grantee for any fine imposed upon Grantee for a late or incomplete Annual Report caused by the Operator.

Note:

In the event Grantee's staff time or out-of-pocket costs exceed what is normal and customary to process similar requests, the Grantee reserves the right to charge the applicant, upon reasonable notice, an additional amount in addition to the applicable fees identified in this Schedule in consideration of such excess administrative or out-of-pocket costs.

RATES AND CHARGES FOR FOREIGN-TRADE ZONE USE

Foreign Trade Zone Board Fees:

Zone Applications submitted to the Foreign-Trade Zones Board must be accompanied with a check in the following amount [15 C.F.R. §400.29]:

- | | |
|---|---------|
| 1. Additional General Purpose Zones [15 C.F.R. §400.24] | \$3,200 |
| 2. Special Purpose Subzones [15 C.F.R. §400.25] | |
| a. Non-Manufacturing/processing or less than three | \$4,000 |
| b. Manufacturing/processing three or more products | \$6,500 |
| 3. Expansions [15 C.F.R. §400.26(b)] | \$1,600 |

Foreign Trade Zones Board fees are payable by the Applicant of the appropriate site as described in 1, 2, and 3 above. The Grantee is not liable for Foreign-Trade Zones Board fees. Note that no fees are payable to the Foreign-Trade Zones Board for Boundary Modifications.

These fees are provided for informational purposes only, and are subject to change by the FTZB without notice. Any fees imposed by the Board in the future, for authorization relating to a particular property or User, such as for a minor boundary modification or manufacturing authorization, will be payable by the User or property tenant.

APPENDIX B
OPERATOR RATES AND CHARGES

To be completed upon assignment of Zone Operator

103



Grand Forks Regional Airport Authority

2787 Airport Drive • Grand Forks, North Dakota 58203 • (701) 795-6981

January 28, 2000



Executive Secretary
Foreign-Trade Zones Board
U.S. Department of Commerce
14th St. & Pennsylvania Ave. NW, Room 4008
Washington, D.C. 20230

Dear Reader:

Submitted herewith, in accordance with recent requests is a copy of the FTZ #103 Zone Schedule. If there are questions, please contact me at (701) 795-6981, FAX (701) 795-6979.

Sincerely,

Steve Johnson, A.A.E.
Executive Director
Grand Forks Regional Airport Authority
Grantee, Foreign-Trade Zone 103

Foreign Trade Zone 103

Zone Schedule

Zone Grantee

Grand Forks Regional Airport Authority

Zone Operator

Mr. James Steinke

Site #1

6 acres at the Grand Forks International Airport..

Site #2

Forty acre and 2.33 acre parcels and portion of warehouse building in the Grand Forks industrial park.

Prepared by: Steve Johnson
Original Zone Schedule Date: Est. 1/1/84

Zone Schedule
Foreign Trade Zone 103
Effective: 01/27/00

Zone Operator

Mr. James Steinke
IPR Building
830 South 48th Street
Grand Forks, ND 58201
Hours: M-S, 24 hours
(701) 772-5458
(701) 772-5284 [fax]
(218) 779-0158 [cel]
jsteinke@gfherald.infi.net [email]

Zone Management

The Zone Operator represents the grantee in day-to-day operation of the zone. Persons desiring access to zone facilities, information about this zone schedule, or information about the zone facilities should contact the zone operator (above). The grantee contact is:

Steve Johnson, Executive Director
Grand Forks Regional Airport Authority
2787 Airport Drive
Grand Forks, ND 58203
Hours: M-F, 8 a.m. – 4:30 p.m.
(701) 795-6981
(701) 795-6979 [fax]
www.gfkairport.com
sjohnson@gfkairport.com [email]

Charges and/or Fees Collected by Grantee

Fees collected by the grantee are covered in grantee-operator agreements.

Charges and/or Fees Collected by Operator

In general, fees charged by the Zone Operator relate to the time and effort required to perform the particular transaction. A contribution to general expenses and overhead is factored into each fee.

Site 1 – Industrial Park

a. IPR Warehouse Building (Block 1, Lot 8)

For non-recurring or sporadic use, the operator charges \$125 per activity (transaction). Fees for repetitive activities associated with long-term use are negotiated with the zone operator.

Warehouse/storage fees are \$5.00/ft² per month for a minimum of 1,200 ft². Rates as low as \$3.75/ft² per month are available for larger storage areas.

Note: Merchandise transfer must occur through truck dock doors only. Personnel will access the zone only through doorways controlled by a passive security system. Merchandise transfer is controlled through the Alternative Inventory Control System or by direct Customs supervision at the discretion of local Customs officials.

b. Building sites (Block 1, Lot 6 and 40 acres)

Building sites have not been activated. Eight 5-acre lots are available. Interested parties should contact Grand Forks Regional Economic Development Foundation. City of Grand Forks building codes apply.

Site 2 – Airport

This site has not been activated. Interested parties should contact the grantee. City of Grand Forks building codes apply.

Fees Charged to Subzones

The grantee levies fees to subzone operators to offset cost of services provided on behalf of the subzone operator and subzone user(s). Those fees are specified in the written Grantee-Operator Agreements.

U.S. CUSTOMS FTZ MANUAL

VH\DOCU\00015236(3500)

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INTRODUCTION

This Manual has been compiled by the United States Customs Service, as a joint effort with The Foreign-Trade Zones Board, the Bureau of Census and the National Association of Foreign-Trade Zones, for the use of existing and prospective foreign-trade zone grantees, operators and users in addition to Customs personnel responsible for supervising zone operations. It may also be useful to customhouse brokers, freight forwarders, bonded and international carriers and other members of the import-export community.

The purpose of the Manual is to place together the various laws, regulations, policies and procedures, scattered among numerous documents, that grantees, operators and users need to know in their daily operations.

Many laws and regulations are paraphrased for the sake of simplicity and easier reading. Existing and prospective zone grantees, operators, users and other readers are therefore urged to study the actual text of the cited laws and/or regulations before making any costly investment decisions initially based on information in this manual. The Manual is not itself law, it is intended as a guide, and readers may seek rulings from Customs concerning matters covered by the Manual under procedures of 19 Code of Federal Regulations Part 177 (Customs Regulations).

This Manual is also designed for the use of Customs officers and it supersedes the previous FTZ Manual issued in October, 1996. Customs internal instructions not intended for public disclosure are not included in this manual, but are still in effect.

Any new measures taken by Customs affecting the Zone Program, after issuance of this Manual will be announced through various methods, e.g.: electronic bulletin board, e-mail and facsimile transmission, directives and rulings. These issuances will be provided as

supplements for inclusion in the Manual upon release. This Manual is intended to be maintained with current information to better serve all parties.

Customs welcomes any suggestions from readers as to any additions, corrections, or deletions to improve this Manual. Please forward any correspondence concerning the Manual to: Commissioner of Customs, U.S. Customs Service, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229.

Chapter 1

INTRODUCTION, PURPOSE, AND INTERPRETATIONS

1.1 Introduction - A Foreign-trade zone (FTZ) is a restricted access site in or adjacent to a Customs port of entry. Authority for establishing these facilities is found in the Foreign-Trade Zones Act of 1934, as amended 19 USC 81a-81u (Act or FTZA). The purpose of foreign-trade zones as stated in the Act is to "expedite and encourage foreign commerce and other purposes." The act is administered in a context of evolving U.S. economic and trade policy and economic factors relating to international competition. The Act authorizes the Foreign-Trade Zones Board, consisting of the Secretaries of Commerce and Treasury, to grant corporations the privilege of establishing, operating and maintaining foreign-trade zones. The Secretary of the Treasury assigns customs officers to FTZ's to protect the revenue and provide for admission of foreign merchandise into the Customs territory from FTZ's. It is operated pursuant to public utility principles under the sponsorship of a corporation granted authority by the Foreign-Trade Zones Board, (the Board), located in the Department of Commerce, and under the supervision of the U.S. Customs Service. Zones are treated for purposes of the tariff laws and Customs entry procedures as being outside the Customs territory of the United States. That is, merchandise is admitted into a zone and is not subject to Customs entry procedures. Under zone procedures, foreign and domestic merchandise may be admitted into zones for operations such as storage, exhibition, manipulation, destruction, assembly, manufacture and processing, without being subject to formal Customs entry procedures and payment of duties, unless and until the foreign merchandise enters the Customs territory for domestic consumption. The importer ordinarily has a choice of paying duties either at the rate applicable to the foreign material in its condition as admitted into a zone, or, if used in manufacturing or processing, at the rate applicable to the emerging product. Quota restrictions do not normally apply to foreign goods in zones. The Board can, however, deny or limit the use of zone procedures in specific cases on public interest grounds. Merchandise moved into zones for export (zone-restricted status) may be considered exported for purposes such as federal excise tax rebates and Customs drawback. Foreign merchandise (tangible personal property) admitted to a zone and domestic merchandise held in a zone for exportation are exempt from certain state and local ad valorem taxes (19 U.S.C. 81o(e)). Articles admitted into zones for purposes not specified in the Act shall be subject to the tariff laws and regular entry procedures, including the payment of applicable duties, taxes, and fees. 15 CFR 400.1(c).

1.2 Purpose - The purpose of this Manual is to set forth in one document all the instructions, guidelines, and other information that Customs Officers and existing and prospective foreign-trade zone grantees, operators and users, need to know for effective operation, supervision, and use of zones and zone procedures, as set forth in the Customs regulations. This Manual itself does not have the force of law, and is

intended only as a convenient compilation of the reference material cited in Section 1.3 of this manual, and of Customs policies and procedures included, or previously included, in the Customs Issuance System.

1.3 Referenced Material - Some portions of this Manual are taken directly from the Foreign-Trade Zones Act, the Foreign-Trade Zone Regulations, the Tariff Act, the Customs Regulations, and other sources. In other cases, the Manual paraphrases the appropriate regulation for clearer understanding. However, in all cases, the applicable reference will be cited accordingly. The reader may wish to review the referenced citation before taking any definitive action on a particular matter. The references contain abbreviations as follows:

Abbr. Reference

CD	Customs Directive
CFR	Code of Federal Regulations
CR	Customs Regulations (Title 19 CFR)
CSD	Customs Legal Decision published in Customs Bulletin
FR	Federal Register
FTZA	Foreign-Trade Zones Act of 1934, as amended (19 USC 81a-81u)
FTZM	Foreign-Trade Zone Manual
FTZO	Foreign-Trade Zone Board Order
FTZR	Foreign-Trade Zone Regulations (15 CFR Part 400)
HQ. Ltr.	Unpublished Customs Headquarters Letter
HTS	Harmonized Tariff Schedule of the U.S.
HQR	Published Headquarters Rulings
LD	Unpublished Customs Legal Determination
MS	Customs Manual Supplement
OCOD	Office of Commercial Operations Decision published in Customs Bulletin
PL	Public Law
Slip Op	Slip Opinion of the Court
TA	Tariff Act of 1930, as amended (Title 19 USC and 18 USC 541-552)
TD	Treasury Decision published in Customs Bulletin
USC	United States Code
UST	United States Treaties in Force

1.4 Instructions vs. Guidelines - As previously stated in Section 1.2 herein, this Manual does not have the force of law and is intended only as a convenient compilation of cited reference materials. Generally, mandatory instructions for Customs officers or zone grantees or operators are conveyed through use of the word "shall" and are based on requirements of law, regulation, or in the case of Customs officers, direction from Customs Headquarters. Guidelines are also provided in this manual. Guidelines do not have the force of law; however, they do express Customs preference, or an area in which Customs management may exercise some discretion or judgement. These guidelines are conveyed through use of the word "may" or "should," the wording of section headings, or the context of the section or paragraph. While every effort was made to carefully choose the correct words for this manual, it must be understood that distinctions between instructions and guidelines may not be easy to determine. All questions concerning what is or is not legally required should be referred to the Office of Field Operations at U.S. Customs Service Headquarters at 202-927-0300.

1.5 Port Director Authority - Whenever the term "Port Director" appears in this Manual, it refers not only to Customs Port Directors themselves, but also to any Customs officer to whom a Port Director delegates authority to carry out a task. Thus, the term may refer to Port Directors, Customs inspectors, import specialists, entry specialists, or any other Customs officer.

1.6 Customs Issuances - The Customs Issuance System is used to provide instructions, guidelines, and other information to Customs officers as to interpretations and procedures for carrying out U.S. laws and regulations. Most of the issuances are Customs Directives (CD's) which superseded, in 1983, an older format known as Manual Supplements (MS's).

1.7 Rulings and Disagreements - Anyone who desires an interpretation or explanation of any law or regulation administered by Customs may request a ruling on the matter under the procedures in Part 177 of the Customs Regulations, 19 CFR Pt. 177. A ruling issued under this procedure represents the official position of the Customs Service in the matter. Any question or disagreement concerning a Customs issuance should be directed to the issuing office. Any disagreement or question concerning a matter involving the judgement or discretion of the Port Director should be directed to Customs Headquarters after the matter has been fully discussed with the Port Director.

1.8 Disclosure of Information - Information in Customs possession affecting foreign-trade zone grantees, operators, and users is subject to the Freedom of Information Act (FOIA) (5 USC 552). Information exempt from disclosure is listed in section 103.12 of the Customs Regulations, 19 CFR 103.12, which includes trade secrets, confidential financial and business information and material involving personal privacy.

1.9 Local Customs Procedures - This Manual contains and describes instructions, guidelines, and procedures authorized by Customs Headquarters for use throughout the U.S. Customs territory. Customs ports may adopt additional service-wide procedures which are within the confines of the regulations and are not covered by the Manual. If local

procedures conflict with service-wide procedures and/or this Manual, operators and users are invited to identify the conflict to Customs Headquarters, Office of Field Operations, for resolution, or request that the port resolve the matter through an Internal Advice procedure under 19 CFR 177.11. Zone users are also encouraged to confer with their grantees and/or operators to ensure that issues of conflict are not simple misunderstandings.

1.10 Automated Procedures - Certain activity involving zones utilize federal agency automated procedures. The U.S. Census Bureau maintains automated procedures for the monthly direct transmittal of CF 214 data. If they are approved for direct transmission of data to the Census Bureau zone operators may be eligible for blanket CF 214 (19 CFR 146.32(d)) procedures or for cumulative CF 214 (19 CFR 146.40(c)(1)) if approved for direct delivery. If these procedures are utilized notification to Customs is required by marking Box 14 of the CF 214 document. Customs entries for merchandise transferred to the Customs territory may utilize the Customs ABI/ACH System. The CF 7501 may be utilized for Customs entry with the entry being treated as a live entry. (Entry summary filed at the time of entry with estimated duties attached or electronic payment). Customs continues to encourage zone operators and users to develop and implement automated systems which are effective in reducing unnecessary paperwork, simplifying procedures, and reducing the need for direct Customs supervision, consistent with maintaining the integrity of audit-inspection supervision and which are within the confines of the Customs regulations. However, users and operators must understand that those procedures may be superseded by future automation efforts developed by Customs. The use of such automated systems permits, in some cases, greater exercise of Port Director discretion to supplement and amplify service-wide procedures.

Chapter 2

LAWS, REGULATIONS, ORGANIZATION, DUTIES, AND GENERAL INFORMATION CONCERNING FOREIGN-TRADE ZONES

2.1 Laws and Regulations - Foreign-trade zones operate under the Foreign-Trade Zones Act and two sets of regulations; the Foreign-Trade Zones Regulations (15 CFR Part 400) and the Customs Regulations (19 CFR Part 146). They are also affected by other laws and regulations. This section deals with the interplay among the various laws and regulations and how they are applied in zones. Whenever the term "zone" or "FTZ" is used in this manual, it is understood to include subzones, unless the context indicates otherwise.

(a) Foreign-Trade Zones Act - The principal statute governing foreign-trade zones is the Foreign-Trade Zones Act of 1934 (FTZA), which has been codified in the United States Code as Title 19, Sections 81a through 81u. The FTZA has been periodically amended. The FTZA generally covers how and where zones are established, how they are administered, and what may and may not be done in them. Every zone grantee and operator, and most zone users, should have a copy of the FTZA, updated with recent amendments.

(b) Foreign-Trade Zone Regulations - The Foreign-Trade Zones Regulations provide regulations and procedures on how zones are established and modified; how they are to be managed and administered by zone grantees and operators; and how the Foreign-Trade Zones Board conducts its business.

(c) Customs Laws and Regulations - Merchandise of every description, except such as is prohibited by law, may be brought into a foreign-trade zone and stored or processed there under certain circumstances without being subject to the Customs laws of the United States. (19 USC 81c(a)). "Customs laws" means, generally, the laws codified in Title 19 of the U.S. Code, including the Harmonized Tariff Schedule of the United States. The Foreign-Trade Zones Act itself is a Customs law, since it is codified in Title 19. "Customs laws" also includes Sections 541 through 552 of Title 18, U.S. Code, since they were included in the original Tariff Act of 1930, most of which was codified in Title 19.

(1) Applicability of Customs Laws - Except as otherwise provided, Customs laws are not usually applicable in zones. However, they are applicable to merchandise passing through U.S. Custom's territory before admission to, or after transfer from, foreign-trade zones. Customs laws are also applicable to prohibited merchandise in a zone (see Section 6.2 FTZM), vessels and aircraft entering or leaving a zone (see Section 2.5 FTZM), and merchandise which has been brought into a zone for purposes not specified in the Act. (Section 15 CFR 400.1(c)).

(2) Significance of Customs Regulations - The Secretary of the Treasury has authority to prescribe rules and regulations for zones concerning protection of the revenue. (19 USC 81c, 81a and 81o(b)). This authority has been carried out through the Customs Regulations (19 CFR Part 146).

(d) Other Federal Laws - Since the FTZA specifically excludes, under certain circumstances, only the application of Customs laws, most other federal laws are applicable in zones, such as those affecting public health, immigration, labor, welfare, and income tax. Many laws and regulations governing exportation which are enforced by Customs are applicable in zones, such as those in 15 CFR Parts 772 and 773 and in 22 CFR Parts 121 through 130 (see Section 9.12(2)(b) FTZM). Furthermore, various Federal regulations may be applicable to zones, many of them dealing with specific kinds of merchandise or activities concerning merchandise in zones. The Board shall cooperate with Customs and such other Federal agencies that have jurisdiction in ports of entry. (19 USC 81i and 15 CFR 400.12(e)). All FTZ participants should carefully consider the impact of Federal Agency laws. Federal agencies with the most direct involvement with zones include Bureau of Alcohol, Tobacco and Firearms (BATF); Federal Communications Commission (FCC); Environmental Protection Agency (EPA); Food and Drug Administration (FDA); Department of Agriculture (USDA); and Fish and Wildlife Service (USF&W). All such agencies normally have specific regulations, guidelines, etc. that directly relate to zone activity.

(e) State and Local Laws and Regulations - Generally, state and local laws are applicable in zones, except to the extent they are preempted by Federal laws or the constitution. The Board is directed to cooperate with the state, subdivision, and municipality in which a zone is located in the exercise of their police, sanitary, and other powers in connection with the zone. (19 USC 81i and 15 CFR 400.41).

(1) Commerce Clause of the Constitution - The Constitution reserves to Congress the power to regulate commerce with foreign nations (Article I, Section 8, Clause 3, U.S. Constitution) and prohibits states from levying duties on imports and exports (Article 1, Section 10, Clause 2, U.S. Constitution). State laws and regulations are not applicable in foreign-trade zones to the extent that they would contravene the Constitution and federal laws under the Constitution. Federal law may implicitly preempt state law to the extent that state law conflicts with federal regulations. To the extent that a state law would encumber ease of legal transshipment through a foreign-trade zone by requiring unnecessary regulation of goods in which the state has no interest, the law frustrates the goal of the FTZA to facilitate use of United States ports for the legal transshipment of goods in foreign commerce. [3M Health Care, Ltd. v. Grant, 908 F.2d 918 (11th Cir. 1990)].

(2) State and Local Ad Valorem Taxes - The FTZA specifically prohibits state and local ad valorem taxation of imported tangible personal property stored or processed in a zone, or of tangible personal property produced in the U.S. and held in a zone for exportation in either its original or its processed form. (19 USC 810(e); Deer Park Independent School District v. Harris County Appraisal Dist., 132 F. 3d 1095 (5th cir. 1998) cert denied, 118 S. Ct. 2343, 141 L. Ed 2d 714).

(3) State Tax Laws - Some states have specific legislation conferring certain benefits on zone users.

(4) Ad Valorem Personal Property Taxes - The FTZ Act provides an exemption for certain merchandise held in a foreign-trade zone. Some states have other laws that may apply to the merchandise.

(5) Enabling Legislation - Foreign-Trade Zones Board Regulations requires that all states have specific legislation conferring authority to submit applications to the Foreign-Trade Zones Board. This legislation should be analyzed for specific requirements on a state-by-state basis. (15 CFR 400.22(b)).

(f) Zone Grantee Schedules - A foreign-trade zone shall be operated, maintained, and administered by the grantee in accordance with the schedule fixed by the grantee and reviewed and accepted by the Foreign-Trade Zones Board prior to the start of operations. The schedule shall be available for review at the offices of the zone grantee and operator with a copy submitted to the Port Director. All persons entering the zone for any reason whatsoever are bound by the schedule in addition to applicable government regulations. Specifications for zone grantee schedules are set forth in 15 CFR 400.42(b).

2.2 Foreign-Trade Zones Board - The Board is responsible for the establishment, maintenance, and administration of foreign-trade zones under the FTZA. In addition, any questions regarding the specific scope of authority (in terms of products, components and activities allowed) are determined by the FTZB. The U.S. Customs Service is responsible for carrying out the Tariff Act and various other laws and regulations in respect to foreign-trade zones. This section identifies the duties and responsibilities of the members of the Board and the role of the Customs Service in zones.

(a) Makeup and Authority of the Board - The Foreign-Trade Zones Board consists of the Secretary of Commerce, who is chairman and executive officer of the Board and the Secretary of the Treasury. (19 USC 81a(b)). As set forth in Section 15 CFR 400.11 the Board has authority to:

(1) Prescribe rules and regulations concerning zones;

- (2) Issue grants of authority for zones and subzones, and approve modifications to the original zone project;
- (3) Approve manufacturing and processing activity in zones and subzones as described in subpart D of 15 CFR Pt. 400;
- (4) Make determinations on matters requiring Board decisions under 15 CFR Pt. 400;
- (5) Decide appeals in regard to certain decisions of the Commerce Department's Assistant Secretary for Import Administration or the Executive Secretary;
- (6) Inspect the premises, operations and accounts of zone grantees and zone operators;
- (7) Require zone grantees to report on zone operations;
- (8) Report annually to the Congress on zone operations;
- (9) Restrict or prohibit zone operations;
- (10) Impose fines for violations of the Foreign-Trade Zones Act and this part;
- (11) Revoke grants of authority for cause; and,
- (12) Determine, as appropriate, whether zone activity is or would be in the public interest or detrimental to the public interest.

(b) Presidential Direction to Furnish Records - The President may direct Federal agencies to cooperate with the Board to facilitate Board investigations and duties in the establishment, operation, and maintenance of zones. (19 USC 81j). Through Executive Order 7104, the President did direct that Federal agencies furnish records and detail officers as may be required by the Board.

(c) Committee of Alternates - The Secretaries of Commerce and Treasury have rarely, if ever, convened in person to conduct Board business. Instead, they are authorized to appoint alternates authorized to act in an official capacity for them. (15 CFR 400.11(c)). The secretaries or their alternates meet periodically as necessary to consider policy issues involving the Board. However, routine official Board business is conducted by memoranda and other correspondence circulated among the alternates.

(d) Executive Secretary - The Executive Secretary of the Board is appointed by the Secretary of Commerce, as chairman of the Board, to be the chief operating official of the Board. The principal duties of the Executive Secretary, are set forth in 15 CFR 400.12.

The Executive Secretary has a staff in the International Trade Administration, Department of Commerce headquarters office, which assists in carrying out these duties.

(e) Customs Service Role - The U.S. Customs Service carries out most of the duties and responsibilities of the Secretary of the Treasury, under the FTZA. This includes the preparation and implementation of the rules and regulations approved by the Secretary of the Treasury under Sections 81 c, e, and o (b) of the FTZA and the assignment of the necessary Customs officers to perform zone related work under 19 USC 81d. However, the Customs Service does not represent the Secretary of the Treasury in any matter pertaining to zones which is (1) of a policy-making nature; or (2) within the authority of another agency of the Department of the Treasury, for which authority has not been delegated to the Commissioner of Customs, such as the Bureau of Alcohol, Tobacco and Firearms or the Internal Revenue Service.

(1) Principal Customs Concern - The principal interest and concern of Customs in zones is control of merchandise moving to and from the zone, to see that all revenue is collected properly and that all zone procedures are in compliance with the FTZA and all laws and regulations pertaining to zone use.

(2) Port Director as Representative of the Board - The Port Director who has jurisdiction over a port containing a zone is, in addition to his or her other duties as an officer of the Customs Service, is the local representative of the Board. He or she may call upon local representatives of other government agencies for advice in matters pertaining to the operation, maintenance, and administration of zones. (15 CFR 400.41 and 19 CFR 146.2).

(a) Duties as Representative - In his or her role as local representative of the Board, the Port Director acts as the "eyes and ears" of the Executive Secretary and the Board. The duties include, conducting general oversight of the activities of the grantee, operator, and zone users, and reporting exceptions to the Executive Secretary. The Port Director will consult with and make recommendations to the Executive Secretary on any zone boundary modification upon request of the grantee or the FTZB staff. (15 CFR 400.26(a)(2) and Section 4.4(a) FTZM) Custom's approval is always subject to activation conditions, and shall be so stated in the Port Director's comments. The Port Director has no enforcement authority as local representative of the

Board beyond that conferred by the FTZR or Board Order. However, the Executive Secretary usually relies on the Port Director's advice on local zone matters. C.D. 089-3210-025.

(3) Customs Neutrality Policy - Consistent with its role as a law enforcement agency, it is the policy of the Customs Service to neither encourage nor discourage the establishment or the use of foreign-trade zones. Customs officers are not authorized to advise any party whether to use one zone in preference to another, or to use a zone at all instead of another facility or administrative mechanism in the Customs territory.

(f) Other Agencies - Since the Board and other Federal agencies are directed to cooperate with one another (19 USC 81i and 81j), zone operators and users may expect to deal with a number of agencies, other than Customs, concerning merchandise or activities in the zone falling within their jurisdiction.

2.3 Grantee, Operator, and User Duties and Responsibilities - The Foreign-Trade Zones Board does not own or operate any zones. Rather, it provides grants of authority to applicants to establish, operate, and maintain zones. The grantee may execute a contract with another party, usually in the private sector, for the operational management of the zone. Various tenants may lease space or construct buildings in the zone and physically manage their operations in the buildings, while others may pay a zone operator a fee for handling their merchandise and performing related services.

(a) Grantees - A grantee is a public or private corporation, as defined in section 400.2, Title 15, Code of Federal Regulations, to which the privilege of establishing, operating, or maintaining a foreign-trade zone project has been given. The principal responsibilities of a grantee are to:

(1) provide and maintain facilities in connection with a zone according to the provisions of 19 USC 81i;

(2) operate the zone as a public utility with fair and reasonable rates and charges for all zone services and privileges, and afford to all who apply for the use of the zone and its facilities and provide uniform treatment under like conditions, in accordance with 19 USC 81n and 15 CFR 400.42(b);

(3) make to the Board annually, and at such other times as it may prescribe, reports containing such information as the Board may require (19 USC 81p (b) and 15 CFR 400.46(d));

(4) maintain books, records, and accounts in accordance with the provisions of 15 CFR 400.46(a), (b);

(5) apply to the Board for a grant of authority to establish a subzone or to expand or otherwise modify its zone project (15 CFR 400.22(d), 400.26(a)(1));

(6) to permit the erection of buildings necessary to carry out the approved zone project in accordance with 19 USC 81m and 15 CFR 400.28(a)(6);

(7) operate, maintain, and administer the zone project under the FTZA, FTZR, CR, applicable laws and regulations administered by Customs for other agencies or administered directly by other agencies, and the schedules of rates and charges made and fixed by the grantee, in accordance with 15 CFR 400.41, 400.42(b)(1);

(8) make written application to the Port Director for approval of a new zone operator, pursuant to 19 CFR 146.7(e), (f);

(9) the grantee may make application if acting as the operator or must provide concurrence to a request for activation, de-activation or reactivation.

(b) Operators - An operator is a corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee. (19 CFR 400.2(q)). For Customs purpose, the term "operator" includes a zone grantee that operates its own zone. (19 CFR 146.1(b)). Activation of a zone requires the execution of a Foreign-Trade Zone operator's bond on Customs Form 301, which contains the bond conditions required by 19 CFR 113.73. (19 CFR 146.6(d), (c)). The bond insures the principals' agreement to comply with the pertinent laws and Customs regulations, and section 146.4, Customs regulations and delineates the particular responsibilities of the operator. The grantee may also be considered the operator for Customs Regulation purposes.

(c) Zone Users - A zone user is a corporation, partnership, or person that uses a zone under agreement with the zone grantee or operator for storage, handling, processing, or manufacturing of merchandise in zone status, whether foreign or domestic. (15 CFR 400.2(t) and 19 CFR 146.1(b)). Usually, the zone user is the entity which requests a Customs permit to admit, process, or remove zone status merchandise. In subzones, the operator and user are usually the same entity. They may be permitted by the grantee to construct their own buildings or structures in which they conduct their own business, according to the provisions of 19 USC 81m and 15 CFR 400.28(a)(6). They are sometimes referred to as "tenants", but the more inclusive term "users" is used in this Manual.

2.4 Subzones - A subzone is a special-purpose zone established as part of a zone project for a limited purpose that cannot be accommodated within an existing zone. (19 CFR 146.1(b)(17) and 15 CFR 400.2(n)). A subzone may be authorized if the Board finds that the operation cannot be served in the existing zone project and meets the required public

interest test in 15 CFR 400.23(b). Subzones were originally authorized in 1952 under FTZO 29, and the courts have approved subzone designations. See, e.g., *Armco Steel v. Stans*, 431 F2d 779 (2d Cir. 1970).

2.5 Vessels and Other Carriers - Vessels and carriers entering and leaving a zone are subject to the laws of the United States, except as otherwise provided in the FTZA. Vessels leaving a zone and arriving in the Customs territory are subject to regulation under Title 19 CFR Part 4 to protect the revenue and carry out laws concerning navigation. Foreign-flag vessels are not permitted to carry goods shipped from one zone to another zone or port or points within the zone in the protected U.S. coastwise trade. (19 USC 81e and 19 CFR 146.12(b)). Through the operation of 19 USC 1644a, the foregoing vessel provisions are applicable also to aircraft entering and leaving a zone. The docking, loading, and unloading facilities of a zone are intended primarily for the use of vessels, aircraft, and vehicles loading or unloading zone merchandise. Their use for other purposes may be terminated if found to endanger the revenue or impede the primary use of the facility. (19 CFR 146.12(a)).

(a) **Movement of Zone Merchandise** - Imported merchandise, including that imported in mail shipments, being transported to and from foreign-trade zones through the Customs territory must be transported in bond under the provisions of 19 CFR Parts 18, 112, and 125. (19 CFR 146.11 and 144.37(g)). Domestic goods transported to a zone or goods removed from a zone comprised wholly of domestic status products need not be transported in bond.

2.6 Supplies Used in Zone - Supplies brought into a zone for use in a manner other than those uses enumerated in 19 USC 81c(a) are not entitled to exemption from applicable duties, taxes and fees under the FTZA, and therefore do not have zone status. Such supplies may include, but are not limited to, office furniture, office machines, and office equipment, food to be eaten in the zone; and water and fuel which do not become part of a zone product (except certain fuel noted in Section 2.6(a) FTZM which is exempt under the FTZA).

(a) **Receipt of Supplies** - If such supplies are imported, they cannot be brought into a zone without first being entered for consumption. Supplies which are produced in a zone from imported material and consumed in the zone are considered by Customs to have lost their exemption from duty under the FTZA, and must be entered for consumption, except for certain petroleum refinery fuels covered by the fact situation cited in *Hawaiian Independent Refinery v. United States*, 460 F. Supp. 1249 (Cust. Ct. 1978). (See CSD 79-418 and Section 11.6(j) FTZM).

(b) Use - If imported merchandise in stock is withdrawn from stock for a use which causes it to lose its exemption from duty under the FTZA, the article must be entered for consumption. An example of use would be: a zone wholesaler dealing in office furniture takes an office desk from stock and uses it in its own office operation in the zone. What uses in a zone cause merchandise to be subject to, or exempt from, duty under the FTZA are determined from the particular facts in a situation. Borderline issues that may be raised concerning zone use should be referred to Customs Headquarters, Office of Regulations and Rulings, for a ruling under the procedures in Title 19 CFR Part 177.

2.7 Production Equipment - Section 81c(e), Title 19, US Code, allows zone users to defer duty on production equipment that is intended for use in zone FTZ Board authorized activity. It allows a zone user to admit equipment into the zone and assemble the equipment prior to entry for consumption. Payment of duty would be deferred until such equipment goes into use as production equipment as part of FTZ activity, at which time the equipment is entered for consumption as equipment. Alternatively, production equipment that is not for use within a zone may continue to be treated as normal merchandise. Questions regarding the definition of production equipment shall be directed to the Foreign-Trade Zone Board staff.

2.8 Customs Forms - Customs forms unique to zones are Customs Forms 214 and 216. Their uses are described in Parts 6 and 8 and the Appendix to the FTZM. These forms are authorized to be printed by foreign-trade zone grantees and operators, customhouse brokers, importers, and other parties using foreign-trade zones, in a format which complies with the forms as approved by the Office of Management and Budget and on a quality of paper commensurate with that used by Customs. The letterhead of the foreign-trade zone grantee or operator, in its own design, may appear in the space designated in these forms for zone location and address. The forms may be printed in color-coded copies, in multiple carbon copies, or as continuous forms for automated use, so long as they conform to the format of the approved forms. Continuation sheets are also authorized to be printed, so long as the header information and the format of the sheet clearly identify the continued information. Operators and users are authorized to use computer-generated forms, as long as the forms comply with the provisions listed above. Additional authorization must be obtained from the Bureau of the Census to ensure that any computer-generated information meets the requirements of that agency. The Customs Service prints and maintains a small stock of FTZ forms for occasional use by the public at its port offices and as a starter supply for newly-established foreign-trade zones for copying and reproduction purposes. A camera ready copy of Customs Forms, e.g., Customs Forms 214, 214A, 216, etc., may be obtained upon request from the following by mail or telephone:

U.S. Customs Service
Paperwork Management Branch
1300 Pennsylvania Avenue, NW
Washington, D.C. 20229
(202) 927-0674
<http://www.customs.gov>

Note: The camera copy will provide the user with the current version of the requested Customs Form and ensure clarity in reproduction and copying.

2.9 Place of Filing and Merchandise Examination - It is Customs policy that all admission and entry documentation, and all other applications for permits, for merchandise destined to, in, or being transferred from, a foreign-trade zone will be presented to Customs at a location within a port of entry, even if the zone is outside the port of entry. Such documentation may be delivered to Customs by customhouse brokers, messengers, couriers, electronic transmission, facsimile or any other means that is administratively acceptable and within the law and regulations. (See, e.g., CSD 87-2). It is also Customs policy that, if merchandise is to be physically examined or inspected before admission to a zone or upon transfer from a zone, the examination or inspection, with the exceptions noted below, will be conducted only within a port of entry. Customs may choose to examine zone merchandise within the zone. (See Sections 6.7(d), 9.6(a), and 9.7(f) FTZM) Otherwise, a bonded carrier or cartman will be required to deliver the merchandise to a location designated by Customs for the examination of the merchandise. Section 112.2, Customs Regulations, governs procedures by which FTZ operators can move merchandise without utilizing a carrier or cartman.

The port of entry covered by this policy will normally be the port of entry having supervisory responsibility for the zone where the merchandise is destined or located. However, at the discretion of the affected Port Directors, the documentation or merchandise may be delivered to a different port of entry for processing or examination.

(a) Exceptions - Foreign-trade zone merchandise may be examined or inspected outside a port of entry when:

- (1) it is in the interest of Customs;
- (2) proper examination or inspection requires the use of special facilities or equipment which the Port Director is satisfied cannot be made available within a port of entry;
- (3) the merchandise is incapable of being delivered to the port of entry, e.g., oversized article or component; or,

(4) there is a concurrence, under unusual and isolated circumstances, by Customs Headquarters, Assistant Commissioner, Office of Field Operations, in such an examination or inspection.

(b) Delivery Procedures - Merchandise covered by this policy will be delivered to and from the examination or inspection site by a bonded carrier or licensed cartman under the procedures specified in 19 CFR Parts 18 and 125. Foreign-trade zone operators who carry their own merchandise may be designated as private carriers under the procedures of 19 CFR Part 112, Subpart B. Any qualifying operator may be licensed as a cartman under the procedures of 19 CFR Part 112, Subparts C and D. Pursuant to 19 CFR 112.2 b, any FTZ operator is authorized to transfer merchandise to their zone from within the geographic boundaries of its former Customs district without the necessity of obtaining a cartmans license.

Chapter 3

SUPERVISION OF FOREIGN-TRADE ZONES, GRANTEE AND OPERATOR RESPONSIBILITIES, AND CUSTOMS FEES

3.1 General - All regulations concerning protection of the revenue are approved by the Secretary of the Treasury. (19 USC 81o(b)). The Commissioner of Customs, through authority delegated from the Secretary of the Treasury, assigns the necessary Customs Officers to protect the revenue and to provide for the entry of foreign merchandise into Customs territory. (See 19 USC 81d). The cost of maintaining the additional Customs service required under the FTZA will be paid by the operator of the zone. (19 USC 81n). However, see Section 3.11(a) FTZM concerning the suspension of foreign-trade zone fees and charges. For many years, Customs protected the revenue in zones through physical supervision of all merchandise receipts and deliveries to and from the zone, and of all zone processing operations. Zones and subzones are now managed by Customs under an audit-inspection method which means that Customs does not maintain inventory records and Customs officers are not routinely physically assigned to the premises. TD 86-16.

3.2 Audit-Inspection Supervision - The 1986 amendments did not change the law, and the Secretary of the Treasury, through the U.S. Customs Service, is still charged with protecting the revenue in zones. However, the operator now exercises physical supervision of zones, while Customs exercises general supervision through the audit-inspection program. Audit-inspection is a comprehensive program based on the following 6 principles:

- (a) determination by Customs of the identity and nature of merchandise before or upon its deposit in the zone so that the initial responsibility of the operator for the merchandise can be reliably determined;
- (b) issuance of a prior permit by Customs to the operator for receipt, delivery from the zone, and any processing in the zone;

(c) assumption of responsibility by the operator for the merchandise in the zone, including physical supervision, security, recordkeeping, storage conditions, and processing (quantities of merchandise received or delivered are determined jointly by the operator and the delivering or receiving carrier);

(d) performance by Customs of audits and compliance reviews (formerly spot checks) to verify whether the operator is properly supervising the zone and maintaining the records in compliance with the laws and regulations;

(e) adequate bonding of the operator and assessment of liquidated damages by Customs to assure compliance with the requirements for proper supervision by the operator; and

(f) authority for Customs to suspend activated status for a period not to exceed 90 days, or by Board order, to continue suspension of activated status of any zone operation that cannot or does not comply with the laws and regulations for zones. (19 CFR 146.82). The Port Director may at any time recommend to the Board that the grant of authority be revoked for willful and repeated violations of the Act. (19 CFR 146.83).

3.3 Customs Supervision- The extent and character of Customs supervision of zones and zone transactions shall be in accordance with 19 USC 81a-u, 1646a, 19 CFR 161.2, and 19 CFR Part 146. The Port Director may detail, assign or request a Customs officer to supervise any transaction or procedure at a foreign-trade zone. Customs supervision may be exercised through but not limited to audits of records, quantity counts of merchandise in inventory, compliance reviews (formerly spot checks) of selected transactions or procedures, or reviews of record-keeping, security, or storage conditions. (19 CFR 146.3)

(a) **Physical Supervision** - The Port Director may order the physical supervision by a Customs officer of any merchandise transaction in a zone regarding zone status merchandise for which a Customs permit is required, (19 CFR 146.3(b)), in the same manner as such supervision was performed prior to the inception of the audit-inspection program under TD 86-16 (see Section 3.1 FTZM). However, supervision is usually conducted through the audit-inspection method. (See Sections 10.4(e) and 13.6 FTZM)

(b) **Security Service** - Although the operator may contract for guard service to provide the necessary security service at zones (19 CFR 146.4(c)) this does not limit the authority of the Port Director to assign Customs Officers to the zone to protect the revenue as provided in Section 81d, Title 19. (19 CFR 146.4(g) and Section 8.7(b) FTZM).

(c) **Access to Zones** - The zone operator must permit Customs officers access to the zone. (19 CFR 146.4(b)). Customs officers will properly identify themselves to company security personnel at the company's initial security point. To permit proper access, the operator must furnish to Customs officers special equipment

(and, where applicable, the personnel to properly use the equipment) for conducting compliance reviews (formerly spot checks) or audits, such as weighing, gauging, and measuring equipment; protective clothing (for cold storage, hazardous substances, safety hardhat, etc.); and provide access to available computers and peripheral equipment. Providing proper access also includes the explanation by the operator of procedures and transactions in the operator's or user's inventory and recordkeeping system. The operator should cooperate in any compliance review (formerly spot checks), audit, or other lawful Customs action, including the location of records and merchandise, so as to achieve its prompt completion and assure a rapid return to normal zone operation. Customs officers should respect operator and zone user security, health, safety, and union work rule procedures, to the extent that they do not interfere with a proper audit or compliance review (formerly spot checks) of the zone. At the discretion of the Customs officer zone personnel may accompany the Customs officer during a compliance review (formerly spot check).

3.4 Audits - An audit is a systematic and thorough check of the operator's (and sometimes a user's) inventory and financial records against zone lot numbers (see Section 6.7(a)(4) FTZM) or unique identification number (UIN's) and against the actual quantity of merchandise in the zone. Audits are conducted by non-uniformed Customs regulatory auditors. Audits are conducted much less frequently than Compliance Reviews (formerly spot checks) (See Section 3.5 FTZM). Their frequency is closely held information, which is not disclosed by Customs. Audits are much more intense and of longer duration than compliance reviews, (formerly spot checks) and may generally be expected to last from a week to several months, depending on the size of the inventory, initial problems disclosed, kinds of merchandise in the zone, and many other factors. Auditors may be expected to look at all kinds of zone transactions, conditions, and requirements, for not only the current year but also for past years. For companies using lot systems, auditors may request access to closed as well as open lot files.

(a) Notification and Arrival - Auditors, in contrast to inspectional compliance review (formerly spot check) officers, provide advance notification of an audit, except when it is in Customs interest to conduct an unannounced audit. Upon arrival, auditors shall announce themselves to the appointed representative of the operator or users. The operator or users may request appropriate government identification of the auditors. (19 USC 1509(b)).

(b) Closeout - Auditors shall provide a closeout interview with the operator and users to discuss their findings. Their findings are tentative, since they must be reviewed by Field Regulatory Audit management before presentation to the Port Director. The Port Director, not the auditor, takes management action on the audit findings.

3.5 Compliance Reviews (Formerly Spot Checks) - Port Directors are required to conduct compliance reviews (formerly spot checks) based on the port's risk assessment of the individual zone, as outlined in the Compliance Review Handbook (formerly Customs

Directive 3210-27 dated July 6, 1989). (19 CFR 146.3(b) and 161.1). A compliance review (formerly spot check) is a visit by one or more Customs officers usually uniformed Inspectors, from a port office to physically observe or examine transactions, records, procedures, or conditions in the zone. The purposes of compliance reviews (formerly spot checks) are to (1) determine whether the operator and users are in compliance with applicable laws, regulations, and Customs procedures; (2) provide Customs auditors with information in planning and conducting audits of the zone records, and (3) to determine the risk associated with each zone within the ports' jurisdiction. Customs officers shall not conduct audits or compliance reviews (formerly spot checks) under unsafe conditions, e.g., where there are tottering stacks of merchandise or damaged and exposed containers of hazardous substances, until the deficiency has been corrected (19 CFR 146.4 (f)).

(a) Notification and Arrival - Compliance reviews (formerly spot checks) are made without advance notification to the operator or user except when prior notification is in the interest of Customs. However, the officers shall announce their arrival to the manager or person in charge at the zone and at the user's premises before the compliance review (formerly spot check) is started. Operators and users may request identification by badge number from uniformed officers and by U.S. Government identification card from non-uniformed officers. The officers may invite the manager or person in charge to have a representative present during the compliance review (formerly spot check), but they will not be required to have a representative present, except as needed to locate records or merchandise, move merchandise, operate special equipment, or otherwise provide access to the merchandise and records. Customs officers should seek to minimize disruption of the day-to-day operations of the zone.

(b) Duration, Frequency, and Conduct - A compliance review (formerly spot check) will generally be limited to a day or two, to allow the widest possible Customs presence at zones. However, a compliance review (formerly spot check) may be extended in duration, at the discretion of the Port Director, for a further check on the basis of initial findings. The frequency of compliance reviews (formerly spot checks) will depend on Customs assessment of the risk represented by the zone. Risk is the degree of exposure to the chance of non-compliance that would result in loss or injury to trade, industry or the public.

The following four steps should be applied to the risk management process:

- Step 1: Collect Data and Information
- Step 2: Analyze and Assess Risk
- Step 3: Prescribe Action
- Step 4: Track and Report

Based on the port's risk assessment, the annual minimum frequency is: High - not fewer than three compliance reviews (formerly spot checks) per year; Medium - not fewer than two compliance reviews (formerly spot checks) per year; and Low - for

low risk manufacturing subzones, schedule at least one compliance reviews (formerly spot checks) per year. Customs officers will usually conduct a quantity count of selected zone lots or inventory categories of merchandise (UIN's), and reconcile the quantity count with the quantity reported in records in the zone admission file and/or the operator's inventory and recordkeeping system. However, they may at times focus compliance review (formerly spot check) efforts on security, safety, housekeeping, receipt or delivery procedures, deletion of merchandise from zone inventories, or other conditions or transactions considered significant in their assessment of the zone's risk. Compliance reviews (formerly spot checks) in manufacturing subzones generally focus on the operator's records and de-emphasizes quantity counts of physical inventory.

(c) Completion and Closeout - If Customs officers are unable to reconcile a discrepancy between their quantity count, and the balance in the operator's inventory recordkeeping system, they shall give the operator (and user, if applicable) an opportunity to resolve the discrepancy before the compliance review (formerly spot check) is completed. At the end of the compliance review (formerly spot check), the officers shall conduct a closeout interview with the person in charge at the zone facility to relate their findings. In some cases, the officers may issue an oral warning to correct a minor violation. Their findings are tentative, since they must be reviewed by port management before any specific action is taken. However, any action subsequently taken should come as no surprise to the operator or user. The person in charge may provide comment to port management during the closeout interview or later to explain apparent violations or to seek to avoid a claim for liquidated damages. Customs officers shall make follow-up visits to the zone to determine whether minor violations have been corrected or to verify assertions made by the operator.

3.6 Coordination of Audits and Compliance Reviews (FORMERLY SPOT CHECKS) - Audits and compliance reviews (formerly spot checks) are separate and independent, but mutually supporting, methods of verifying compliance by the operators with the laws, regulations, and procedures.

3.7 Monitoring Foreign-Trade Zone Regulations - The Port Director, as resident representative of the Board, may inspect zone operations for the purpose of informing the Board whether the provisions of the FTZA and are being met. (See 15 CFR 400.41). The operator shall comply with the Port Director's requirements, and make available such records and reports as are necessary for a thorough and proper inspection of zone activities. (15 CFR 400.46(a), (b)). The grantee shall act in compliance with the Foreign-Trade Zones Board Regulations. (15 CFR 400.41).

3.8 Supervision by Operator - Under audit-inspection, the operator is responsible for all aspects of physical supervision of the zone, except to the extent that the Port Director chooses to conduct physical supervision. Generally, the operator is responsible for supervising all receipts, deliveries, sampling, recordkeeping, manipulation, destruction,

manufacturing, security, and storage conditions, in compliance with the laws and regulations. The degree of supervision is that expected of a prudent manager of a storage, manipulation, or manufacturing facility, and may take into account the degree of supervision exercised by the zone user having physical possession of zone merchandise. (19 CFR 146.4(a)).

3.9 Operator Responsibilities - The operator's responsibilities are set out in a number of provisions of 19 CFR Parts 146 and 113. These responsibilities are significant in that failure to carry them out may result in claims of liquidated damages against the operator, or fines against the operator, as an agent of the grantee. (See Section 13.4 FTZM).

(a) Enforcement of Operator's Requirements - To assist in overall zone supervision, all applications for permits to admit, manipulate, manufacture, exhibit, or destroy merchandise in a zone must include the written concurrence of the operator. (19 CFR 146.9). Provision is made in Customs Forms 214 and 216 for the operator's signature for concurrence. However, concurrence may be indicated by a separate specific or blanket concurrence which states clearly what the concurrence covers. No concurrence is required when the operator is the owner or purchaser of the merchandise for which the permit is requested. No operator concurrence is required for transfers of merchandise from a zone because, under 19 CFR 146.71(a), the merchandise is released by Customs to the operator, not to the person making entry. The operator may subsequently release the merchandise to the appropriate party. (19 CFR 146.9, 146.71 see; Section 8.6 FTZM). An operator may, in its discretion, refuse to release merchandise to any person unwilling to be bound by the FTZR or the grantee's regulations, or in violation of those regulations. The Port Director shall deny any application for a permit which does not have the concurrence of the operator, when required.

3.10 Grantee Liability - A grantee is a corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted. (15 CFR 400.2(h), (r)). The grant shall not be sold, conveyed, transferred, set over, or assigned. (15 CFR 400.28(a)(8)) Customs holds the operator and surety responsible for compliance in the conditions of the Foreign-Trade Zone Operator's Bond. (19 CFR 113.73). However, the execution of the bond by the operator does not lessen the liability of the grantee to comply with the FTZA and the implementing regulations, in Titles 15 and 19 of the Code of Federal Regulations. (19 CFR 146.6(e)). The grantee is not automatically liable for violations by operators, users, or other parties when it delegates its authority to operate and maintain a zone to another person and does not itself operate the zone. (15 CFR 400.28(a)(9)).

3.11 Customs Reimbursement and Fees - Section 81n, Title 19, USC, (19 USC 81n), requires the operator to reimburse Customs for the additional service required to carry out the FTZA. An annual fee was established under the regulation changes of TD 86-16 and Section 19 CFR 146.5 to collect this reimbursement. However, collection of the fee was suspended under the Omnibus Budget Reconciliation Act of 1987 (now codified as 19 USC 58c(e)(6)(C)(I)), during any period when fees are authorized under 19 USC 58c(a)).

Since such fees are now authorized (such as the merchandise processing fee described below), operators shall not pay the annual fee and Customs officers shall not collect it. In effect, the cost of additional service is considered by Congress to be covered by the merchandise processing fee.

(a) Activation and Alteration Fees - Operators were also subject under 19 CFR 146.6(b), and 146.7(a) to fees for applications to activate a zone, or to alter or relocate the activated area of the zone. (See Sections 4.7(a) and 4.8(a) FTZM). The purpose of these fees was to reimburse Customs for the cost of reviewing the applications, including the cost of conducting security surveys and background investigations. These fees were authorized under the Independent Offices Appropriation Act (31 USC 9701), which requires Federal agencies to be as self-sustaining as possible. However, the fees were suspended by the Omnibus Budget Reconciliation Act, along with the annual fee, and shall not be paid by the applicants.

(b) Merchandise Processing Fee (MPF) - Importers of record are responsible for paying the merchandise processing fee as authorized under 19 USC 58c(a)(9) and (b)(8). The amount of the MPF is 0.21 percent of the value of the merchandise for a formal entry or release; however, the amount of the MPF may not exceed \$485 or be less than \$25. A \$3 surcharge is added for any manual entry or release. (19 CFR 24.23(b)(B)). The amount of the MPF for an informal entry is \$2 for an automated entry or release, and \$6 for a manual entry or release not prepared by Customs, or \$9 for any automated or manual release if it is prepared by Customs officers. Except as noted in Section 3.11(b)(2) FTZM, the value of merchandise subject to the MPF is determined according to the provisions of 19 USC 1401a (i.e. dutiable value of the foreign non-duty paid merchandise, in the case of foreign-trade zones). The MPF shall be deposited at the same time as the applicable duties as provided in 19 CFR 141.101 (formal entries) or 19 CFR 143.28 (informal entries), and reported on Customs Form 7501 under Code 499 (formal entry), 311 (informal entry), or 500 (manual surcharge), as applicable. (See sample in the Appendix to the FTZM)

(1) Exemptions: See 19 CFR 24.23(c). The merchandise processing fee may not be charged for the entry or release of any article that is:

(i) provided for under any item in Chapter 98 HTS, except subheading 9802.00.60 or 9802.00.80 (see Section 3.11(b)(2)(iii) and (iv) FTZM);

(ii) a product of an insular possession of the United States;

(iii) products of least-developed beneficiary developing countries (General Note 4(b)(i), HTS) and of beneficiary countries under the Caribbean Basin Economic Recovery Act (General Note 7, HTS); 19 U.S.C. 58c (b) (8) (B);

(iv) a product of Israel if an exemption with respect to the fee is implemented under Section 112 of the Customs and Trade Act of 1990 (i.e., through negotiation of U.S.-Israel Free Trade Agreement); 19 USC 58c(b)(11) or

(v) covered by an entry for consumption filed to document shortages reported to Customs under the provisions of Sections 19 CFR 146.53, since these are not considered to be true entries or releases as envisioned in 19 USC 58c,

(vi) merchandise described in General Note 19 HTSUS, merchandise released under 19 USC 1321, and merchandise imported by mail.

(2) Partial Exemptions - A reduced merchandise processing fee is paid as provided in this subsection

(i) Domestic Agricultural Products in Zone - In the case of agricultural products of the U.S. which have been processed and packed in a foreign-trade zone, the fee will be applied only to the value of the foreign non-duty paid material used to make the containers for such merchandise. (19 USC 58c(b)(8)(D)(v)).

(ii) North American Free Trade Agreement - If PF status was attained prior to June 30, 1999, the Merchandise Processing Fee is owed for entries made after June 30, 1999. If PF status was attained on or after June 30, 1999, no Merchandise Processing Fee is owed. For NPF status merchandise, no Merchandise Processing Fee is owed. Since January 1, 1994, goods originating in Canada, within the meaning of General Note 12 of the HTS, and where such goods qualify to be marked as goods of Canada, have not been subject to the Merchandise Processing Fee.

(iii) Metal Articles Exported and Returned - In the case of merchandise classifiable under subheading 9802.00.40 (metal articles which were exported for repairs or alterations and have been reimported for further processing), the fee will be applied only to the value of the foreign repairs or alterations.

(iv) Articles Exported for Assembly and Returned - In the case of merchandise classifiable under subheading 9802.00.80 (articles which were exported for assembly and have been reimported), the fee will be applied to the full value of the product less the cost or value of the component U.S. products.

(3) Weekly Entries - In the case of weekly entries under Section 19 CFR 146.63(c), the \$485 maximum and \$25 minimum fees are applicable to the total amount covered by the entry summary, and not to the individual zone transfers under 19 CFR 146.63(c), since there is only one entry or release. However, a separate fee will be applied to any supplemental entries filed if actual removals from the zone will exceed the amount estimated for the weekly entry. (Section 9.8 FTZM).

(c) Harbor Maintenance Fee (HMF) - When imported cargo is unloaded from a commercial vessel at a qualifying U.S. port and admitted into a foreign-trade zone, the applicant for admission of that cargo into the zone may be subject to the harbor maintenance fee as set forth in 19 CFR 24.24. (19 CFR 146.22(e)). It is important to note that the zone status of the merchandise is irrelevant to the application of the HMF. Commercial cargo loaded or unloaded from a commercial vessel is subject to a port use fee, of .125 percent of its value. (26 USC 4461 and 19 CFR 24.24(a)). The fee applies only if the cargo is loaded or unloaded at certain ports listed in Section 19 CFR 24.24(b)(1). Foreign-trade zone users, not zone operators (unless, they are also the applicant for admission, i.e., subzone operator), are subject to the fee, although operators are encouraged to see that users are aware of their responsibility to pay the fee. Users may also be subject to the fee for domestic shipment(s) (19 CFR 24.24(e)(1)).

(1) Exemptions and Special Rules - The harbor maintenance fee is applicable only to cargo loaded or unloaded from a commercial vessel in qualifying ports. Therefore, cargo first unloaded from aircraft, land vehicles, or otherwise not from a commercial vessel is exempt from the fee. Cargo first unloaded from a vessel at a port not listed in 19 CFR 24.24(b)(1) is also exempt from the fee. Other exemptions are set forth in 19 CFR 24.24(c). Special rules applicable to intraport activities are set forth in 19 CFR 24.24(d)(1), (2).

(2) Import Vessel Movements - In cases where imported cargo is first unloaded from a commercial vessel at a port within the definition of 19 CFR 24.24(b)(1) and admitted into a foreign-trade zone, the applicant for admission (the person or corporation responsible for bringing the merchandise into the zone) becomes responsible for the fee at the time of unloading. The fee shall be paid on a quarterly basis by mailing a check or money order payable to the U.S. Customs Service for all fees for the quarter, and Customs Form 349 (see sample in the Appendix to the FTZM) covering those fees, to U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673-0915. An amended quarterly summary report, if applicable, shall be filed on Customs Form 350 (see sample in the Appendix to the FTZM). Fees shall be paid for all shipments unloaded and admitted to the zone during the quarter or in the case of direct deliveries under 19 CFR 146.39 and 146.40,

unloaded and received in the zone under the bond of the zone operator. (19 CFR 24.24(e)(3)(iii)) A properly filled-out sample of Customs Form 349 is shown in the Appendix to the FTZM. The fee will not be assessed on any shipment entitled to be entered under the informal entry procedures of 19 CFR 143.21, nor collected in the quarterly payment if the total value of all shipments for which a fee was assessed during the quarter does not exceed \$10,000. (19 CFR 24.24(d)(3)(l), (4)).

(3) Domestic Vessel Movements - If merchandise is transferred from a zone for transport on a commercial vessel to another U.S. port, the fee is payable by the shipper (the person who pays the freight) on a quarterly basis in the manner specified in 19 CFR 24.24(e)(1), and reported on Customs Form 349 (see sample in the Appendix to the FTZM), or on Customs Form 350 (see sample in the Appendix to the FTZM), if applicable. Special intraport rules apply to domestic movements as specified in 19 CFR 24.24(d)(1), (2). The fee is not assessed on any domestic shipment whose value does not exceed \$1,000, nor collected if the total value of all shipments for which a fee was assessed for the quarter does not exceed \$10,000. (19 CFR 24.24(d)(3)(iii), (4)).

(4) Administration of Harbor Fee - Quarterly payments are due no later than 31 days after the close of the quarterly period ending on the last day of March, June, September, and December. (19 CFR 24.24(f)). Each applicant for admission responsible for payment of the fee must maintain records necessary for Customs to verify the accuracy of the fee computations and to otherwise determine compliance with the law. These records must be maintained for five years from the date of the fee calculation, and must be made available for inspection or other official use by Customs. The applicant for admission to the zone must advise the Director, Accounting Services, Accounts Receivable, the name, address, EIN/IRS number, and telephone number of a responsible officer of the payer who will verify records required to be maintained as well as any changes to this information. The address is:

P.O. Box 68903
Indianapolis, IN 46268

The penalty for failure to pay the harbor maintenance fee and file the summary sheet at the time specified is an amount equal to the liquidated damages assessable for late filing of an entry summary under 19 CFR 24.24(h).

Chapter 4

ESTABLISHMENT, ACTIVATION, ALTERATION, AND OTHER CHANGES

4.1 General - Putting a foreign-trade zone into operation is a two-stage process. The first stage is gaining approval by the Board for a grant to establish, operate, and maintain the zone. The FTZB issues guidelines for all types of applications. The guidelines can be found on the FTZB website. The second stage is gaining approval by Customs for activation to allow merchandise to be admitted to the zone in zone status. Only after the approval of activation will users gain the benefits conferred under the FTZA. The same two-stage process applies to changes in the approved area of the zone.

4.2 Application and Approval of Foreign-Trade Zone - Zone applications are approved under the authority and procedures of the FTZA (19 USC 81), and the FTZR. (15 CFR 400.21 through 400.33). Zone economic, financial, and physical requirements are set forth in 15 CFR 400.21 through 400.33. However, Board policy may call for other requirements, and applicants are advised to consult with the Executive Secretary during the early stages of interest in a zone to determine the specific filing and exhibit requirements for their zone or subzone.

(a) Location Requirements - Foreign-trade zones are located in or adjacent to a port of entry, (19 USC 81b). Ports of entry are listed in 19 CFR 101.3. Zones may be located in communities that have Customs stations. The Board considers a general-purpose location "adjacent" to a port of entry if it is within 60 statute miles or 90 minutes driving time from the outer limits of a port of entry as determined by the Port Director. This mileage and driving time limitation is specific to general-purpose zones, and not subzones. (15 CFR 400.21(b)(2)(i)). Subzones may be approved at more distant locations. A subzone meets the adjacency requirement if, (a) proper Customs oversight can be accomplished with physical and electronic means; (b) all electronically produced records are maintained in a format compatible with the U.S. Customs Service for the duration of the record period; and (c) the grantee/operator agrees to present merchandise for examination at a Customs site selected by Customs when requested, and further agrees to present all necessary documents directly to the Customs oversight office. (15 CFR 400.21(b)(2)(ii)).

Each port of entry is entitled to at least one zone project. Additional zones may be approved if the port of entry is located within more than one state, if two cities separated by a body of water are embraced in one port of entry, or if the Board finds that existing zones will not adequately serve the convenience of commerce. (19 USC 81(b) and 15 CFR 400.21(a)).

(1) User Fee Airports - User fee airports established under 19 USC 58b may be accepted by the Board as the equivalent of ports of entry for the purposes of the location requirements of Section 81b, Title 19 (19 USC 81b). Operators of such airports must reimburse Customs for the cost of Customs services to the airport, including any service to a zone established at or in the vicinity of the airport. (19 USC 58b(f); 15 CFR 400.2(i)). This is an exception to the general prohibition against charging any Customs costs to zones. (19 USC 58c(e)(2), (6) and see Section 3.11 FTZM).

(b) Grantee Sponsorship - The Foreign-Trade Zones Board Regulations define eligible grantees when there is more than one zone project for a subzone project. Normally, the closest grantee would be the sponsor of a subzone. However, section 15 CFR 400.22(d)(ii) specifically provides that the zone grantee of another zone in the same state is eligible to apply for a grant of authority if the Board, or the Executive Secretary, finds that such sponsorship better serves the public interest.

(c) Qualifications of Applicant - Grants to public and private corporations will not be approved unless the applicant has been authorized by an act of the state legislature. (15 CFR 400.22(b)(c)). The applicant must demonstrate its ability to adequately finance and conduct the undertaking. (15 CFR 400.23(a)(2)).

(d) Subzones - Applications for subzones must be submitted by a grantee of an existing general-purpose zone within the same state, or a state agency specifically authorized to submit such an application by an act of the state legislature. (15 CFR 400.22(d)(i)(iii)). A subzone may be authorized by the Board if the Board finds that the operation cannot be accommodated in the existing multi-purpose zone facilities within the zone project and meets the required public interest test in Sections 15 CFR 400.31 (c) and 400.23(b). In practice, the Board requires additional information from the applicant zone to describe the particular zone benefit(s) sought for the subzone and why such benefits are in the public interest.

(e) Application Fees - In certain circumstances, a fee may be required with the submission of the application to the FTZB. Information regarding the fees may be found in Section 15 CFR 400.29.

(f) Criteria for Grants - When determining whether to issue a grant, the board will consider the need for zone services in the port area, adequacy of operational and financial plans, suitability of site and facilities, extent of state and local support, and views of persons or firms likely to be affected by the project when determining whether to issue a grant. Any zone project that involves manufacturing will have to be evaluated against the criteria in Section 15 CFR 400.3.

(g) Initiation of Procedure - The application procedures and requirements are set out in detail at 15 CFR 400.24 through 400.26. All applications will be filed with the

Secretary of Commerce, Attention: Executive Secretary, Foreign-Trade Zones Board.

(1) Zone applications will consist of a letter of transmittal, executive summary, and five exhibits. (15 CFR 400.24).

(2) Subzone applications will be the same as above except Exhibit #4 will show the specific activity proposed for the subzone and its net economic effect. (15 CFR 400.25).

(3) Modifications of existing zone projects fall into two categories, major and minor. A grantee may submit requests for modifications to the Executive Secretary with sufficient information and documentation to determine whether the change is major or minor. The Executive Secretary, in consultation with the Port Director, will make that determination. (15 CFR 400.26 and see Section 4.4).

(h) Application Review - The examiner, appointed by the Executive Secretary, thoroughly reviews the application and the comments presented orally or in writing. If there are public interest issues involved, the examiner may solicit the views of Federal or State government agencies or trade associations. The Executive Secretary will ask that the Customs representative submit his/her written views on the application. Customs Headquarters may ask its representative to include in his or her views special information it considers relevant to approval of the application. When these letters are received and the application has been fully reviewed, the examiner submits a recommendation in writing to the Board.

(1) Procedures for Review - Board procedures for review of applications set forth standard time frames for each step of procedural review. Applications involving manufacturing or processing may be completed within 1 year. Those applications not involving such activity may be completed within 10 months. The Executive Secretary will determine if all applications satisfy the requirements of 15 CFR Part 400.

(i) The Executive Secretary will provide notice to the applicant within 20 days of receipt of the application should any deficiencies need correcting. The applicant will make any necessary corrections and return the application within 30 days (15 CFR 400.27(b)(1)).

(ii) If the application needs no corrections, the Executive Secretary will formally file the application, assign a case docket number and notify the applicant within 45 days. (15 CFR 400.27(b)(2)).

(2) Comment Period - The Executive Secretary will designate an examiner, and publish a notice of the application in the Federal Register for public comments.

(a) The comment period will normally close 60 days after the date the notice appears. In the event a hearing is scheduled, the general comment period does not close until 15 days after the hearing. (15 CFR 400.27(c)(2)).

(b) An additional 15 days will be allowed for rebuttal comments after the closing date of the public comment period. (15 CFR 400.27(c)(2)).

(c) Customs field representative will review the application and submit a technical report to the Executive Secretary within 45 days of the close of the public comment period. (15 CFR 400.27(d))

(1) Customs Special Requirement - The Customs Service requires for its review a statement of commitment to electronic interface with Customs in the following form:

"(Name of applicant) hereby commits itself to the establishment of an electronic interface with the U.S. Customs Service through its electronic data interchange system, when the specifications and requirements of that interface have been developed and implemented by Customs. We understand that this commitment is applicable to our agents and any operator of the zone. It is also understood that, if we have not established that interface, Customs will not activate any portion of the approved zone covered by this application."

This statement should be submitted with the application, but will be accepted later during the review. If submitted later, it shall be provided to the examiner for transmittal to the Executive Secretary.

(2) Customs will conduct a background investigation of the foreign-trade zone applicant, their officers, and their key employees, as a routine part of the review of the zone application. If the investigation discloses derogatory information, e.g. a criminal record involving theft or smuggling, the Executive Secretary will be advised of the facts, to the extent permitted under the Freedom of Information and Privacy Acts, as amended. (5 USC 552 and 552a). Derogatory

information is an important factor in Customs decision whether to support the application. (CD 3210-07).

(3) Examiners Review - The examiner will prepare a report with recommendations to the Board and submit it to the Executive Secretary within 120 to 150 days of the close of the period for public comment.

(a) Report unfavorable to applicant:

(1) Applicant notified within 5 days;

(2) Applicant has 30 to 45 days from notification date to present new evidence.

(b) Applicant presents new evidence:

(1) New evidence may be published in Federal Register for a 30-day comment period followed by a 15-day period for rebuttals.

(c) The Customs Service shall submit any additional comments within 45 days after notification by the Executive Secretary if there are additional Customs issues. (15 CFR 400.27(d)(2)(i)).

(d) The examiners report shall be submitted to the Executive Secretary within 30 days after receipt of additional evidence.

(4) Special Conditions - Public interest issues are normally resolved before they get to the final approval stage. The Board may require special conditions be placed in the grant for a zone to protect the public interest, health or safety. (15 CFR 400.33(a)). Reviews of these special conditions can be instituted by the Executive Secretary to ensure that they continue to be in the public interest. (15 CFR 400.12u, 400.43)).

(5) Amendment or Withdrawal - The Board may permit the amendment or withdrawal of the application during the review period. (15 CFR 400.24(f))

(6) Completion of Review - A copy of the examiners report is sent for review to the Headquarters offices of the U.S. Customs Service. Customs provides its findings on the report and application to the Deputy Assistant Secretary (Enforcement) of the Treasury. If the findings are accepted, resolution to approve the application is signed by Treasury and forwarded to the Executive Secretary of the Board. The time period for Customs and Treasury review is thirty (30) days. (15 CFR 400.27(e)).

(7) Final Action - When the Treasury resolution is received, the Executive Secretary prepares final action papers for review by the Secretary of Commerce or its designee. After final action, a copy of the Board Order is sent to the applicant. A public notice of the decision on the application is published in the Federal Register notifying the public of the decision on the application. The total period from the date of filing until receipt of the grant is normally from 10 to 12 months.

4.3 Grant Limits Lapse and Termination - Foreign-trade zone grants are limited by the provisions of the FTZA and FTZR, and by any special conditions which were inserted in the grant. Grants may not be sold, conveyed, transferred, set over, or assigned by the grantee. (19 USC81 q, 15 CFR 400.28(a)(8)). However, the Board may reissue a grant from one grantee to another upon approval of a zone application by the intended recipient of the grant. Grants are issued for an indefinite period of time, unless a special time limit has been placed in the grant. Grants may lapse, terminate or be limited in any one of the following ways:

1. revocation by the Board for willful and repeated violations of the FTZA by the grantee or subzone operator, under 19 USC 81r and Section 15 CFR 400.28(c);
2. effective 11/7/91, a grant will lapse unless the zone or subzone is activated and in operation not later than 5 years after the Board order establishing a zone. "In operation" has been defined by the Board as open for operations and does not require the admission of foreign status merchandise. (61 FR 53305, "Rule Related Notice," dated 10/11/96.)
3. voluntary relinquishment of a grant by the grantee (there is no mention of this method in the FTZA or FTZR, but it has been accepted by the Board on several occasions); or
4. expiration without renewal of a special time limit placed in the grant. (see Section 11.5(g) FTZM).
5. restrict or prohibit activity for a zone site or subzone for public interest reasons (15 CFR 400.43).

4.4 Expansion or Boundary Modification - An expansion of the area of an established zone shall be made and approved in the same manner as an original application. (19 USC 81f (b) and procedures are noted in Section 15 CFR 400.26).

(a) Minor Boundary Modification - Grantees may submit requests to the Executive Secretary for minor modifications of zone boundaries. Because this is an expedited procedure, grantees normally discuss such proposals with the Customs Port Director and seek comments prior to submission to the FTZ Board. The Customs

Port Director comments normally accompany the grantee's request. Customs approval is always subject to activation conditions, and shall be so stated in the Port Director's comments. The Executive Secretary is authorized to determine the requirements for exhibits for such applications. These exhibits will include a report from the Port Director of Customs. If the Port Director recommends approval, the Executive Secretary is authorized to approve the application. (15 CFR 400.26(c)). If the proposed boundary change is not a minor modification, the procedure in Section 15 CFR 400.24 will be generally followed. (15 CFR 400.26(b)).

(b) Description of Approved Zone Area - Copies of maps, charts, layouts, and legal descriptions of metes and bounds of the approved zone area, including any expansions or boundary modifications shall be retained in a permanent file by the Port Director and shall be retained also by the operator or grantee, so it is clear at all times what the approved area covers. (15 CFR 400.46(c)). Any application for activation should be compared with the approved zone area to assure that the activated area will be within with the approved zone area.

4.5 Other Changes To the Zone Project – There are other changes which affect the zone project which are not considered boundary modifications or expansions.

(a) Change to Grantee Organizations - Foreign-Trade Zone Board Regulations allow a grantee of a subzone project to be replaced with another grantee subject to Foreign-Trade Zones Board approval. A request with necessary documents must be submitted in writing to the Foreign-Trade Zones Board explaining the circumstances, with a copy to the Customs Port Director (15 CFR 400.26).

4.6 Commencement of Operations - A zone may commence operations after approval by the Port Director of an application to activate (19 CFR 146.6(a)). Any proposed manufacturing or processing activity must be approved in advance by the FTZB. The definition of manufacturing by the FTZB is any activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use (15 CFR 400.2(g)). The definition of processing by the FTZB is any activity involving a change in condition of merchandise, other than manufacturing, which results in a change in the Customs classification of an article or in its eligibility for entry for consumption (15 CFR 400.2(k)). Prior to commencement of operations in a zone, the grantee must have available a zone schedule (See Section 2.1 (f) FTZM).

4.7 Application for Activation - The FTZB regulations require approval from the grantee and the Port Director pursuant to 19 CFR Part 146, prior to the activation of any portion of a zone project. (15 CFR 400.28(a)(1)). Customs regulations define activation as approval by the grantee and the Port Director for operations and for the admission and handling of merchandise in zone status. (19 CFR 146.1(b)(2)). The term activation also includes the resumption of operations of a previously deactivated zone under a new operator. (CFR 146.1(b)(17)).

(a) Initiation of Procedure - (See 19 CFR 146.6) - A zone operator (or where there is no operator, a grantee) shall make written application to the Port Director of the port with jurisdiction over the zone to obtain approval for activation of a zone or zone site. The area to be activated may be all or any portion of the zone approved by the Board. The application must include a description of all the zone sites covered by the application for activation, any operation to be conducted therein, and a statement of the general character of the merchandise to be admitted. No fee is charged or collected by Customs in connection with an application for activation. (Omnibus Reconciliation Act of 1987). The application must be accompanied by the following:

1. a blueprint of the area approved by the Board to be activated showing area measurements, including all openings and buildings; and all outlets, inlets, and pipelines to any tank for the storage of liquid or similar product, that portion of the blueprint certified to be correct by the operator of the tank;
2. a gauge table, when appropriate, showing the capacity in metric units of any tank certified to be correct by the operator of the tank;
3. a procedures manual in the English language describing the inventory control and recordkeeping system that will be used in the zone, certified by the operator or grantee to meet the requirements of 19 CFR Part 146, Subpart B;
4. the written concurrence of the grantee when the operator applies for activation. (19 CFR 146.6(a) and (b)(5) CR).

(1) Format of Application - No particular form is required for an application for activation; a written request on the letterhead of the applicant will suffice. The application procedure will be required of any new zone or subzone, or of any zone site having a different operator from that of an already-activated zone site.

(2) Treatment of Operator's Procedures Manual - The operator's procedures manual is furnished for Customs use in conducting compliance reviews (formerly spot checks) and audits. Customs officers may initially read the manual for familiarization purposes. Receipt of the manual by Customs does not constitute approval or certification of the procedures manual nor is approval of the manual allowed. (19 CFR 146.21 (b)(4)). The Port Director may advise the applicant, as a matter of courtesy, of any apparent failure(s) of the system to meet the criteria. Neither the Port Director's reading, courtesy advice, or approval of the application for activation constitutes any representation by Customs that the system does or does not meet the criteria of 19 CFR Part 146, Subpart B. The applicant's certification that the

recordkeeping system meets the requirements of Subpart B will be taken at face value by Customs at the time of application, and will be evaluated only through compliance assessments, Compliance Reviews (formerly spot checks), and audits conducted after approval of activation.

At the option of the Port Director, the procedures manual may be returned to the zone operator for retention at the zone as Customs copy of the manual. The operator shall keep the Customs copy updated (19 CFR 146.21(b)(2)) and furnish it to the appropriate Customs officer upon demand. The Port Director will retain the operator's certification of the procedures manual in a permanent file. The procedures manual is exempt from disclosure under 5 U.S.C. 552(b)(4) and 19 CFR 103.12(d), and Customs officers will maintain its confidentiality. Sanctions for violation of confidentiality by Customs employees are set forth in 19 CFR 103.34.

(b) Review of Application - As a condition of approval of the application, the Port Director will order an inquiry by a Customs officer into:

1. the qualifications, character, and experience of an operator and/or grantee, principle officers, and/or key employees that are responsible for the zone;

2. the security, suitability, and fitness of the facility to receive merchandise in zone status (security survey). (19 CFR 146.6(c)).

(1) Background Investigation - The background investigation is made of the operator firm itself, management involved in the operation of the zone, and key employees that have access to or could cause changes to the inventory and recordkeeping system. If a background investigation was done of the operator in connection with the original zone application, no additional investigation will be made if the information from the original investigation is still current. Checks are not usually made of zone user firms. Checks of employees in subzones are limited to key management and employee positions. The background investigation should be limited to those employees that have access to or could cause changes to the inventory and recordkeeping system. Subjects of investigation may be required, as a condition of approval of the application for activation, to complete Customs fingerprint cards and establish their true identity for investigation purposes. (19 CFR 146.6(a), TD 93-18). Any information disclosed in this inquiry is confidential and will not be disclosed to unauthorized persons, except as provided in the Freedom of Information and Privacy Acts, as amended. (5 U.S.C. 552 and 552a). An employer may wish to obtain a Privacy Act waiver, which would allow disclosure of information from Customs to the employer, from employees at the time of employment. If the background investigation discloses derogatory information, the Port Director may deny

the application to activate. "Derogatory information" includes such information as:

1. fraud or misstatement of a material fact in the application;
2. failure to furnish, upon request, a complete and accurate list of persons as specified in 19 CFR 146.7(g);
3. presence in the management of the operator of a person who has been convicted of a felony or misdemeanor involving theft, smuggling, fraud or similar property crime; or
4. employment of persons convicted of such crimes that would jeopardize the security of merchandise in the zone.

(2) Cargo Security Survey - The surveying officer may prepare a survey report addressing Customs physical and procedural standards. The surveying officer shall present his or her findings to the applicant in a conference with the understanding that the survey findings do not constitute a decision on the activation application. The applicant shall be afforded an opportunity to correct any deficiencies noted in the conference before the Port Director makes a decision on approval of the application.

After presentation of the survey report to the facility operator, the facility shall be reinspected at an appropriate date to determine whether recommendations for improvements have been carried out. If the facility operator declines or is unable to institute improvements to correct significant deficiencies, the Port Director shall deny the application.

(3) Other Considerations - Other factors may be considered by the Port Director in making a decision whether to approve the application. (Examples: Before the application is approved, the operator firm is sold to another party; or the operator manifests or demonstrates an inability or unwillingness to comply with the law, regulations, or grant conditions). There is no specific limit on the grounds for denial of an application to activate, except that the Port Director may not deny it in an arbitrary or capricious manner.

(c) Decision on Application - The Port Director shall promptly notify the applicant in writing of his or her decision to approve or deny the application to activate the zone. If the application is denied, the notification will state the grounds for denial, which need not be limited to those listed in Section 19 CFR 146.82(a). The decision of the Port Director will be the final Customs administrative determination in the matter. On approval of the application, a Foreign-Trade Zone Operator's Bond shall be executed on Customs Form 301, containing the bond conditions of Section 19 CFR

113.73. Upon the Port Director's approval of the application and acceptance of the executed bond, the zone or zone site will be considered activated and merchandise may be admitted to the zone in zone status. Execution of the bond by an operator does not lessen the liability of the grantee to comply with the Act and implementing regulations. (19 CFR 146.6(d), (e)).

Because of the requirements for the background inquiry, applicants may normally expect the Port Director's decision on the application any time from 1 to 4 months after the application was submitted to Customs. The application will not be provisionally approved pending the completion of a regulatory or administrative requirement, e.g. the completion of a background inquiry. Thus, if an application is approved, it will be suspended or revoked only as provided in 19 CFR 146.82, or 146.83, (see Sections 13.8 through 13.11 FTZM).

(1) Admission of Merchandise Already in Zone - Domestic and duty-paid merchandise which is already in the activated area at the time of activation will be treated as having been admitted to the zone in domestic status as authorized in 19 CFR 146.43, and the provisions of Subpart B of part 146 shall become applicable to the merchandise. Merchandise not qualifying for domestic status which is in the area at the time of activation shall be admitted to the activated area under the procedures in 19 CFR 146.32 (and see Section 6.7 FTZM), or removed therefrom for other disposition according to law.

(2) Foreign-Trade Zone Operator's bond - The Foreign-Trade Zone Operator's Bond shall be in the amount set by the Port Director, but will not be less than the amount set by the bonding guidelines. The bond may cover all zones of the same operator in the United States. The amount of the bond shall be determined by the Port Director in accordance with the guidelines set forth in 19 CFR 113.13(b) and CD 3510-004. The initial standard should be based upon the Customs duties and fees owed on the average value of foreign status non-duty paid merchandise held in the zone. An operator may engage in cartage or lighterage under his bond only for merchandise destined for his foreign-trade zone and may also transport merchandise to his zone from anywhere within the district boundaries where the FTZ is located. (19 CFR 112.2(b)). Any other bonded operations by the zone operator, such as of a private carrier, container freight station, or bonded warehouse may not be incorporated in the Foreign-Trade Zone Operator's bond, but rather must be covered under a separate custodial bond, containing the conditions set forth in 19 CFR 113.63. No foreign or zone-restricted status merchandise will be admitted to a zone until the Foreign-Trade Zone Operator's bond has been properly executed and is on file with Customs. An entry of merchandise for consumption into the U.S. must be covered by a separate entry bond. See Section 9.7(b) FTZM.

4.8 Application for Alteration - "Alteration" means a change in the boundaries of an activated zone or subzone; activation of a separate site of an already activated zone or subzone with the same operator at the same port; or the relocation of an already activated site with the same operator. (19 CFR 146.1(b)(4)). The term also includes discontinuance of activated status of part of a zone site (19 CFR 146.1(b)(8)) and resumption of activated status of a previously deactivated area, but with different boundaries (19 CFR 146.1(b)(17)). Because the boundary of the activated area is new or changed, the Port Director may review the security, suitability and fitness of the area and shall reply to the applicant. (19 CFR 146.7(a)).

A foreign-trade zone may be altered so as to have multiple operators, so long as responsibility and liability for the goods under each operator's bond is clearly identified.

(a) Application Procedure - An operator shall make written application to the Port Director for approval of an alteration of an activated area, including an alteration resulting from a zone boundary modification. (19 CFR 146.7(a) and Section 4.4(a) FTZM).

No Customs fee is charged for an application for alteration of an activated area while Merchandise Processing Fees are active. (The Omnibus Reconciliation Act of 1987). The application must be accompanied by a blueprint or layout of the area to be activated, showing the changes from the presently activated area, and showing all openings and buildings. If the newly activated area contains any tanks for the storage of liquids, all inlets, outlets, and pipelines to the tank must be shown, and a gauge table showing the capacity of the tank in metric units, certified by the applicant to be correct, must be attached. If the inventory control and recordkeeping system is different from that of the already-activated area, a certified procedures manual for the newly activated area must accompany the application. Because no background investigation is required, and a security survey is at the discretion of the Port Director, approval of an application for alteration can be expected to be approved or denied in about 2 or 3 weeks after application.

(b) Bonded Warehouse Within Approved Foreign-Trade Zones - Whenever any contiguous non-activated area is a portion of a building which has been approved as a bonded warehouse, the port director shall designate the means for effective separation of the bonded warehouse from the rest of the facility. (19 CFR 19.4(b)(6)). Any portion of an approved general-purpose zone or subzone that is not activated may be utilized as a Customs bonded warehouse, container freight station, or Customs examination station upon approval of the application by the U.S. Customs Service and filing of the appropriate CF 301 bond.

4.9 Deactivation of Zone Site - "Deactivation" means voluntary discontinuation of the activation of an entire zone or subzone site by the grantee or operator. (19 CFR 146.1(b)(8)). A grantee or an operator with the concurrence of a grantee, shall make written application to the Port Director for deactivation of a zone site, indicating by layout or

blueprint the exact site to be deactivated. The Port Director shall not approve the application unless all merchandise in the site in zone status (other than domestic status) has been removed at the risk and expense of the operator, or a consumption entry has been filed for the merchandise. The Port Director may require an accounting of all merchandise in a zone as a condition of approving the deactivation. (19 CFR 146.7(b)). No Customs fee is charged for deactivation.

4.10 Reactivation - "Reactivation" means a resumption of the activated status of an entire area that was previously deactivated without any change in the operator or the area boundaries. If the boundaries are different, the action is an alteration, not a reactivation. If the operator is different, it is an activation, not a reactivation. (19 CFR 146.1(b)(17)). A zone or zone site may be reactivated through the same application procedure that was used for deactivation, if a sufficient Foreign-Trade Zone Operator's bond is on file. (19 CFR 146.7(b)). No Customs fee is charged for reactivation.

4.11 New Bond - The Port Director may require an operator to furnish, on 10 days notice, a new Foreign-Trade Zone Operator's bond on Customs Form 301 under 19 CFR 146.7(d). Alternatively, the Port Director may require, on 30 days notice, a new Foreign-Trade Zone Operator's bond under 19 CFR 113.13(c). If the operator fails to furnish the new bond within the allotted time, no more merchandise shall be received in the zone in zone status. Merchandise in zone status (other than domestic status) shall be removed at the risk and expense of the operator, or the merchandise shall be entered for consumption. A new bond may be required if (1) the activated zone area is substantially altered; (2) the character of merchandise admitted to the zone or operations performed in the zone are substantially changed; (3) the existing bond lacks good and sufficient surety; or (4) for any other reasons substantially affecting liability of the operator under the bond. (19 CFR 146.7(d), see Section 13.7 FTZM).

4.12 New Zone Operator - It is permissible to change Foreign-Trade Zone operators. In the existing zone operation, the grantee sponsor should be careful not to terminate contractual relationships until the U.S. Customs Service Port Director has approved a new foreign-trade zone operator, background investigations have been completed, foreign-trade zone operator's bond has been accepted and is in force for an agreed amount. A contract between the grantee and operator should govern the relationship between the parties. A grantee of an activated zone site shall make written application to the Port Director for approval of a new operator, submitting with the application a certification by the new operator that the inventory control and recordkeeping system meets the requirements of 19 CFR Part 146 Subpart B and a copy of the procedures manual if different from the previous operator's manual. The Port Director may order an inquiry into the qualifications, character, and experience of the operator and its principal officers or key employees responsible for the zone. The bond specified in 19 CFR 146.6(d) shall be submitted by the operator before the operating agreement may become effective in respect to merchandise in zone status. The Port Director shall promptly notify the grantee, in writing, of the approval or disapproval of the application. (19 CFR 146.7(e), (f)). The same background

inquiry considerations apply to background investigations of the new operator as noted in Section 4.7(b)(1) FTZM.

(a) Interim Responsibility of Existing Operator - The existing operator remains responsible for merchandise in zone status and for compliance with the laws and regulations, under its Foreign-Trade Zone Operator's Bond until the new operator is approved and a new bond is executed. The existing operator is relieved of responsibility in the interim only if the zone is deactivated or activated status is suspended, and all merchandise in zone status (except domestic status merchandise for which no permit is required) has been removed from the zone or entered for consumption.

4.13 Other Changes - There are other changes which affect the activated status of a zone which do not necessarily constitute alteration, relocation, deactivation, or reactivation:

(a) Change in Ownership of Operator - If ownership of the operator firm changes hands through sale or other transfer, the procedure to be followed depends on whether the firm is individually-owned, a partnership, or a corporation.

If the firm is individually owned or a partnership, a new application for activation shall be made under the procedures in 19 CFR 146.6 and Section 4.12 FTZM. If the firm is a corporation and the change in ownership does not result in a new corporate entity with a different corporate charter, the change will be treated as a name change as described in Section 4.13(b), below, FTZM. If the firm is a corporation and the change results in a new corporate entity, a new application for activation shall be made under the procedures in 19 CFR 146.6 and Section 4.12 FTZM.

(b) Name, Address, or Organizational Status Change - If the name of the operator firm is changed, the operator should see that Customs is notified through a rider to the Foreign-Trade Zone Operator's Bond under the procedure in 19 CFR 113.24. The same procedure should be used if there is a change in the address of the principal or a change in the trade names and unincorporated divisions of an operator, which is a corporate principal on the Foreign-Trade Zone Operator's bond. If an address change is due to relocation of the zone, the procedures for alteration of the activated zone shall be followed in 19 CFR 146.7(a) and Section 4.8(a) FTZM shall also be followed.

4.14 Permanent File Requirements - Port Directors shall retain copies of applications for activation, alteration, deactivation, and reactivation; applications for new operators; and the

current Foreign-Trade Zone Operator's bond; in an updated permanent file for the use and reference of appropriate Customs officers pursuant to 19 CFR part 146, Subpart B. Operators should keep the same information in a permanent file, along with the original zone approval (including any grant restrictions specified by the FTZ Board) and boundary modifications as noted in Section 4.4(b) FTZM and 15 CFR 400.46(c).

Chapter 5

ZONE STATUS

5.1 General - "Zone status," means the legal status of merchandise, which has been admitted to a foreign-trade zone, thereby becoming subject to the provisions of the FTZA. The CR has established four (4) kinds of zone status under the FTZA, which determines how the merchandise will be handled in the zone and treated upon its transfer to the Customs territory. The choice, of which zone status is applicable to merchandise, is normally at the option of the applicant for admission or the owner of merchandise in the zone. However, in some cases, the kind of status is dictated by law because of the definition of the status in the CR, the operation of other laws in conjunction with the FTZA, or special conditions in the zone grant.

5.2 Merchandise Not in Zone Status - Not all merchandise in a zone has zone status. Examples of merchandise without zone status include, but are not limited to:

1. merchandise, when a question exists whether it may be prohibited, pending a final determination of its status; (19 CFR 146.31(a))
2. merchandise temporarily deposited for manipulation under 19 USC 1562 and 19 CFR 19.11; (19 CFR 146.33)
3. merchandise transiting a zone; (19 CFR 146.34)
4. merchandise temporarily deposited with incomplete documentation; (19 CFR 146.35)
5. merchandise retained at a zone pending examination and subsequent approval of an application for admission as specified in 19 CFR 146.36;
6. merchandise received under direct delivery procedures pending admission; (19 CFR 146.40(a)).
7. merchandise which has been constructively transferred to Customs territory, but remains in the activated area of the zone; (19 CFR 146.61 and 146.71(c) and CSD 79-249)
8. excess merchandise (overages) which have not yet been admitted to a zone; (CSD 81-70)
9. articles used in the zone (e.g. office supplies) for purposes not specified in the Act. (15 CFR 400.1(c))

5.3 Application for Zone Status or Status Change - An applicant for admission shall select a zone status for merchandise or Customs will return the application on the grounds that it was prepared improperly or incompletely. Multiple lines of merchandise can have different zone statuses and they may be admitted under a single admission. Where permissible under the law and regulations, a zone user may apply for a change in zone status for merchandise already admitted to the zone. The description of the merchandise must be sufficiently clear so as to leave no doubt to the approving Customs officer which merchandise is covered by the application.

5.4 Foreign Status Merchandise - "Foreign merchandise" is imported merchandise which has not been properly released from Customs custody in the Customs territory. (19 CFR 146.1(b)). Domestically-produced merchandise which has been exported and re-imported into the United States, but not properly released from Customs custody prior to entry, is foreign merchandise.

5.5 Privileged Foreign Status - Under this provision, an importer chooses to have the merchandise treated, for tariff purposes, in its condition at the time of admission to the zone, although the choice of that status need not be exercised at the time of admission. The effect of these provisions is to "freeze" the rate of duty and tariff classification in the condition of the merchandise at the time of filing the application for PF status. (See, for example, Section 9.7(g)(1) FTZM). However, note the provision for BATF excise taxes at Section 11.7(k) FTZM and floor stocks taxes in Section 11.6(d)(5) FTZM. Also, privileged foreign status is not in effect until the merchandise is received in zone status in a zone. (Section 6.4 FTZM). Freezing of the rate of duty and tariff classification does not, however, freeze the quota status of merchandise in the case of an absolute quota. (CSD 79-471). Classification of merchandise subject to a tariff-rate import quota will be made only at the higher non-quota duty rate in effect on the date privileged foreign status was granted. (Section 19 CFR 146.41(d) and 146.65(a), see 9.7(g)(1) FTZM and see *Inter-Maritime Forwarding Co. v. U.S.*, 51 CCPA 95 (1964)). Whenever the privilege has been requested and there has been no manipulation, manufacture (or processing) in the zone effecting a change in tariff classification, the Port Director shall take under supervision any (zone) lot or part of a (zone) lot (including inventory categories or Unique Identifier Number (UIN's)) of foreign merchandise in a zone and cause it to be appraised and taxes determined and duties liquidated thereon. In Section 81c, Title 19, United States Code, is the legal authority for privileged foreign status. Specific applications of this provision to waste and scrap and for valuation purposes are dealt with in Section 9.7(g)(1) and (h)(1) FTZM.

Notwithstanding this provision, the Bureau of Alcohol, Tobacco and Firearms excise taxes will be paid at the rate in effect at the time of transfer from the zone for consumption regardless of the zone status; further BATF may impose a floor stocks tax on non-tax paid distilled spirits, tobacco, and tobacco products in a zone. (P.L. 101-508, 26 USC 5001 note, see Section 11.6(d)(5) FTZM).

Applicants usually choose PF status when the rate of duty on a product manufactured in a zone is higher than the rate of duty on some or all of the components as introduced into the zone. Special conditions have been placed in some zone grants to require applicants to choose privileged foreign status, in order to preserve the protective effect of a rate of duty for a particular component or to identify components so as to impose antidumping or countervailing duties on them. The rate of antidumping or countervailing duties to be deposited are those in effect at the time of entry of the merchandise into the commerce of the United States. (See Section 11.5(f) FTZM)

(a) Application Requirements - Application for privileged foreign status shall be made on Customs Form 214 or electronically at the time of filing the application for admission of the merchandise into a zone or at any time thereafter before the merchandise has been processed or manufactured in the zone in a manner which has effected a change in tariff classification. Each applicant for this status shall submit to the Port Director with the application, an invoice notated as provided for in 19 CFR 141.90, i.e. showing the claimed rate of duty and HTS number applicable to the merchandise in PF status. (19 CFR 146.41(a), (b) and (c). Note: Section 19 CFR 141.92 provides for a waiver of the invoice requirements). An application for PF status must be made for a specific kind and quantity of merchandise, and not, for example, for "sufficient parts to manufacture 400 trucks". The specification of the kind and number of parts must be made before the merchandise is manufactured. (See CSD 81-192).

(b) Determination of Duties and Taxes - Upon receipt of the application and accompanying invoice, the Port Director may examine the merchandise to determine whether to approve the application. The merchandise will be subject to tariff classification according to its character, condition, and quantity at the rate of duty and tax in force on the date of filing in complete and proper form the application for privileged status. (19 CFR 146.41(d) and 146.65(a)(1)).

(c) Privileged Foreign Status Binding - A status as privileged foreign merchandise cannot be abandoned and remains applicable to the merchandise even if changed in form by manufacture, processing or manipulation except in the case of recoverable waste (19 CFR 146.42(b)), as long as the merchandise remains within the purview of the FTZA. It may not be entered for warehouse or under a Temporary Importation Bond. (19 CFR 146.64 (a) and CSD 81-213). However, privileged foreign status merchandise may be exported or withdrawn for supplies, equipment, or repair material of vessels or aircraft without the payment of taxes and duties, in accordance with (19 CFR 146.67 and 146.69). Recoverable waste remaining from merchandise in PF status as the result of a casualty or an Act of God (not from manufacture or manipulation in a zone) retains its PF status. (See CSD 86-7).

5.6 Nonprivileged Foreign Status - By selecting NPF status, an importer chooses to have the merchandise treated, for tariff purposes, in its condition and quantity as it is constructively transferred to Customs territory and entered for consumption. (19 CFR 146.65(a)(2)). Restricted merchandise in NPF status, which cannot be entered for consumption may be transformed in a zone into merchandise which may be entered for consumption in that form into the commerce of the U.S. unless prohibited under the operation of another law. (For examples, see CSD 79-41 and CSD 79-471). NPF status merchandise may also be transferred to Customs territory for warehousing, exportation, vessel or aircraft supply use, temporary importation bond, or transfer to another zone or port. After the merchandise is admitted to a zone, nonprivileged foreign status may be changed to privileged foreign or zone-restricted status at the option of the zone user, if the merchandise is legally entitled to receive that status. For example, merchandise may not be changed to privileged foreign status if it has already been manufactured, processed or manipulated so as to change its tariff classification, (19 USC 81(c)); 19 CFR 146.41(b) and see Section 5.5(a) FTZM). All of the following will have the status of nonprivileged foreign merchandise, if requested in proper form by the applicant for admission:

(1) Foreign Merchandise - Foreign merchandise properly in a zone which does not have the status of privileged foreign merchandise or of zone-restricted merchandise;

(2) Waste - Waste recovered from any manipulation or manufacture of privileged (or nonprivileged) foreign status merchandise in a zone; and

(3) Certain Domestic Merchandise - Domestic merchandise in a zone which by reason of noncompliance with the CR has lost its identity as domestic status merchandise will be treated as nonprivileged foreign merchandise. Any domestic merchandise will be considered to have lost its identity if the Port Director determines that it cannot be identified positively by a Customs officer as domestic merchandise on the basis of an examination of the articles or consideration of any proof that may be submitted promptly by a party-in-interest. Customs may consider domestic status identity maintained when it can be established through inventory control and accounting procedures approved by Customs. (19 CFR 146.42 and see Section 5.7(d) FTZM).

5.7 Domestic Status - Subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles which are the growth, product, or manufacture of the United States on which all internal revenue taxes (if applicable) have been paid, or articles previously imported on which duty and/or tax has been paid, or which have been entered for consumption free of duty and tax, may be taken into a zone, placed under the supervision of Customs and, whether or not they have been combined with or made part of other articles in the zone,

may be brought back to Customs territory free of quota, duty, or tax. Section 81c, Title 19 of the United States Code, is the legal authority for domestic status in zones. An importer or other zone user does not choose domestic status, as he or she may choose privileged foreign, nonprivileged foreign or zone-restricted status. Rather, domestic status is determined by the qualifications of the merchandise as noted below.

(a) Merchandise Qualifying for Domestic Status - Domestic status will be granted to merchandise which is:

- (1) the growth, product, or manufacture of the U.S. on which all internal-revenue taxes, if applicable, have been paid;
- (2) previously imported and on which duty and tax has been paid; or
- (3) previously imported and entered free of duty and tax. (19 CFR 146.43(a)).

Domestic merchandise on which not all internal revenue taxes have been paid is not eligible for domestic status. Neither is it eligible for privileged or nonprivileged foreign status. It may be admitted to a zone only in zone-restricted status. (CSD 82-112).

(b) Admission Requirements - No application or permit is required for the admission of domestic status merchandise, including domestic packing and repair material, to a zone, except upon order of the Commissioner of Customs. No application or permit is required for the manipulation, manufacture, exhibition, destruction, or transfer to Customs territory of domestic status merchandise, including packing and repair materials, except: (1) when it is mixed or combined with merchandise in another zone status, or (2) upon order of the Commissioner of Customs. When the Commissioner orders a permit to be required for domestic status merchandise, he/she may also order the procedures, forms, and terms under which the permit will be received and processed. (19 CFR 146.43(b) and see Section 5.7(e) FTZM).

(c) Recordkeeping Requirements - All domestic status merchandise in a zone must be accounted for under the procedures of 19 CFR Part 146 Subpart B. (See 19 CFR 146.21(a)(1) and see Section 7.8(c)(4) FTZM).

(d) Loss of Identity as Domestic Status Merchandise - When identity of domestic status merchandise has been lost due to noncompliance with Customs Regulations, it shall be treated upon entry to Customs territory as foreign merchandise under the provisions of the tariff and Internal Revenue laws in force at that time. Customs may consider domestic status identity maintained when it can be established through inventory control and accounting procedures approved by Customs. (CSD 81-67). Domestic status merchandise shall not be considered

to have lost its identity if the zone inventory control and recordkeeping system accurately identifies both domestic and foreign status fungible merchandise. In a UIN system involving fungible merchandise of multiple statuses, the zone inventory control and recordkeeping system shall be sufficient for these purposes. (See also Section 7.8(c)(4) FTZM on maintaining the record identity of domestic status merchandise).

(e) Commissioner's Order to Require Permits - Customs will not require permits for domestic status merchandise which has not been manufactured, manipulated or otherwise processed with other status merchandise unless and until an order of the Commissioner has been placed in effect, and then only to the extent of the provisions of the order. (19 CFR 146.43(b)).

(f) Return of Domestic Status Merchandise to Customs Territory - Upon compliance with the regulation in Section 19 CFR 146.43(c), any of the merchandise specified in Sections 5.7(a) FTZM remaining in domestic status may subsequently be returned to Customs territory free of quotas, duty, or tax. (19 USC 81(a) and 9 CFR 146.43(c) and see Section 9.3 FTZM).

5.8 Zone-Restricted Status - Articles which have been taken into a zone from Customs territory for the purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage, shall be considered to be exported for the purposes of drawback, warehousing, bonding and other provisions of the TA, and the drawback, refund, or exemption from tax, and other purposes of the Internal Revenue laws. Such a transfer may also be considered an exportation for the purpose of other Federal laws insofar as Federal agencies charged with enforcement of those laws deem it advisable. Section 81c, Title 19, United States Code, is the legal authority for zone-restricted status.

(a) Application for Zone-Restricted Status - Merchandise taken into a zone for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage will be given zone-restricted status on proper application. That status may be requested at any time the merchandise is located in a zone, even after it has been manufactured, but cannot be abandoned once granted, except by order of the Foreign-Trade Zones Board. Application for zone-restricted status will be made on Customs Form 214 or electronically. (19 CFR 146.44(a), (b)). Zone-restricted status may be approved for either foreign or domestic merchandise. Application for ZR status is normally at the option of the party in interest. However, it may be mandatory for certain merchandise, such as merchandise transferred from a bonded warehouse or non-tax paid alcoholic beverages or tobacco products. (See Section 5.8(b)(2) and (3) FTZM below), or merchandise whose entry into U.S. commerce has been rejected by a Federal agency. Merchandise which arrives at a port on an entry for exportation or transportation and exportation (IE or T&E) will usually be admitted in ZR status; however, the Port Director may approve admission in another status if

he or she is satisfied that exportation is not required by any Federal law or regulation.

(b) Merchandise Considered Exported - Merchandise may be considered exported, for Customs or other purposes, upon its admission to a zone in zone-restricted status.

(1) For Customs Purposes - If the applicant desires zone-restricted status in order that the merchandise may be considered exported for the purpose of any Customs law or regulation, all pertinent Customs requirements relating to an actual exportation shall be complied with as though the admission of the merchandise into the zone constituted a lading on an exporting carrier at a port of final exit from the U.S. Any declaration or form required for actual exportation will be modified to show the merchandise has been deposited in a zone in lieu of actual exportation and a copy of the approved Customs Form 214 or a copy of the approved electronic version may be accepted in lieu of any proof of shipment required in cases of actual exportation. (19 CFR 146.44(c)(1)). Zone-restricted status is used most often, for Customs purposes, to serve as a notice of exportation for drawback purposes or to close out a temporary importation bond. Procedures for satisfying these requirements are described in Sections 6.7(g)(1) and 6.13 FTZM.

(2) For Other Purposes - If the merchandise is to be considered exported for the purpose of any Federal law other than the Customs laws, the Port Director shall be satisfied that all pertinent laws, regulations, and rules administered by the Federal agency concerned have been complied with before the Customs Form 214 or the electronic version is approved. (19 CFR 146.44(c)(2)). A certificate of arrival shall be executed by the Port Director and/or the operator as specified in 19 CFR 146.38 and see Section 6.11 FTZM. The Bureau of Alcohol, Tobacco and Firearms is the most frequent user of this provision, to satisfy the requirement for exportation of non-tax paid alcoholic beverages and tobacco products. Procedures for satisfying those requirements are specified in 27 CFR Parts 252 and 290 and see Section 6.12 FTZM. Non-tax paid alcoholic beverages and tobacco products may be admitted to a zone only in zone-restricted status. (CSD 82-112). Whether zone-restricted status may be used to satisfy exportation conditions or requirements of state or local governments is dependent on state or local laws.

(3) Admission for Manufacturing - Merchandise in a status other than zone-restricted, cannot be considered to be exported pursuant to the FTZA when it is sent to a zone for the purpose of manufacturing. (TD 89-4, and Chrysler Motor Corporation v. United States, Slip Op 90-130, (CIT 1990) (755 F. Supp. 388 (1990), aff'd, 945F. 2d 1187(Fed. Cir. 1991)).

(c) Merchandise Entered Into a Bonded Warehouse - Merchandise entered into a bonded warehouse for storage and transferred to a zone, other than temporarily for manipulation and returned to Customs territory as provided for in section 146.33, will have the status of zone-restricted merchandise when admitted into the zone. The application for admission for merchandise originally entered for warehouse must request zone-restricted status. Otherwise, Customs will return the application for admission. (19 CFR 146.44(d), 146.11(d) and 144.37(g))

Merchandise which has been placed in a bonded warehouse for a purpose other than entry for warehouse, such as general order or under seizure, may be admitted to a zone in any eligible status.

(d) Destruction - Destruction requires that the merchandise, and its residue from the destruction, have been rendered valueless (CSD 80-67); otherwise, the process will be treated as a manipulation. However, partial destruction, combined with exportation and/or storage, meets the requirements of the FTZA and CR for treatment of merchandise in zone-restricted status. Any remaining valuable residue may be removed from the zone for entry for consumption only with the approval of the Board. (CSD 80-67). Alcoholic beverages may not be admitted to a zone for the purpose of destruction, but if they have been admitted and subsequently become unmerchantable or unfit for export, they may be destroyed with the permission of the BATF (compliance) under the procedures in 27 CFR 252.35 through 252.38.

(e) Prohibition Against Manufacture, Processing or Manipulation - Since zone-restricted status is granted for the sole purpose of storage, exportation, or destruction, merchandise in ZR status may not be manufactured or processed in the zone. Merchandise may not be manipulated except to the extent necessary for its exportation, destruction, or storage, i.e., except for packing, unpacking, repacking, testing or similar operation incidental to exportation or destruction. After merchandise in nonprivileged foreign or domestic status has been manufactured, processed or manipulated in the zone, the Port Director may approve a change to zone-restricted status. (See Section 5.8(a) FTZM).

(f) Transfer to Customs Territory - Merchandise in zone-restricted status may not be returned to Customs territory for domestic consumption except when the Foreign-Trade Zones Board deems such return to benefit the public interest, in which event the articles shall be subject to the provisions of Chapter 98, Subchapter I, Harmonized Tariff Schedules. 19 USC 81c (a), 19 CFR 146.70(b). The provisions for transfer of zone-restricted merchandise to Customs territory are described in 19 CFR 146.70 and see section 9.15 FTZM.

Chapter 6

ADMISSION OF MERCHANDISE

6.1 General - Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the Customs laws of the United States, except as otherwise provided in the FTZA, be brought into a zone. 19 USC 81c(a). To "admit" merchandise means to bring it into a zone with zone status. (19 CFR 146.1(b)).

6.2 Prohibited Merchandise - Prohibited merchandise is merchandise the importation of which is prohibited by any law of the United States, or any merchandise which is excluded from a zone by Board Order under Section 81o(c), Title 19, US Code. (19 CFR 146.1(b) and see Section 11.2 FTZM). If a Customs Port Director has any reason to suspect that an admission of merchandise into an FTZ might raise a public interest or scope of authority issue, the Port Director has the authority to request that the importer seek an opinion or decision from the FTZB prior to such admission. (Arbor Foods, Incorporated v. United States 97F.3d 534 (Fed. Cir. 1996)). Port Directors will not permit the admission of prohibited merchandise into a zone. If there is a question as to whether the merchandise is prohibited, Port Directors may permit the temporary deposit of the merchandise in a zone pending a final determination of its status. Any prohibited merchandise which is found within a zone will be disposed of in the manner provided for in the laws and regulations applicable to that merchandise. (19 CFR 146.31(a)). Prohibited merchandise which is found in a zone is not exempt from the Customs laws, including those providing for seizure of the merchandise. (CSD 82-16).

6.3 Conditionally Admissible Merchandise - Conditionally admissible merchandise is merchandise which may be imported into the U.S. under certain conditions, such as merchandise which is subject to permits or licenses, or which may be reconditioned to bring it into compliance with the laws administered by various Federal agencies. (19 CFR 146.1(b)). The admission of this merchandise into a zone is subject to the regulations of the Federal agency concerned, which could include a prohibition on its admission to a zone. (19 CFR 146.31(b)). An example of conditionally admissible merchandise is a substance subject to the Toxic Substances Control Act (15 USC 2601 et seq.) which has not received approval by the Environmental Protection Agency for use in the United States. (19 CFR 12.118-12.127).

(a) Conditionally Admissible to Zone - Merchandise sent to a zone is conditionally admissible, since it may be admitted only if the administrative requirements are met, e.g. completely and properly filled out application, signature of authorized persons on form, etc. However, certain specific merchandise or kinds of shipments may be admitted to a zone only under certain conditions. (See Sections 6.7(g) and 11.5 FTZM).

6.4 Time of Admission - Merchandise is admitted to a zone only when (1) the Port Director or his designee has properly signed the application for admission for approval; and (2) the operator has signed for receipt of the merchandise into the activated area of the zone. Usually, the Port Director's approval precedes receipt into the zone, but in some cases, e.g. permits for direct delivery to the zone, the operator may properly receive the merchandise before the Port Director approves its admission. The merchandise receives zone status only when the Port Director signs the approval of admission. Also, when an application for admission of merchandise in privileged foreign status is presented before the merchandise is brought into a zone, such status will not be deemed to be in effect until the operator signs for receipt of the merchandise in the zone.

(a) Domestic Status Merchandise - Domestic status merchandise for which no permit is required (19 CFR 146.43(b)) is deemed admitted when it is (1) recorded in a receiving report or document as provided in Section 19 CFR 146.22(a); and (2) physically brought into the activated area of a zone.

6.5 Non-Zone Status Transactions - As noted in Section 5.2 FTZM, there are a number of circumstances where merchandise may be received in a zone, but not have zone status. Procedures for some of these transactions are covered by this Section. Procedures for direct delivery under 19 CFR 146.39 and 146.40 are covered in Section 6.10 FTZM.

(a) Temporary Deposit for Manipulation - Imported merchandise for which an entry has been made and which has remained in continuous Customs custody may be brought temporarily into a zone for manipulation and returned to Customs territory under Customs supervision, pursuant to Section 562 TA (19 USC 1562). That merchandise will not be considered within the purview of the FTZA, but will be treated as though remaining in the Customs territory. No zone form or procedure will be considered applicable, but the merchandise will remain subject to any requirements necessary for the enforcement of Section 562 and other Customs laws while in a zone, (19 CFR 146.33). Such manipulations are at the risk and expense of the importer under the importer's importation and entry bond (19 CFR 113.62(g)), not under the Foreign-Trade Zone Operator's Bond. Physical supervision of the manipulation may be conducted by Customs officers as provided in 19 CFR 101.2(c).

(b) Merchandise Transiting Zone - The following procedure is applicable when merchandise is to be unladen from any carrier in the zone for immediate transfer to Customs territory, or when it is to be transferred from Customs territory through the zone for immediate lading on any carrier in the zone. (See 19 CFR 146.34)

(1) Application - Application for permission to lade or unlade will be filed with the Port Director on Customs Form 3171 prior to transfer of the merchandise into the zone.

(2) Permit - The Port Director shall permit the transfer unless he has reason to believe that the merchandise will not be moved promptly from the zone or will be made the subject of an application for admission in accordance with Section 146.32(a).

(3) Treatment of merchandise - Upon the issuance of a permit to lade or unlade, the merchandise will be treated as though the lading or unlading were in the Customs territory.

(4) Delay in zone transit - Merchandise delayed while transiting a zone shall be made the subject of an application for admission in accordance with 19 CFR 146.32 or it will be removed from the zone. (19 CFR 146.34).

(c) Temporary Deposit to Complete Documentation - Temporary deposit of merchandise in a zone is allowed in circumstances where the information or documentation necessary to complete the Customs Form 214 is not available at the time of arrival of merchandise within the jurisdiction of the port. The merchandise will be subject to examination as provided in 19 CFR 146.35(a) and 146.36. (See 19 CFR 146.35).

(1) Application - An application for temporary deposit will be made to the Port Director on a properly signed and uniquely numbered Customs Form 214, annotated clearly "Temporary Deposit in a Zone". The zone admission number will be distinct from those assigned to applications for admission under 19 CFR 146.32(a). CF 214 Data Elements 1 through 10, 15, 16, and 24 through 30 must be filled out, if applicable. The description in Element 16 must be at least as complete as that on the manifest bringing the merchandise to the port. The other elements should be filled out to the extent information is available to the applicant. (See Section 7.8(b)(5) FTZM).

(2) Supervision - The operator will open and maintain a file by zone admission number or in bond manifest number of all applications for temporary deposit in a zone under Section 19 CFR 146.35, and shall see that such files are properly maintained until a CF 214 zone admission, entry, or transfer to general order occurs. Merchandise temporarily deposited in a zone will be subject to periodic compliance reviews (formerly spot checks) by Customs to assure compliance with the Customs Regulations.

(3) Conditions - Merchandise temporarily deposited under 19 CFR 146.35 has no zone status and is considered to be in the Customs territory. It will be

(i) physically segregated from all other zone merchandise;

(ii) held under the bond and at the risk of the operator; and

(iii) manipulated only to the extent necessary to obtain sufficient information about the merchandise to file the appropriate Customs Form 214 admission or entry documentation. (19 CFR 146.35(c)).

(4) Approval - The Port Director will approve the application for temporary deposit if the provisions of Section 6.5(c)(3)(i) through (iii) FTZM above are met. (19 CFR 146.35(d)).

(5) Admission to Zone - A complete and accurate Customs Form 214 will be submitted as provided in 19 CFR 146.32 within 15 calendar days or the merchandise shall be placed in general order. (19 CFR 146.35(e)).

(6) Difference from Suspense Account Requirement - Temporary deposit to complete documentation is distinct from the suspense account requirement of 19 CFR 146.22(c) and Section 7.8(b)(1) FTZM. The suspense account is required for merchandise which has already been admitted to a zone, but for which some kind of action is required because some information necessary for inventory control by the operator is missing, incomplete, or incorrect.

6.6 Arrival and Retention of Merchandise - Merchandise may be admitted directly to a zone from any place within or outside the Customs territory. Foreign merchandise destined to a zone and transported in bond through Customs territory will be subject to the laws and regulations applicable to other merchandise transported in bond between two places in Customs territory. (19 CFR 146.11(a), (b)). Except for direct delivery procedures provided for in 19 CFR 146.39, all merchandise covered by a Customs Form 214 may be retained for Customs examination, pending approval of admission, at the place of unloading, the zone, or other location, as designated by the Port Director. (19 CFR 146.32(c)(3), 146.36). Port Directors are reminded that Customs has the right to inspect any shipment for enforcement purposes.

(a) Movements Within a Customs Port of Entry - When authorized by the Port Director, direct delivery procedures under 19 CFR 146.39 are available for merchandise arriving from a foreign country to be delivered within the same Customs port of entry boundaries. (19 CFR 146.66(a)). Either a bonded carrier must be utilized or the operator moves the merchandise under their Foreign-Trade Operator's Bond.

6.7 Application for Admission and Permit - Merchandise does not achieve zone status until a permit is given by the Port Director for its admission (except in the case of

domestic status merchandise for which no permit is required), and the zone operator signs for receipt of the merchandise into the zone. (Section 6.4(a) FTZM).

(a) Application - Merchandise may be admitted into a zone only upon application on a uniquely and sequentially numbered Customs Form 214, "Application for Foreign-trade zone Admission and/or Status Designation", and issuance of a permit by the Port Director. The applicant for admission shall present the application to the Port Director and shall include a statistical copy on Customs Form 214A for transmittal to the Bureau of Census, unless the applicant has made arrangements for the direct (electronic) transmittal of statistical information to that agency. The form shall bear the signature of approval of the operator in the appropriate block, unless a separate individual or blanket approval has been given. (19 CFR 146.9 and 146.32(a)).

(1) Who May Make Application - Application for admission may be made only by the person with the right to make entry. (19 CFR 146.32(b)(2)) Right to make entry shall be determined according to the provisions of "Section 484(a) TA, CD 099 3530-002, and other pertinent Service wide instructions. However, a Customhouse broker or foreign-trade zone operator may prepare and/or file the application on behalf of the person with the right to make entry, if a proper power of attorney is on file as provided for in 19 CFR Part 141, Subpart C, for the precise acts authorized. (See CSD 84-23).

(2) Printing and Preparation of Customs Form 214 - Blank Customs Form 214 may be printed and distributed as specified in Section 2.8 FTZM. The form shall be prepared by the applicant according to the instructions set forth in the Appendix to the FTZM.

(3) Place of Filing - As noted in 19 CFR 146.37 (d) and see Section 2.9 FTZM, Customs Form 214 will be presented to the location within a port of entry designated by the Port Director with jurisdiction over the zone.

(4) Assignment of Sequential Zone Admission Number - Zone operators will establish and assign the sequential zone admission numbers on Customs Form 214 under 19 CFR 146.32(a), so long as the header information identifies the zone to which admission has been requested.

(b) Statistical Reporting - Information reported on Customs Form 214 is very important in preparing national trade statistics, including those for foreign-trade zones. The information is gathered by the Foreign Trade Division, Bureau of the Census, from the statistical copy of Customs Form 214 required under 19 CFR 146.32(a). The statistical copy, designated as Customs Form 214A, must be printed on salmon or pink colored stock and must be identified as "Statistical

Copy." Forms printed on any other stock will be rejected by Customs and the Bureau of the Census.

(1) When Statistical Customs Form 214 not Required – The statistical copy on Customs Form 214A will not be required, or accepted by Customs, for the admission of:

(i) merchandise in domestic status, whether or not a permit is required by the Commissioner of Customs; (19 CFR 146.43)

(ii) merchandise of U.S. origin, not previously exported, which is admitted in zone-restricted status;

(iii) merchandise of foreign origin which was entered for consumption prior to admission in zone-restricted status;

(iv) merchandise of any status which has been transferred by a zone to zone transfer from another foreign-trade zone where it had been admitted and so reported for statistical purposes.

(2) When Statistical Reporting is Required - The providing of statistical information is mandatory, by order of the Secretaries of Commerce and Treasury under 13 USC 302. The responsibility for obtaining and providing the information rests with the applicant zone user for admission to the zone.

(i) Statistical Form (paper) required –

The statistical copy on CF 214A shall include the data required in Items 1 through 8, 14 through 21, 23, 47, and 49 of the form, before it is accepted by Customs for transmittal to Census.

(a) Review and Verification - Customs officers shall assure that the foregoing information is provided on Customs Form 214A before transmittal to Census. Customs officers shall not, however, attempt to verify the correctness of the information, except to the extent correct information is required for Customs purposes or to correct obvious errors. When the information is missing, incomplete, or illegible, the form shall be returned to the applicant for addition or correction. The admission of goods to the zone shall not be delayed pending receipt of the additional or corrected information, unless it is necessary for proper Customs supervision of the zone or a determination of the admissibility

of the goods to the zone. When Census discovers errors or anomalies in statistical reports, the appropriate Census officer will review the transaction directly with the applicant for zone admission.

(b) Enforcement of Requirements - Penalty procedures shall not be invoked against any person who in good faith attempts to comply with statistical instructions for Customs Form 214A. However, violations of the instructions may be punishable by a fine imposed by the Secretary of Commerce under Title 13 USC 305. If an applicant refuses to comply with the instructions, the Port Director shall deny the application for admission on the grounds it was improperly executed. False or fraudulent statistical information on Customs Form 214A may also subject the applicant to penalties under 19 USC 1592.

(c) Correction or Completion of Information - When goods are admitted to the zone with missing or incomplete statistical information, the applicant must provide the missing or corrected information by the fifth day of the month following that in which the goods were admitted to the zone. Customs officers shall maintain controls appropriate to see that all statistical copies on Customs Form 214A are provided to Census for each admission to a zone, except for those admissions where Customs Form 214A is not required.

(d) Transmittal to Census - Customs Forms 214A shall be gathered by Customs officers and transmitted to Census as soon as possible but not later than ten days after the merchandise has been admitted to the zone (after the operator signs the CF214A in Block 47). Box 14 of the Customs Form 214A must be marked as "No." The last Customs Form 214A for a particular month shall be mailed to Census as soon as possible, but not later than the tenth calendar day following the last day of the month in which the goods were admitted to the zone. These forms must be mailed to the following address:

Puerto Rico Trade Data Staff
GSA Center
651 Federal Drive
Suite 325-08
Guaynabo, P.R. 00965-5703

(ii) Direct Statistical Monthly Reporting (Electronic) –

(a) Applicants for direct statistical reporting must apply in writing to the Bureau of the Census for approval. (19 CFR 146.32(d)(2)(ii) or 146.40(c)). Zone operators electing to submit statistical reports directly to Census may provide the data in acceptable format on a monthly basis by direct transmission via diskette or direct computer transmission. The report must be received by Census no later than the tenth calendar day following the month covered by the report. For information regarding the use of this reporting procedure, zone operators should direct their inquiries to:

Data Collection Coordination Branch
Foreign Trade Division
Bureau of the Census
Foreign Trade Division
Room 2179, FOB 3
Washington, D.C. 20233
Phone: (301) 457-2259

(c) Supporting Documents - The following documentation shall be submitted with or in support of the Customs Form 214, to the extent indicated.

(1) Commercial Invoice - The applicant shall submit with the application two copies of an examination invoice meeting the requirements of 19 CFR Part 141, Subpart F, for any merchandise, other than domestic status merchandise for which no permit is required, to be admitted into a zone. The notation on the invoice of tariff classification and value required by 19 CFR 141.90 need not be made, unless the merchandise is to be admitted in privileged foreign status. (19 CFR 146.32(b)(1)).

(2) Evidence of Right to Make Entry - The applicant for admission shall submit with the application a document similar to that which would be required as evidence of the right to make entry for merchandise in Customs territory under 19 USC 1484. (19 CFR 146.32(b)(2)).

(3) Release Order - Customs officers shall not authorize any merchandise for delivery to a zone until a release order has been executed by the carrier which brought the merchandise to the port, unless the merchandise is released back to that same carrier for delivery to the zone. (See 19 USC 1484). When a release order is required, it shall be made on any of the forms specified in 19 CFR 141.11 or by the following statement attached to Customs Form 214:

Authority is hereby given to release the merchandise described in this application to:

Name of Carrier _____

Signature and title of carrier representative

A blanket or qualified release order may be authorized for the transfer of merchandise to a zone as provided for in 19 CFR 141.11 and 146.32(b)(3).

(4) Application to Unlade - For merchandise unladen in the zone directly from the importing carrier, the application on Customs Form 214 shall be supported by an application to unlade on Custom Form 3171. (19 CFR 146.32(b)(4)).

(5) Other Documentation - The Port Director may require additional information or documentation as needed to conduct an examination of merchandise under Customs selective processing criteria, or to determine whether the merchandise is admissible to the zone. (19 CFR 146.32(b)(5) and see Section 6.3(a) FTZM). This includes documentation such as export certificates for certain steel products and machine tools under voluntary restraint agreements (see Sections 11.5 and 11.6 FTZM) and information needed for selectivity processing such as importers' and manufacturers' numbers.

(d) Document Review and Examination - Customs will review the application and supporting documentation for completeness and to determine whether the application may be approved without physical examination of the merchandise. Customs approves permits of admission for most low-risk shipments without examination, if the conditions for issuance of a permit under 19 CFR 146.32(c) otherwise exist. The decision whether to examine the merchandise is made according to various commodity and enforcement criteria maintained by Customs. Documentation will be reviewed and examinations conducted only at locations within a port of entry except as specified in Section 2.9 FTZM.

(1) Authority for Examination - The Port Director may cause any merchandise to be examined before or at the time of admission to a zone, or at any time thereafter, if the examination is considered necessary to facilitate the proper administration of any law, regulation, or instruction which Customs is authorized to enforce. (19 CFR 146.10). The Port Director may authorize release of the merchandise without examination, as provided in 19 CFR 151.2. If a physical examination is conducted, the Customs officer shall note the results of the examination on the examination invoices. (19 CFR 146.36).

(2) Purposes of Examination - The overall objectives of Customs examination of merchandise to be admitted to a foreign-trade zone are to:

- (i) determine if the goods are admissible to the zone;
- (ii) determine the true liability of the zone operator for merchandise received in a zone under its bond;
- (iii) reduce the need for further examination of the merchandise if it is later transferred to Customs territory, in the same condition, for consumption or warehouse; and
- (iv) ensure full compliance with all applicable laws and regulations.

(3) Centralized Examination Station - Most examinations are done at Centralized Examination Stations (CES's). These facilities allow Customs to position its officers at fewer locations, where they can perform quicker and better examinations. The procedure for establishing and operating CES's (some of which may be located at foreign-trade zones) under a custodial bond (19 CFR 113.63) is set forth in 19 CFR Part 118. If Customs determines that examination at a CES is necessary, transfer to a CES may be authorized by Customs by a stamp on the Customs Form 214 or other document requesting transfer of the merchandise to the zone. (19 CFR 151.15). Transfer is done under the bond of a licensed cartman, importing carrier, bonded carrier, or container freight station operator, depending on the situation or by the zone operator, under its FTZ operator's bond, from the CES. Payment of transfer costs to and from the centralized examination station or other place of examination is the responsibility of the applicant for admission, or consignee, not the zone operator.

(4) Examination at Other Locations - At ports where there is no CES, the merchandise will be examined at the place of unloading or arrival of the merchandise at the port, unless the Port Director requires or allows the merchandise to be examined at another place. The applicant for admission

may request examination at another place including a foreign-trade zone. However, Customs will not examine any merchandise at a location outside a port of entry, except as provided in Section 2.9(a) FTZM.

(5) Report of Examination - Reports of examination will be made by Customs examining officers on both examination invoices in the same manner as for merchandise entered for consumption. Approval of admission will not be denied or withheld for minor discrepancies found upon examination, unless there is an apparent intent to circumvent or violate a U.S. law or regulation. Such minor discrepancies will be faithfully reported on the invoices. If the discrepancies are not minor or there is an apparent intent to circumvent or violate a U.S. law or regulation, admission will be denied on the grounds that an application does not cover the merchandise, and the admission documentation may be referred to the Enforcement Evaluation Team for further action. The operator shall, upon request of the applicant for admission or the Port Director, provide a copy of the examination report to the person making entry to transfer the merchandise from the zone. (19 CFR 146.37(b) and see Section 9.7(a)(5) FTZM).

(e) Issuance of Permit for Admission - After document review and physical examination, as appropriate under the foregoing provisions, the Port Director shall issue a permit for admission of merchandise to a zone when:

(1) the application is properly executed (and includes the zone status desired for the merchandise);

(2) the operator's approval appears either on the application or in a separate specific individual or blanket approval;

(3) the merchandise has been retained for examination at the place of unloading, the zone, or other location designated by the Port Director, except for merchandise for direct delivery to a zone under 19 CFR 146.39 and 146.40; and

(4) all requirements have been fulfilled. (19 CFR 146.32(c)).

(f) Blanket Application for Admission - Merchandise may be admitted to a zone under a blanket application upon approval by the Port Director of a Customs Form 214 covering more than one shipment of merchandise. A blanket application for admission may be approved for:

(1) shipments which arrive under one transportation entry as described in 19 CFR 141.55; or

(2) shipments which are destined to the same zone applicant on a single business day, in which case the applicant shall:

(i) present the examination invoices required by section 146.32(b)(1) to the Port Director before the merchandise is admitted into the zone;

(ii) have been approved for the direct (electronic) transmittal of statistical trade information to the Bureau of Census under an agreement with that agency; and

(iii) have examination invoices containing a number to trace the shipment to the manifest, bill of lading, or air waybill of the carrier that brought the merchandise to the port having jurisdiction over the zone, as well as to the inventory control and recordkeeping system of the operator. (19 CFR 146.32(d)).

(g) Admission of Certain Kinds of Shipments - Some kinds of shipments presented for admission to a zone require special treatment or consideration.

(1) Temporary Importations Under Bond - Merchandise entered under 19 CFR 10.31 as a Temporary Importation Under Bond may be admitted to a zone in zone-restricted status for cancellation of bond charges under 19 CFR 10.39. This is one of the purposes the Fourth Proviso, 19 USC 81c(a) was meant to serve. Upon receipt of Customs Form 214 for admission in zone-restricted status, the appropriate Customs officer shall examine the merchandise and execute Customs Form 3495 as provided in HB 35300-03, 1995 and CD 099 3240-062. A certificate of arrival in zone-restricted status on Customs Form 214 provided by the zone operator under the provisions of 19 CFR 146.38 and see Section 6.11 FTZM shall constitute evidence of exportation sufficient for cancellation of TIB bond charges under 19 CFR 10.39. TIB bond charges may not be canceled upon admission to a zone in any status other than zone-restricted. (See Section 5.8(b)(3) FTZM) However, admission in zone-restricted status is at the option of the applicant for admission. The merchandise may be admitted in a foreign status, but the merchandise will not be considered exported. The TIB bond charges will not be canceled upon admission under these circumstances. Unless the bond charges are otherwise canceled by actual exportation or destruction as provided in 19 CFR 10.39, the importer may be assessed liquidated damages after the merchandise has been admitted.

(2) Transfer from a Bonded Warehouse - Merchandise entered for warehouse and transferred to a zone, other than temporarily for the purpose of manipulation, may be admitted only in zone-restricted status, as provided in 19 CFR 146.44(d) and see Section 5.8(c) FTZM

(3) Transfer from an ATF Bonded or Controlled Premises - Non-tax-paid alcoholic beverages or tobacco products transferred from ATF-bonded or controlled premises may be admitted only in zone-restricted status, as determined in CSD 82-112. (See Section 6.12 and 11.5(d) and (e) FTZM)

(4) Trade Fair Entries - Any merchandise entered for a trade fair under 19 CFR Part 147 may be transferred to a foreign-trade zone at any time before, or within 3 months after, the closing date of the fair. (19 CFR 147.42(a)). Such merchandise may be admitted in privileged foreign, nonprivileged foreign or zone-restricted status, at the option of the applicant for admission, unless otherwise restricted by law.

(5) Admission of Merchandise from Another Zone - Merchandise transferred from another zone at the same or a different port will be admitted under the procedures in 19 CFR 146.32 and 146.66(d) (and see Section 6.7 FTZM). However, no statistical copy on Customs Form 214A shall be provided, and the Port Director may waive the presentation of a commercial invoice and the examination of the merchandise. The merchandise will not be admitted to the zone until a Customs permit is issued, except in the case of direct deliveries under 19 CFR 146.39 and 146.40. Merchandise must retain the zone status from the transferring zone upon the admission to the new zone. Any subsequent application to change status designation must consider all activity since the first zone admission.

6.8 Transfer to Zone - The cartage of merchandise for admission to a zone shall be done by a cartman licensed by Customs who shall give bond to protect the government against any loss of merchandise while being carted. (See 19 USC 1565). The importer shall select the cartman who will deliver the merchandise to the zone, subject to checks by the Port Director to see that the cartman and its employees are properly licensed under the procedures in 19 CFR Part 112, Subparts C and D. A foreign-trade zone operator may engage in cartage or lighterage under his bond only for merchandise destined for his foreign-trade zone and may also transport merchandise to his zone from anywhere within the approved boundaries where the foreign-trade zone is located. (19 CFR 112.2(b)(1) and (2)). Zone operators may be designated private bonded carriers for the transportation in bond and cartage of their own merchandise. (19 CFR 112.12(b)(3)). Any operator may be licensed as a cartman under the procedures in 19 CFR Part 112, Subparts C and D. Bonded carriers are authorized for cartage to zones. (T.D. 86-16). Payment of cartage costs is the responsibility of the importer, not the operator. The procedures for transferring merchandise from one zone and receipt into another zone are explained in Sections 9.11 and 6.7(g)(5) FTZM.

(a) Transfer Procedure - Merchandise shall be transferred to a zone from the place of unloading, Centralized Examination Station, or other location upon the order or approval of the Port Director on Customs Form 6043, or Customs Form 7512 (in case of in bond shipments), or the "Permit to Transfer" part of Customs Form 214.

(19 CFR 125.31). The cartman shall sign the form upon pickup, acknowledging receipt of the merchandise. (19 CFR 125.34) Generally, merchandise will not be transferred to a zone until it has been released from the place of unloading, CES, or other location. However, the Port Director may authorize transfer to a zone for the purpose of examination, as provided in 19 CFR 151.6 and 151.7. In that case, the merchandise will be released to the operator after examination at the zone.

6.9 Receipt into Zone - The zone operator shall accept for admission only merchandise for which an admission permit has been given by the Port Director. (19 CFR 146.32(a)). Acceptable evidence of the permit is a signature by an authorized Customs officer in Block 31 of Customs Form 214 with an accompanying date in Block 33, or approval for direct delivery procedures.

(a) Supervision and Receipt Procedures - The Port Director may authorize the receipt of zone status merchandise at a zone without physical supervision by a Customs officer. (19 CFR 146.37(d)) In that case, the operator shall supervise the receipt of merchandise into the zone and report the receipt and condition of the merchandise. (19 CFR 146.4(a) and 146.37(d)). Upon delivery of the merchandise to the zone, the operator shall:

(1) check to see that the appropriate signature and date for permit of admission appear on Customs Form 214, unless under direct delivery procedures;

(2) check the description of the merchandise on Customs Form 214 and the commercial invoice against the merchandise, unless under direct delivery procedures;

(3) check the quantity in the shipment against the quantity in the cartage documentation on Customs Forms 6043, 214, 7512, or other supporting documentation. This is important, since the cartage transaction may cover only a part of the merchandise approved for admission, or there may have been a quantity discrepancy upon pickup by the cartman;

(4) where applicable, check any and all of the seals affixed to the conveyance, request the concurrence of the carrier as to their condition, and report any broken, missing, or replaced seals to the Port Director. If there is a seal or conveyance discrepancy (i.e., any condition that would allow the removal or switching of merchandise without breaking the seal), the operator shall hold the conveyance and its contents intact pending the advice of the Port Director. The Port Director may choose to physically supervise the unloading of the conveyance. Otherwise, the Port Director will authorize the operator to break the seal. If there is no seal discrepancy, the operator may break the seal unless specific instructions have been issued

in advance by the Port Director to hold the conveyance intact. (19 CFR 146.8 and see Sections 10.4(c), (d), and (e) FTZM);

(5) have the merchandise unladen and received directly into the activated area (the merchandise should not be stored, even temporarily, outside the activated area);

(6) report to the Port Director any discrepancy in the quantity or condition of the merchandise found upon receipt in the zone; (19 CFR 146.37(c) and see Section 10.4 FTZM);

(7) in a zone lot number management system, mark the packages with the unique CF 214 number so that the merchandise can be traced to a particular Customs Form 214. (This marking requirement shall be deemed met if the packages (or unitized or palletized groups of packages) are marked at sufficient intervals of space to allow Customs to distinguish one zone lot from another during compliance reviews (formerly spot checks) and audits);

(8) adequately identify merchandise that is accounted for under a Customs-authorized inventory method other than specific identification, so that Customs can conduct an inventory count (the merchandise need not be marked with a zone lot number or a Customs Form 214 number). (19 CFR 146.37(d)).

(b) Liability for Merchandise - The operator shall be held liable under its bond for the receipt of merchandise admitted in the quantity and condition as described on the Customs Form 214, except as modified by a discrepancy report:

(1) signed jointly by the operator and carrier on the Customs Form 214 or other approved form within 15 days after admission of the merchandise, and reported to the Port Director within 2 working days thereafter, or;

(2) submitted on a Manifest Discrepancy Report (MDR) under the provisions of 19 CFR Part 158 Subpart A, and CD 099 3240-067A, within 20 days after admission of the merchandise. The operator may file an MDR on behalf of the person who applied for admission of merchandise to the zone. (19 CFR 146.37(c)). Liability and discrepancy reporting are discussed in more detail in Section 10.4 FTZM.

(c) Recordkeeping upon Admission - Upon receipt of merchandise which has been admitted to the zone, the operator shall:

(1) open a sequential zone admission number file marked with the sequential zone admission number of the Customs Form 214 as the file

number, and place the Customs Form 214, the examination invoice, the cartage documentation, and any other required documentation in the zone admission number file folder; (19 CFR 146.37(a)(1))

(2) where a Customs-approved inventory method other than a zone lot system is used, file the Customs Form 214 in sequential order by the zone admission number; (19 CFR 146.37(a)(2))

(3) record the merchandise in a receiving report using the zone lot number or unique identifier (for merchandise under an authorized inventory method), so that the merchandise is traceable or attributable to a specific Customs Form 214; (19 CFR 146.22(a))

(4) reconcile the quantities received in the zone to the receiving report, such as the invoice or similar document; (19 CFR 146.22(b))

(5) record in an admission suspense account any merchandise admitted for which documentation is incomplete or which is unacceptable to the inventory system (19 CFR 146.22(c)). (The difference between an admission suspense account and a temporary deposit to complete documentation is explained in Section 6.5(c)(6) FTZM); and,

(6) record the receipt of the merchandise in the inventory system records from the receiving report, using the zone lot number or unique identifier for traceability or attribution, stating the quantity and date admitted, cost or value where applicable, zone status, and description of the merchandise, including any part or stock number. (19 CFR 146.22(d))

Further information on recordkeeping upon admission is set forth in Section 7.8(b) FTZM.

(d) Receipt Admission of Domestic Status Merchandise - The operator shall supervise the admission of domestic status merchandise for which no permit is required, and shall account for its admission in its normal inventory control and recordkeeping system. (19 CFR 146.4(a) and 146.21(a)(1)). If merchandise is formally admitted to the zone by being placed on the Customs Form 214, then upon delivery of the merchandise to the zone, the operator shall:

(1) record the merchandise in a receiving report using a zone lot number or unique identifier for traceability or attribution;

(2) reconcile quantities actually received to a receiving report or document, such as an invoice;

(3) record in a suspense account any merchandise received without complete documentation or which is unacceptable to the inventory system; and,

(4) record the merchandise receipt in the inventory system from the receiving report using the zone lot number or unique identifier for traceability or attribution; and record the quantity and date admitted, cost or value where appropriate, zone status, and description of the merchandise including any part or stock number. (19 CFR 146.22)

In addition, the operator should for their own safeguard:

(1) check the merchandise against the carrier's documentation, acknowledge receipt by signing and dating the receipt document, noting any exceptions in quantity or condition of the merchandise in the required spaces, and accept a copy of the receipt document;

(2) check any seals, if used, and note any seal irregularities in the receipt document; and

(3) have the merchandise unladen and promptly received into the activated area of the zone.

6.10 Direct Delivery of Merchandise - This procedure is for delivery of merchandise to a zone without prior application and approval on Customs Form 214. (19 CFR 146.39(a)). It is designed for low-risk, repetitive shipments for which the operator is the owner or purchaser of the goods.

(a) Application for Direct Delivery Procedure - An operator meeting the criteria of 19 CFR 146.39(c) as explained by Section 6.10(a)(1) FTZM below shall file a written application with the Port Director at least 30 days before the direct delivery procedure is to become effective. The application will describe the merchandise to be handled or processed and the kind of operation which it will undergo in the zone. (19 CFR 146.39(b)). The application may cover all or a part of the merchandise expected to be admitted to the zone. The merchandise covered by the application shall be described in sufficient detail to enable Customs officers to determine whether the merchandise covered by the application is eligible for direct delivery procedures.

(1) Criteria for Approval - The Port Director will approve the application if all of the following criteria are met:

(i) The merchandise is not restricted or of a type which requires Customs examination or documentation review before or upon its arrival at the zone. (19 CFR 146.39(C)(I)).

Examples Which Do Not Meet This Criterion:

Products subject to quota or visa. (19 CFR 146.39).

Merchandise which the Port Director has reason to believe has been, or will be, described inaccurately or incompletely in admission documentation presented by the operator under 19 CFR 146.40

(ii) The merchandise to be admitted to the zone, and the operations to be conducted therein, are known well in advance, are predictable and stable over the long term, and are relatively fixed in variety by the nature of the business conducted at the site. (19 CFR 146.39(c)(2)). Any new class or kind of merchandise must first be approved in writing by the Foreign-Trade Zones Board. This criterion excludes from consideration any merchandise not within the scope of authority as set out in the application to the Board and approved by the Board Order. Customs must have an opportunity to examine and become familiar with any such merchandise before it may be included in an application for direct delivery. Supplemental applications for direct delivery procedures may be filed for any merchandise meeting the requirements and not included in the original application.

(iii) The operator is the owner or purchaser of the goods. (19 CFR 146.39(c)(3)). A finding as to whether the operator is the owner or purchaser of the goods is determined by Customs interpretation as to what constitutes the "owner or purchaser" under 19 USC 1484(a)(2)(B) CD 099 3530-002. The Port Director may demand documentation to ascertain the operator is the owner or purchaser of the goods. There may be more than one operator of a general purpose zone.

(2) Decision on Application - The Port Director shall approve the application for direct delivery procedures if the criteria in 19 CFR 146.39(c) are met. The Port Director shall promptly notify the operator in writing of Customs decision on the application. If the application is denied, the Port Director shall specify the reason for denial in his reply. The Port Director's decision will constitute the final Customs administrative determination concerning the application. (19 CFR 146.39(d)).

(3) Revocation of Approval - The Port Director may revoke the approval given under this section if it becomes necessary for Customs to routinely examine the merchandise or documentation before or upon admission to the zone. (19 CFR 146.39(e)). The revocation may cover all or part of the merchandise for which approval for direct delivery had previously been

given. Upon revocation, the merchandise may be admitted to the zone only under a prior permit issued under 19 CFR 146.32(c).

(b) Direct Delivery Procedures - The primary responsibility for direct delivery procedures rests with the operator, as a means of expediting the delivery of merchandise to the zone without having to await a prior approval for admission by Customs. If a shipment to be admitted to a zone includes both merchandise approved for direct delivery procedures and merchandise not approved for direct delivery procedures, none of the shipment will be authorized for direct delivery to the zone, unless the applicant segregates the packages containing merchandise not approved for direct delivery from the rest of the shipment, and holds the segregated portion intact at a secure location designated by the Port Director pending approval of a separate application for admission. Operators are advised to have a secure area of their zone approved by the Port Director to accommodate this situation prior to application for direct delivery. If the segregation and separate admission requirements are met, the portion of the shipment approved for direct delivery may be delivered to the zone pursuant to the provisions of 19 CFR 146.40 and CD 099-3210-015.

(1) Arrival of Conveyance - Upon arrival at a subzone or zone site of a conveyance containing foreign merchandise for direct delivery, the operator shall:

- (i) collect in bond or cartage documentation from the carrier;
- (ii) check the condition of any seal affixed to the conveyance and, if broken, missing, or improperly affixed, so notify the Port Director and receive instructions before unloading the merchandise;
- (iii) check each incoming in bond and cartage shipment to determine if the manifested quantity or the quantity on the cartage document agrees with the quantity actually received;
- (iv) sign and date the in bond or cartage documentation to accept responsibility for the merchandise under the Foreign-Trade Zone Operator's Bond and to relieve the carrier of responsibility;
- (v) forward the in bond or cartage documentation so as to reach the Port Director within 2 working days after the date of arrival of the conveyance at the subzone or zone site;
- (vi) maintain a file of open in bond manifests in chronological order of date of conveyance arrival to identify shipments that have arrived, but the entire contents of which have not been admitted to the subzone or zone site; and,

Product week 1	PF shipments (MBBLs)	Value/barrel (platts)	Total value
Jet Fuel	200,000	35	7,000,000
Total	815,000		\$21,525,000

Attributed Feedstock—Class III Crude: 615,000 @ \$105=\$64,575 (estimated duties)
 During that week the refiner actually removes the following products and reports those on the CF 7501 filed within 10 business days after the CF 3461 is filed. Column 3 is the actual "weighted average" value for the manufacturing period, therefore, no reconciliation is necessary.

1 Product	2 PF Shipments (mbbls)	3 Value/barrel (wt. avg.)	4 Total value (2)×(3)	5 Relative value factor (3)/(8)	6 Feedstock distrib. (5)×(2)	7 Liq. duties (6)×(10) (9)
Week 1:						
Motor Gasoline	19,977	\$35.70	\$713,179	1.104545	22,065	\$2,217
Total Alkylate	22,907	42.50	973,548	1.314935	30,121	3,163
Heavy Reformate	58,164	31.42	1,827,513	.972123	56,542	5,937
Reformer Feed	100,279	31.42	3,150,766	.972123	97,484	10,235
Raffinates	170,293	29.55	5,032,158	.914268	155,693	16,348
Jet Fuel	188,433	30.04	5,659,727	.929426	156,546	16,437
Total	540,853		16,756,891		518,451 (9)	\$4,437 (10)

Class III Crude Consumed 518,451×\$.105 = \$54,437
 Volumetric Gain 21,602
 Avg. Value/Barrel Crude Consumed=\$16,756,891÷518,451=\$32.321 (8)
 This example shows volumetric gain of 21,602 mbbls. However, in that PF was requested, liquidated duties are only on actual feedstock (class III crude) used in the refining process. (518,451 @ \$.105=\$54,437).

VI. WEEKLY ENTRY, MONTHLY MANUFACTURING PERIOD, AND RELATIVE VALUES CALCULATED ON THE ACTUAL WEIGHTED AVERAGE VALUES AT THE END OF THE MONTH.

For example, on the CF 3461 the refiner estimates the following shipments and relative values for the next week and files this on the preceding Friday.

1 Product	2 PF shipments (mbbls)	3 Value/barrel (platts)	4 Total value
Week 1:			
Motor Gasoline	20,000	\$35	\$700,000
Total Alkylate	25,000	35	875,000
Heavy Reformate	60,000	35	2,100,000
Reformer Feed	110,000	35	3,850,000
Raffinates	200,000	35	7,000,000
Jet Fuel	200,000	35	7,000,000
Total	815,000		21,525,000

Attributed Feedstock—Class III Crude: 615,000 @ \$.105=\$64,575 (estimated duties)
 During the week the refiner actually removes the following products and reports those on the CF 7501 filed within 10 business days after the CF 3461 is filed. The reported relative values may be an estimate based on Platts, prior period actual prices, or the refiner's transfer prices. For this example, the estimates are based on the refiner's actual transfer prices. Listed below are the data to be shown on the weekly CF 7501s with actual quantities shipped and estimated values for weeks 1-5.

1 Product	2 PF shipments (mbbls)	3 Value/barrel (estimates)	4 Total value (2)×(3)	5 Relative value factor (3)/(8)	6 Feedstock distrib. (5)×(2)	7 Liq. duties (6)×(10) (9)
Week 1:						
Motor Gasoline	19,977	\$35.70	\$713,179	1.104545	22,065	\$2,217
Total Alkylate	22,907	42.50	973,548	1.314935	30,121	3,163
Heavy Reformate	58,164	31.42	1,827,513	.972123	56,542	5,937
Reformer Feed	100,279	31.42	3,150,766	.972123	97,484	10,235
Raffinates	170,293	29.55	5,032,158	.914268	155,693	16,348
Jet Fuel	188,433	30.04	5,659,727	.929426	156,546	16,437
Total	540,853		16,756,891		518,451 (9)	\$4,437 (10)

Class III Crude Consumed 518,451×\$.105=\$54,437
 Volumetric Gain 21,602

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Avg. Value/Barrel Crude Consumed=\$16,750,891÷518,451=\$32.321 (6)

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Week 2:						
Motor Gasoline	20,651	\$36.90	\$762,022	1.145429	23,854	\$2,484
Total Alkylate	23,495	44.25	1,038,698	1.373584	32,190	3,380
Heavy Reformate	59,819	30.35	1,815,507	.942108	56,358	5,918
Reformer Feed	101,167	30.10	3,045,127	.934347	94,526	9,925
Raffinates	172,317	29.30	5,048,888	.909514	156,726	16,456
Jet fuel	165,291	20.70	3,414,434	.852972	157,519	16,539
Total	542,680		\$16,782,977		520,973	\$54,702

Class III Crude Consumed 520,973×\$.105 = \$54,702

Volumetric Gain 21,707

Avg. Value/Barrel Crude Consumed = \$32.215

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Week 3:						
Motor Gasoline	18,589	\$34.90	\$652,248	1.091819	20,405	\$2,142
Total Alkylate	21,511	40.25	865,818	1.259190	27,007	2,844
Heavy Reformate	57,371	30.00	1,722,764	.866882	55,460	5,823
Reformer Feed	99,707	30.00	2,991,210	.888882	66,388	10,121
Raffinates	168,112	29.85	4,984,521	.877577	155,938	16,374
Jet Fuel	172,082	29.85	5,136,946	.933834	160,707	16,674
Total	537,482		\$16,483,241		515,983	\$54,178

Class III Crude Consumed 515,983×\$.105=\$54,178

Volumetric Gain 21,499

Avg. Value/Barrel Crude Consumed = \$31.965

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Week 4:						
Motor Gasoline	21,905	\$32.85	\$719,579	1.027237	22,502	\$2,363
Total Alkylate	22,552	38.75	873,690	1.211733	27,327	2,869
Heavy Reformate	58,118	29.60	1,720,234	0.829607	53,791	5,648
Reformer Feed	101,058	29.40	2,971,105	0.919253	92,908	9,755
Raffinates	169,823	30.15	5,120,183	0.942806	160,110	16,812
Jet Fuel	171,493	31.05	5,324,858	0.970948	166,511	17,484
Total	544,947		\$16,729,629		523,149	\$54,931

Class III Crude Consumed 523,149×\$.105=\$54,931

Gain 21,798

Avg. Value/Barrel Crude Consumed = \$31.979

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Week 5:						
Motor Gasoline	6,660	\$37.25	\$334,878	1.136260	10,218	\$1,073
Total Alkylate	9,864	45.10	450,278	1.375713	13,735	1,442
Heavy Reformate	25,351	31.50	798,557	0.860864	24,260	2,528
Reformer Feed	43,492	31.35	1,363,474	0.950268	41,592	4,367
Raffinates	75,172	29.95	2,251,401	0.913583	68,677	7,211
Jet fuel	75,795	30.56	2,316,295	0.932190	70,654	7,418
Total	238,784		\$7,514,883		229,233	\$24,069

Class III Crude Consumed 229,233×\$.105=\$24,069

Gain 9,551

Avg. Value/Barrel Crude Consumed = \$32.783

As provided in the regulations, the refiner files an amended CF 7501 for each week based on the refiner's actual weighted average values for the month, as shown below.

Product	Value/ barrel (MBBLs)
Month End:	
Motor Gasoline	\$35.27
Total Alkylate	41.84
Heavy Reformate	30.66
Reformer Feed	30.54
Raffinates	29.69
Jet Fuel	30.42

RECONCILIATION OF WEEK 1 USING MONTH'S END ACTUAL WEIGHTED AVERAGE VALUES

1 Product	2 PF shipments (mbls)	3 Value/ barrel (wt. avg.) actual	4 Total value (2)*(3)	5 Relative value factor (3)/(8)	6 Feedstock distr. (5)*(2)	7 Amended wt. avg. duties (6)*(10)
Motor Gasoline	19,977	\$35.27	\$704,589	1.085716	21,880	\$2,298
Total Alkylate	22,907	41.84	958,429	1.299523	29,775	3,120
Heavy Reformate	58,164	30.66	1,783,308	.952499	55,401	5,817
Reformer Feed	100,279	30.54	3,062,521	.948771	95,141	9,990
Raffinates	170,293	29.69	5,055,999	.922305	157,072	16,483
Jet Fuel	168,433	30.42	5,123,732	.945043	159,176	16,713
Total	540,053		\$16,688,578		518,454 (9)	54,437 (10)

Class III Crude Consumed = 518,454 x \$.105 = \$54,437

Volumetric Gain 21,599

Avg. Value/Barrel Crude Consumed = \$16,688,578 ÷ 518,454 = \$32.189 (8)

Note: No change in amended total duties, because duty is computed on total quantity of class III crude used. The difference is amongst the various products, i.e., estimated weekly CF 7501 duties paid for Motor Gasoline was \$2,317, while the reconciled amount as shown above is \$2,298. Additional duties owed or refunds due would depend on the reconciliation of the weekly entry as an entirety.

VII. WEEKLY ENTRY, MONTHLY MANUFACTURING PERIOD, RELATIVE VALUES CALCULATED ON PRIOR MANUFACTURING PERIOD'S ACTUAL WEIGHTED AVERAGE VALUES. THE PRIOR PERIOD (PP) VALUES ARE SET FORTH BELOW:

Product	Value/Barrel (wt. avg.)
Motor Gasoline	\$35.28
Total Alkylate	41.90
Heavy Reformate	31.78
Reformer Feed	30.02
Raffinates	31.10
Jet Fuel	28.80

Thereafter, the information provided on both the CF 3461 and CF 7501 filed for each weekly entry with respect to relative values would remain the same. The only estimated amount would be the quantity to be removed on the CF 3461 as shown below. On the CF 3461 the refiner estimates the following shipments and uses a prior manufacturing period's actual weighted average values.

1 Product	2 PF shipments (mbls)	3 Value/ barrel (PP) (wt. avg.)	4 Total value
Week 1			
Motor Gasoline	20,000	\$35.28	\$705,600
Total Alkylate	25,000	41.90	1,047,500
Heavy Reformate	60,000	31.78	1,906,800
Reformer Feed	110,000	30.02	3,302,200
Raffinates	200,000	31.10	6,220,000
Jet Fuel	200,000	28.80	5,760,000
Total	615,000		18,942,100

Attributed Feedstock—Class III Crude: 615,000 @ \$.105 = \$64,575 (estimated duties)

On the CF 7501, the refiner reports the following shipments and uses a prior manufacturing period's actual average values.

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PF) (wt. avg.)	4 Total value (2)×(3)	5 Relative value factor (2)/(8)	6 Feedstock distn. (5)×(2)	7 Liq. duties (6)×(10) (9)
Week 1:						
Motor Gasoline	19,977	\$35.28	\$704,789	1.097219	21,919	\$2,902
Total Alkylate	32,907	41.90	959,803	1.303104	29,850	3,134
Heavy Reformate	58,164	31.78	1,848,452	.988368	57,486	6,036
Reformer Feed	100,279	-30.02	-3,010,376	-.933832	93,623	9,830
Raffinates	170,293	31.10	5,296,112	.967220	164,710	17,295
Jet Fuel	168,433	28.80	4,850,870	.825689	150,863	15,840
Total	540,053		\$16,670,402		516,451 (9)	\$54,437 (10)

Class III Crude Used 516,451 × \$.105 = \$54,437
 Volumetric Gain 21,692
 Avg. Value/Barrel Crude Used = \$16,670,402 ÷ 516,451 = \$32.154 (11)

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PF) (wt. avg.)	4 Total value	5 Relative value factor	6 Feedstock distn.	7 Liq. duties
Week 2:						
Motor Gasoline	20,651	\$35.28	\$729,567	1.096128	22,838	\$2,377
Total Alkylate	23,435	41.90	981,826	1.301808	30,508	3,203
Heavy Reformate	59,819	31.78	1,901,048	.987386	59,064	6,202
Reformer Feed	101,167	-30.02	-3,037,033	-.932784	94,359	9,908
Raffinates	172,317	31.10	5,359,059	.966259	168,903	17,480
Jet Fuel	165,291	28.80	4,760,381	.894799	147,903	15,529
Total	542,680		16,768,014		520,973	54,702

Class III Crude Used 520,973 × \$.105 = \$54,702
 Volumetric Gain 21,707
 Avg. Value/Barrel Crude Used = \$32.188

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PF) (wt. avg.)	4 Total value	5 Relative value factor	6 Feedstock distn.	7 Liq. duties
Week 3:						
Motor Gasoline	18,089	\$35.28	\$639,348	1.090168	20,542	\$2,157
Total Alkylate	21,511	41.90	901,311	1.305418	28,081	2,940
Heavy Reformate	57,371	31.78	1,823,250	.990124	56,803	5,984
Reformer Feed	99,707	-30.02	-2,993,204	-.935290	93,254	9,792
Raffinates	168,112	31.10	5,228,283	.968938	162,889	17,100
Jet Fuel	172,092	28.80	4,956,250	.897280	154,414	16,214
Total	537,482		16,561,646		515,983	54,178

Class III Crude Used 515,983 × \$.105 = \$54,178
 Volumetric Gain 21,499
 Avg. Value/Barrel Crude Used = \$32.097

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PF) (wt. avg.)	4 Total value	5 Relative value factor	6 Feedstock distn.	7 Liq. duties
Week 4:						
Motor Gasoline	21,905	\$35.28	\$772,808	1.097390	24,038	\$2,524
Total Alkylate	22,552	41.90	944,929	1.303306	29,391	3,086
Heavy Reformate	58,116	31.78	1,846,926	.988522	57,447	6,032
Reformer Feed	101,058	-30.02	-3,033,761	-.933777	94,365	9,908
Raffinates	169,823	31.10	5,281,495	.967371	164,281	17,250
Jet Fuel	171,493	28.80	4,938,998	.895829	153,627	16,131
Total	544,947		16,818,917		523,149	54,931

Class III Crude Used 523,149 × \$.105 = \$54,931
 Volumetric Gain 21,708
 Avg. Value/Barrel Crude Used = \$32.149

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PF) (wt. avg.)	4 Total value	5 Relative value factor	6 Feedstock distn.	7 Liq. duties
Week 5:						
Motor Gasoline	8,900	\$35.28	\$317,167	1.097098	9,868	\$1,036
Total Alkylate	8,564	41.90	418,330	1.303671	13,016	1,367
Heavy Reformate	25,351	31.76	805,655	.968799	25,067	2,632
Reformer Feed	43,492	30.02	1,305,630	.934039	40,623	4,265
Refinates	75,172	31.10	2,337,649	.967642	72,740	7,638
Jet Fuel	75,795	28.80	2,182,895	.896080	67,919	7,131
Total	238,784		7,367,527		229,233	24,069

Class III Crude Used 229,233×\$-105=\$24,069

Volumetric Gain 9,551

Avg. Value/Barrel Crude Used=\$32.14

At the end of the month, the refiner must calculate its actual weighted average values for use in the subsequent period.

RECONCILIATION OF RELATIVE VALUE FOR THE SUBSEQUENT PERIOD

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PF) (wt. avg.)	4 Total value (2×3)	5 Relative value factor (3/4)	6 Feedstock distn. (5×2)	7 Liq. duties (6×(10) (9)
Month End:						
Motor Gasoline	96,212	\$35.27	\$3,181,777	1.095602	98,844	\$10,370
Total Alkylate	100,389	41.84	4,200,276	1.289793	130,484	13,701
Heavy Reformate	258,621	30.66	7,935,452	.962470	246,519	25,885
Reformer Feed	445,703	30.54	13,611,770	.948742	422,857	44,400
Refinates	755,717	29.69	22,437,238	.922336	697,025	73,188
Jet Fuel	753,104	30.42	22,909,424	.945014	711,694	74,726
Total	2,403,946		74,275,937		2,307,423 (9)	242,070 (10)

Class III Crude Used 2,307,423×\$-105=\$242,070

Volumetric Gain 96,523

Avg. Value/Barrel Crude Used=\$74,275,937÷2,307,423=\$32.19 (8)

Note: Actual monthly reconciliation data could result in attributions on a product basis that are less than or greater than weekly distributions. This is due to the "weighing" of the data i.e., motor gasoline on a weekly basis was \$10,996 as compared to \$10,379 as above. No additional duties are due to the averaging.

PART 147—TRADE FAIRS

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