

## **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](mailto:ftz@trade.gov).

**FOREIGN-TRADE ZONE NO. 226**

**ZONE SCHEDULE**

**JANUARY 15, 2013  
REVISED  
(Original Zone Schedule: 12-22-97)**

**CHARGES, RATES, RULES, AND REGULATIONS**

**APPLICABLE AT**

**FOREIGN-TRADE ZONE NO. 226**

**Operating Under Grant of Authority  
from the  
United States Foreign-Trade Zones Board  
to the  
County of Merced, California**

## ZONE SCHEDULE CORRECTIONS LIST

Changes in and additions to this Zone Schedule will be made by reprinting the page on which the change or addition is made, and such pages will be designated revised and will carry a "Correction" number in the lower left-hand corner.

Upon receipt of a revised or new page, place a check opposite the "Correction" number (shown below) corresponding to the number shown in the lower left hand corner of the new or revised page. If "Correction" numbers are properly checked on receipt of new or revised pages, they will appear checked off in consecutive order with no omissions. If the check marks indicate that a Correction has not been received, a request should be made at once to the Zone Grantee for a copy of the missing page(s).

<b>Correction Number</b>	<b>Page Number</b>	<b>Date Issued</b>	<b>Date Implemented</b>
1-99	21	8-31-99	8-31-99
2-99	22	8-31-99	8-31-99
3-01	4	8-14-01	8-14-01
4-01	20	8-14-01	8-14-01
5-01	14	12-18-01	12-18-01
6-02	8	12-11-02	01-14-03
7-02	4	12-11-02	01-14-03
8-03	4	05-19-03	07-15-03
9-03	21	05-19-03	07-15-03
10-03	23	05-19-03	07-15-03
11-03	4	12-10-03	01-13-04
12-04	21	05-25-04	06-22-04
13-04	22	05-25-04	06-22-04
14-04	24	05-25-04	06-22-04
15-04	7	11-22-04	01-11-05
16-06	7	05-04-06	07-11-06
17-06	4	11-30-06	01-09-07
18-06	27	11-30-06	01-09-07
19-07	27	05-15-07	07-17-07
20-08	29	05-22-08	07-01-08
21-08	7	12-01-08	01-06-09
22-09	4	05-26-09	07-21-09
23-11	20	05-25-11	06-28-11
24-11	34	05-25-11	06-28-11
25-12	4	06-13-12	07-10-12
26-12	7	06-13-12	07-10-12
27-12	8	11-26-12	01-15-13
28-12	10	11-26-12	01-15-13
29-12	12	11-26-12	01-15-13
30-12	19	11-26-12	01-15-13
31-12	26	11-26-12	01-15-13
32-12	27	11-26-12	01-15-13
33-12	28	11-26-12	01-15-13

## TABLE OF CONTENTS

<u>Section</u>	<u>Subject</u>	<u>Page</u>
I.	Foreign-Trade Zone No. 226 Administration Directory	4
II.	Overview of Foreign-Trade Zone No. 226 and this Zone Schedule	5
III.	Principal Benefits Provided by Foreign-Trade Zone No. 226	6
IV.	Site Descriptions for Foreign-Trade Zone No. 226	7
V.	Definition of Foreign-Trade Zone Terms and U.S. Customs Forms	8
VI.	Principal Governing Regulations and Agreements	15
VII.	General Rules and Regulations	16
VIII.	Applications to the Foreign-Trade Zones Board	19
IX.	Activation, Deactivation, and Alteration of Zone Sites with Customs	20
X.	Activity Permitted in Zone	22
XI.	Fee Schedule	24
Appendix A:	Procedures for Sponsorship of Applications to the Foreign-Trade Zones Board	30
Appendix B:	Procedures for Activation of Zone Sites	33

### APPLICATION OF RATES, RULES, AND REGULATIONS

The rates, rules, and regulations published in this schedule will apply to all Operators of Zone sites or Subzones under the jurisdiction of Foreign-Trade Zone No. 226. Except as otherwise provided in this schedule, all general rates, rules, and regulations will apply as published.

**I. Foreign-Trade Zone No. 226 Administration Directory**

GRANTEE:

Merced County, California

ADMINISTRATOR:

Mr. Mark J. Hendrickson

ZONE OPERATORS:

The Gap, Inc.  
Grundfos Manufacturing Corporation  
VF Outdoor, Inc.

U.S. CUSTOMS & BORDER PROTECTION:

5177 East Clinton Way  
Fresno, CA 93727

## **II. Overview of Foreign-Trade Zone No. 226 and this Zone Schedule**

### **Purpose of Foreign-Trade Zone No. 226 and this Zone Schedule**

The Foreign-Trade Zones Board granted Foreign-Trade Zone No. 226 to Merced County, California (the County), on December 22, 1997.

This Zone Schedule is issued by Merced County (Grantee) in compliance with the U.S. Foreign-Trade Zones Board regulations. This Zone Schedule sets forth the operational structure of Foreign-Trade Zone No. 226 and the regulations and charges associated with active Zone operations.

The Grantee's goal is to promote economic development throughout California's Central Valley (the Valley). Seven counties comprise the Valley: Merced, Madera, Mariposa, Stanislaus, Fresno, Kings, and Tulare. These seven counties represent the Foreign-Trade Zone's service area. As an extension of the County, the FTZ has been developed to affect the following objectives:

1. Diversify the economy of the Valley.
2. Provide enhanced job opportunities for the citizens of the Valley.
3. Provide a relocation incentive for companies involved in international trade which, if successful, would bring investment, jobs, and commerce to the Valley.

### **Taking Advantage of the Benefits of Foreign-Trade Zone No. 226**

Currently approved Zone sites are listed in Section IV of this Zone Schedule. The Zone can be expanded or modified to accommodate interested Zone site Operators and/or importers and exporters located throughout the region, as explained in Section VIII. The actual procedure involved in expanding or modifying the Zone is included as an appendix to this Zone Schedule.

There are two ways to take advantage of Foreign-Trade Zone No. 226. A company can have its products handled by a Zone Operator, who can store and manipulate the products duty-free in the Zone, or a company can itself become a Zone Operator at one of the existing Zone sites or another site if none of the existing Zone sites are suitable.

The Grantee charges Zone Operators for the privilege of operating a Zone site. Uniform charges are set forth in Section XI. Other charges and costs associated with the operation of a Zone site are also the responsibility of the Zone Operator for that Zone site.

### **Additional Information Concerning Foreign-Trade Zone No. 226**

Additional general information concerning the operation of Zone sites and general recordkeeping requirements is contained in the other sections of this Zone Schedule. Obligations and responsibilities of Zone Operators are also specifically outlined in the Operations Agreement which must be executed by every Zone Operator prior to activating a Zone site with Customs.

### III. Primary Benefits Provided by Foreign-Trade Zone No. 226

**Re-exports:** Merchandise which is imported into the U.S. for admission into Foreign-Trade Zone No. 226 and later re-exported from the Zone is never assessed any Customs duties.

**Reject, Scrap, and "Consumed" Merchandise:** Imported merchandise which is admitted into a Zone and then rejected, scrapped, or consumed in the Zone is not assessed any Customs duties. Duties are reduced significantly for all merchandise which is scrapped through a manufacturing operation in a Foreign-Trade Zone and then sold from the Zone as commercial scrap material.

**Zone-to-Zone Transfers:** Imported merchandise which is admitted into the Zone and then shipped to another U.S. Foreign-Trade Zone can be shipped duty-free to the receiving Zone with the receiving Zone's concurrence. As duty-free transfers, Zone-to-Zone shipments allow both the shipping Zone and the receiving Zone to reduce their duty exposure. Duties are eliminated completely on imported components which are transshipped through several Zones and eventually re-exported.

**Duty Deferral:** While duties are eventually assessed on imported merchandise shipped to U.S. locations from the Zone, these duties are deferred while the merchandise remains in the Zone. The time that duty is paid is moved from the date of importation to the date of shipment from the Zone into the United States. The cost-of-money savings on duty deferral can be significant for large-volume distributors or operations with long inventory turnover periods.

**Inverted Tariffs:** When components are imported and admitted into Foreign-Trade Zone No. 226, they can be manufactured into a new product for re-export or sale in the U.S. In these cases, the importer may elect to apply the finished product duty rate or the component duty rate, whichever is lower. When the finished product rate is lower than the imported component rate, the importer can save the difference between the two rates.

These are just the primary benefits of U.S. Foreign-Trade Zones. There are many other additional benefits provided by Foreign-Trade Zone No. 226, which are usually evaluated on a case-by-case basis. To discuss how your operation could benefit from Foreign-Trade Zone use, call Mr. Mark Hendrickson, FTZ Administrator, at 209-385-7686.

#### **IV. Site Descriptions for Foreign-Trade Zone No. 226**

Foreign-Trade Zone No. 226 is sponsored by Merced County pursuant to a grant issued by the U.S. Foreign-Trade Zones Board on December 22, 1997. The Zone is located on six (6) sites designated in the records of the Foreign-Trade Zones Board:

Site #1            Castle Airport. This 557 acre site consists of a former military base and is  
Hub Site            located in Atwater.

Site #2            MidState 99 Distribution Center. This 242-acre site is located in Visalia.  
Magnet

Site #8            Airways East Business Park. This 27.56-acre site is located near the  
Usage-Driven Fresno Yosemite International Airport.

Site #9            Central Valley Business Park. Located on State Highway 99, this 225.12-acre  
Magnet            site lies south of the City of Fresno.

Site #10          10A-Fresno Airport Industrial Park/10B-City of Clovis Industrial Park. This  
Magnet            492-acre site sits immediately adjacent to Fresno-Yosemite International  
Airport.

Site #11          Reedley Industrial Park II. This 34.56-acre site is situated in the City of  
Magnet            Reedley in southern Fresno County.



## **V. Definition of Foreign-Trade Zone Terms and U.S. Customs Forms**

Activation: Approval by the Grantee and U.S. Customs for operations and the admission and handling of merchandise in Zone status.

Administrator: Handles all Grantee functions related to maintenance and development of the Zone including but not limited to enforcement, daily management, and report receipt, review, and submission, along with all other Operator interface. The Administrator of FTZ No. 226 is Mark J. Hendrickson.

Admission: Physical arrival of goods into the Foreign-Trade Zone with the approval of the Zone Grantee and U.S. Customs. The word “admission” is to be used instead of “entry” of goods in a Zone to avoid confusion with Customs entry processes under Parts 141 through 144 of the Customs Regulations.

Admit: To bring merchandise into a Zone with Zone status.

Alteration: 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.

Alternative Site Framework (ASF) is designed to serve Zone projects that want the flexibility to both attract users/operators to certain fixed sites and also want the flexibility to serve companies at other locations where the demand for FTZ services arises in the future.

Audit-Inspection Procedures: These procedures provide the framework for Customs to reduce on-site supervision of Zones and for Zone Operators to increase Zone operating flexibility through the audit-inspection method of supervising Zones. These procedures require use of the Zone Lot Number system or a Unique Identifier Number system. The systems may be manual, computerized, or a combination of both.

Applicant: A corporation, partnership, or person applying for the right to operate a Foreign-Trade Zone site or Subzone under the jurisdiction of FTZ No. 226.

Bulk: A product or mass (of a product) which is not packaged, bundled, bottled, or otherwise packed, so that it is designated as bulk or bulk merchandise.

Constructive Transfer: A legal fiction which permits acceptance of a Customs entry for merchandise in a Zone before its physical transfer to the Customs territory. Constructive transfer is deemed to have occurred when Customs receives an entry in proper form. If the entry is not accepted, the merchandise will be deemed constructively transferred back to the Zone in its previous Zone status.

Control Number: The number used on all Zone entry and exit forms to identify all merchandise and commodities. The control number will, in all cases, be the same as the tariff number for that same merchandise described in the Harmonized Tariff Schedules of the United States Annotated.

Customs Territory: The territory of the U.S. in which the general tariff laws of the U.S. apply. “Customs territory of the United States” includes only the fifty States, the District of Columbia, and Puerto Rico, minus any areas within the boundaries of Foreign-Trade Zones.

Deactivation: Voluntary discontinuation of the activation of an entire Zone or Subzone by the Grantee or Operator. Discontinuance of the activated status of only a part of a Zone site is an alteration.

Default: An act or omission that will result in a claim for duties, taxes, charges, or liquidated damages under the FTZ Operator’s Bond.

Domestic Status: Domestic status is for (a) the growth, product, or manufacture of the United States on which all internal revenue taxes, if applicable, have been paid and (b) previously imported merchandise on which all applicable duties and internal revenue taxes have been paid. Domestic merchandise may be returned to the Customs territory free of duty and taxes.

Exhibition: The showing of merchandise within a Zone, usually to prospective buyers. This may require Customs supervision whenever it involves packing, unpacking, repacking, assembly, or reconditioning of the goods for showing.

First In-First Out (FIFO): Under the FIFO method, any fungible merchandise withdrawn from stock is assumed, in accordance with good business practice, to be withdrawn from the oldest stock first. In applying FIFO procedures, it is important to note that each Zone admission is considered a layer, and the Zone Operator is responsible for identifying the appropriate sequence of transfers from the Zone to assure the proper layer was used and transferred from the Zone. Fungible merchandise is, by definition, commercially interchangeable merchandise. Identification shall be maintained in the inventory control system records, generally by description and part or stock number.

Foreign-Trade Zone (FTZ): A restricted-access site in or adjacent to a Customs Port of Entry operated pursuant to public utility principles under the sponsorship of a corporation granted authority by the Foreign-Trade Zones Board (the Board) and under supervision of the Customs Service. Any foreign and domestic merchandise, except such as is prohibited by law or such as the Board may order to be excluded as detrimental to the public interest, health, or safety, may be brought into a Zone without being subject to the Customs laws of the United States governing the entry of goods or the payment of duty thereon; and such merchandise permitted in a Zone may be stored, exhibited, manufactured, mixed, or manipulated in any manner, except as provided in the Foreign-Trade Zones Act of 1934, as amended, and other applicable laws or regulations. The merchandise may be exported, destroyed, or sent into Customs territory from the Zone, in the original package or otherwise. It is subject to Customs duties if sent to Customs territory but not if reshipped to foreign points.

Foreign-Trade Zones Act: The Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 998-1003; 19 USC 81a-81u), as amended (the Act).

Foreign-Trade Zones Board: The Board which is established to carry out the provisions of the Foreign-Trade Zones Act. The Board consists of the Secretary of Commerce (Chairman), the Secretary of the Treasury, and the Secretary of the Army or their designated alternates.



**Grantee:** A corporation which has the privilege of establishing, operating, and maintaining a Foreign-Trade Zone by grant of authority from the Foreign-Trade Zones Board. The Grantee for Foreign-Trade Zone No. 226 is Merced County, California. **When used in relation to Operator interface, applications, activations, enforcement, monitoring activity, reports, etc., the term Grantee may be synonymous with the Administrator (see “Administrator” definition).**

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

**Magnet Site:** A site intended to serve or attract multiple operators or users under the ASF.

**Manipulation:** Processing wherein merchandise is packed, unpacked, repacked, cleaned, sorted, graded, or otherwise changed in condition, but not manufactured. The definition is taken from Section 562 of the Tariff Act. The precise distinction between manipulation and manufacture is subject to interpretation and enjoys a long history of case law.

**Manufacture:** Generally, the production of articles for use from raw or prepared materials by substantially transforming such materials into new forms, or with new qualities, properties, or combinations, whether by hand, labor, or machine. The U.S. Customs Service determines what constitutes manufacture on a case-by-case basis and distinguishes the manufacture from other operations such as manipulation, processing, production, and blending. The Foreign-Trade Zones Board has defined manufacture as any process which results in a change in Customs classification of the merchandise and, therefore, requires prior clearance from the Board before the manufacturing can occur within the Zone.

**Merchandise:** Merchandise includes goods, wares, and chattels of every description, except prohibited merchandise, building materials, production equipment, and supplies for use in operation of a Zone.

**Merchandise, Conditionally Admissible:** Merchandise which may be imported into the U.S. under certain conditions; merchandise which is subject to permits or licenses or which must be reconditioned to bring it into compliance with the laws administered by various Federal agencies.

**Merchandise, Domestic:** Merchandise which has been produced in the United States and not exported therefrom or previously imported into the Customs territory of the United States and properly released from Customs custody with payment of all applicable duties and taxes.

**Merchandise, Foreign:** Imported merchandise which has not been properly released from Customs custody into the Customs territory of the United States.

Merchandise, Fungible: Merchandise which, for commercial purposes, is identical and interchangeable in all situations. Originally applied to liquids or free-flowing substances which arrived in bulk, unpacked condition, the concept is now applied in Zones, for inventory control purposes, to shipments of goods which arrive packed but are unpacked and placed together in storage or manufacturing locations so that identification with the shipment as admitted to the Zone is lost. The concept is subject to wide use in manufacturing environments where it is infeasible to store goods in their original lots awaiting manufacture.

Merchandise, Mixed Status: Foreign merchandise which has been combined with domestic merchandise in the Zone is sometimes referred to as mixed status merchandise.

Merchandise/Operations, Prohibited: Merchandise, the importation of which is prohibited by law on grounds of public policy or morals, or any merchandise which is excluded from a Zone by order of the Foreign-Trade Zones Board. Books urging treason or insurrection against the U.S., obscene pictures, and lottery tickets are examples of prohibited merchandise. Also, certain operations involving the following merchandise are prohibited: tobacco, distilled spirits, alcohol, wine and beer (26 USC 5001-5008, 5010); sugar (26 USC 4501-4503); watch movements (19 USC 1367-1368); and bicycle parts (19 USC 81c). Additionally, retail sales are prohibited in a Zone (19 USC 81o & 19 CFR, Part 146.14).

Merchandise/Operations, Restricted: Merchandise which may not be authorized for delivery from Customs custody without a special permit, or a waiver thereof, by an agency of the U.S. Government. Also, the Foreign-Trade Zones Board and U.S. Customs Service have restricted certain operations involving the following products: steel, textiles, television tubes, and sugar. Operations involving orange juice may be restricted. The restrictions vary on a case-by-case basis.

Nonprivileged Foreign Status (NPF): Nonprivileged foreign status is a category for merchandise which does not have privileged or Zone-restricted status. Articles composed of nonprivileged foreign merchandise are classified and appraised in their condition at the time of transfer to the Customs territory for consumption.

Open or Yard Storage: The keeping of merchandise in open space within the fenced-in area of the Zone where merchandise not requiring weather protection may be stored.

Operator: A corporation, partnership, or person that operates a Zone or Subzone under the terms of an agreement with the Grantee. A Grantee may act as its own Operator.

Operator Agreement: Prior to activation of the site, an agreement between the Operator of the Zone site and the Grantee will be executed. Activation cannot occur without an executed Operator Agreement.

Operator's Bond: All Zone Operators must submit to Customs a bond to assure compliance with Customs regulations. The bond is submitted on Customs Form (CF) 301. The bond provisions are set forth at 19 CFR 113.73, Customs Regulations. A failure to comply with the

regulations may be deemed a “default” by Customs and result in the assessment of liquidated damages under the bond.

Port Director: U.S. Customs, Fresno, California. Port Director is the local representative of the FTZ Board as identified in the FTZ Board regulations and is the authority on all operational and activity-related issues at the Zone.

Port of Entry: A place designated by the U.S. Government at which a Customs officer is assigned with authority to accept entries of merchandise, collect duties, and enforce the various provisions of the Customs laws.

Privileged Foreign Status (PF): In normal operations or prior to any manipulation or manufacture which would change its tariff classification, an importer may apply to the Port Director to have imported merchandise in the Zone given privileged foreign status. The merchandise is classified and appraised, and duties and taxes are determined the date the application is filed. Taxes and duties are payable, however, only when such merchandise or articles are transferred to the Customs territory. The determined duty rate and taxes are not subject to future fluctuation. Once established, privileged foreign status cannot be changed.

Reactivation: 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. If the Operator is different, it is an activation.

Retail Sale: The sale of goods to ultimate consumers, usually in small quantities.

Subzone: A special-purpose Zone established as part of a Zone project for a limited purpose that cannot be accommodated within an existing Zone. The term “Zone” also applies to a Subzone, unless specified otherwise.

Transfer: To take merchandise with Zone status from a Zone for consumption, transportation, exportation, warehousing, cartage or lighterage, vessel supplies and equipment, admission to another Zone, and like purposes.

Unique Identifier Number (UIN): Customs identifies and defines a UIN as any unique set of alpha-numeric characters which is assigned to a category of merchandise, i.e., by unique numbers and/or letters that identify merchandise admitted to a Zone (SKU, part number, bar code, etc.). Inventory levels are adjusted on a First-In-First-Out (FIFO) or Foreign First (FOFI) basis pursuant to generally accepted accounting principles.

Usage-Driven: Sites which are designated to meet a specific Operator/User’s present need for FTZ designation (rather than to attract potential future Operators/Users). A Usage-Driven site is tied to the specific Operator/User for which it was designated and could not be used by any other entity. However, a Site vacated by one Operator/User could easily be designated as a Usage-Driven Site for another Operator/User through simple Minor Boundary Modification (MBM) action.

Vessel/Aircraft Supply: The supply of goods or equipment free of duties and taxes under Section 309 of the Tariff Act to eligible vessels or aircraft for use while actually engaged in foreign trade or in transit to Alaska, Hawaii, Puerto Rico, or any U.S. possession. Sometimes confused with exportation, which involves removal from the geographic territory of the United States and entry into a foreign country.

Zone Lot Number (ZLN): A collection of merchandise maintained under an inventory control method based on specific identification of merchandise admitted to a Zone by lot and lot number.

Zone-Restricted Status: Articles in Zone-restricted status have been brought to the Zone from Customs territory for the purpose of exportation, destruction, or storage, and are considered exported.

## **U.S. Customs Forms**

214            Application for FTZ Admission and/or Status Designation: Application and permit to approve status and admit merchandise into the Foreign-Trade Zone and report of merchandise received at Zone site.

214A           The CF 214A Statistical Copy: The CF 214A must be printed on salmon or pink colored stock and identified as "Statistical Copy." It shall include the data required in items 1, 2, 3, 4, 5, 7, 8, 14, 15, 16, 17, 18, 19, 20, 21, and 23 of the form. The responsibility for obtaining and providing the information rests with the Operator for admissions to the Zone. Customs is responsible for making sure the information is provided, then transmitting to Census, unless direct transmit to U.S. Census has been authorized.

216            Application for FTZ Activity Permit: Application and permit for the manipulation, manufacture, exhibition, or destruction of Foreign-Trade Zone merchandise.

301            Customs Bond: All Customs bonds utilize this form. The Foreign-Trade Zone Operator's bond provisions are set forth at 19 CFR 113.73.

3461           Entry/Immediate Delivery Application: Used for entry of foreign or mixed status merchandise into U.S. Customs territory. Duties and taxes are payable on filing of the CF 7501 within ten (10) working days of release of merchandise. An estimated CF 3461 may be used if the Operator operates under Estimated Production Procedures for Consumption (19 CFR, Part 146.63c).

5119-A        Informal Entry: Entry for goods valued under \$1,250. Informal entry does not require a bond. Informal entry is generally not permitted for textiles and textile products (Customs Directive 3500-07).

- 7501      Consumption Entry: Entry for foreign or mixed status merchandise into the Customs territory of the United States. Duties and taxes must be paid at the time of filing this form. Consumption entries must be supported by an entry bond.
- 7512      Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit: This form is used to establish the responsibility of bond for the transfer of foreign or mixed status merchandise from the port of unloading to the Zone (unless the Zone is located in the port of unloading which requires the use of a CF 214, CF 3171, or CF 6043); from the Zone to the Port of exportation; from one Zone to another Zone; from a Zone to a bonded warehouse; and for other transfer purposes.
- 349/350      Harbor Maintenance Fee Quarterly Summary Report and Amended Quarterly Summary Report: The Harbor Maintenance Fee is remitted quarterly for merchandise admitted to Foreign-Trade Zones and Subzones. CF 349 is used to report and remit the quarterly fees. CF 350 is used to amend prior reports, to request refunds, or to make supplemental payments.



## **VI. Principle Governing Regulations and Agreements**

Foreign-Trade Zones Act: Foreign-Trade Zone No. 226 is governed by the Foreign-Trade Zones Act, 19 United States Code 81a-81u as amended. Copies of the Act are maintained at the office of Foreign-Trade Zone No. 226.

Foreign-Trade Zones Board Regulations: Foreign-Trade Zone No. 226 is regulated by the Foreign-Trade Zones Board, Washington, D.C., under U.S. Code of Federal Regulations, Title 15, Part 400, as amended. Copies of these regulations are maintained at the office of Foreign-Trade Zone No. 226 for reference.

U.S. Customs Service Regulations: Foreign-Trade Zone No. 226 is subject to the regulations of the U.S. Customs Service under U.S. Code of Federal Regulations, Title 19, part 146, as amended. Copies of these regulations are maintained at the office of Foreign-Trade Zone No. 226 for reference.

Foreign-Trade Zone No. 226 Schedule: All corporations, partnerships, and persons operating within activated Zone space are subject to this Schedule. The Foreign-Trade Zone Grantee will be the sole judge to interpret and determine the applicability of any of the rates, rules, regulations, or services provided for in this Schedule. However, any matter involving interpretation of action by U.S. Customs or other agency of the U.S. Government will be determined by the Port Director of Customs as the resident representative of the Foreign-Trade Zones Board. One (1) copy of this Schedule will be provided to each Operator. Updates will be provided as revisions occur. Additional copies of this Schedule are maintained at the office of Foreign-Trade Zone No. 226 for reference.

Foreign-Trade Zone Operator Agreement: Every corporation, partnership, and person seeking to operate a Zone site (including a Subzone) within Foreign-Trade Zone No. 226, must enter into an Operator Agreement with Merced County as Grantee. Copies of the Standard Operating Agreement are maintained at the office of Foreign-Trade Zone No. 226 for reference. If any conflict with this Schedule and any Operating Agreement occurs, the Operating Agreement will prevail.

## VII. General Rules and Regulations

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

All Zone services and facilities shall be administered fairly and reasonable. In addition, the availability of all said services and facilities is subject to the physical limitations of Foreign-Trade Zone No. 226, with said services and facilities available on a “first-come, first-served” basis.

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

Merchandise which is specifically prohibited by law shall not be admitted into a Zone. Any merchandise so prohibited by law which is found within a Zone shall be disposed of in the manner provided for in laws and regulations applicable to such merchandise.

Activities Permitted in Zone: Merchandise lawfully brought into a Zone may, in accordance with these and other regulations made under the provisions of the Act, be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign and domestic merchandise, or otherwise manipulated or be manufactured into new articles of commerce. **Only manufacturing and/or processing activity approved by the FTZ Board may be performed in the Zone or Subzone(s). See Section X “Activities permitted in a Zone.”**

Security and Safety Requirements in the Zone: All Foreign-Trade Zone sites, in order to be approved for their initial activation by Customs, must meet certain security and safety requirements. These requirements may include, but are not limited to: locking warehouse doors, adequate fencing (if necessary), personnel screening, proper lighting in warehouses, absence of debris or other safety hazards, etc. Each Zone site will be considered separately to determine what Customs may require to protect the revenue of the United States, based on the specific conditions of each Zone site, e.g., value of goods, size, chances of theft occurring, etc.

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

No operation or process of treatment will be permitted in the Zone that, in the judgment of the Foreign-Trade Zones Board, Customs, or the Grantee, is detrimental to the public interest, health and safety.

Cost of special security devices and other requirements will be the responsibility of Operator.

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

- Producing accurate and timely reports and documents as required by the Customs Regulations.
- Accounting for all merchandise in their care, custody, and control.
- Identifying shortages and overages of merchandise in the Zone in sufficient detail to determine the quantity, description, tariff classification, Zone status, and value of the missing or excess merchandise.
- Providing an audit trail to Customs forms, from admission through manipulation, manufacture, destruction, or transfer of merchandise from the Zone by a Customs authorized inventory method.
- Providing all information necessary to make entry for merchandise being transferred to the Customs territory.

Hours of Business and Services: The Zone will be available for business activities on a 24-hour basis. Regular business hours will be between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except on holidays.

Holidays: The term "holiday" includes the following named days and every day proclaimed by the President of the U.S. or the Governor of the State of California to be a legal holiday:

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Columbus Day
Lincoln's Birthday	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Independence Day	Christmas Day

Use of Zone Facilities: Zone facilities will be used for the purposes of receipt, storage, handling, exhibition, manipulation, manufacturing, and related processing and shipment of foreign and domestic merchandise as considered necessary to the conduct of Operator's normal business. Operators will not use or permit the Zone to be used for any other purpose without the prior written consent of the Zone Grantee. Operators will not do or permit anything to be done in or about the Zone which will in any way obstruct or interfere with the rights of other Operators of the Zone.

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

Residence within Zone: No person will be allowed to reside within a Zone except Federal, State, or Municipal officers or agents whose resident presence is deemed necessary by the Foreign-Trade Zones Board.

Insurance: Insurance is carried by the Zone Operator on its own property and merchandise at the expense of the Operator. Merchandise stored, manipulated, or transferred within the Zone is not insured by the Grantee, and the Zone tariff rates do not include insurance on merchandise.

Liability of Grantee: Merced County (Grantee) will not be liable and cannot assume any responsibility for any loss or damage to freight, cargo, or merchandise or other property within the Zone or for any loss or damage arising from acts of commission or omission of Operators.

Record Retention: The Operator is required to retain records for five (5) years after merchandise is removed from the Zone. Records must be readily available for Customs review at the Zone site(s).

Customs Inspection of Zone Merchandise: The Operator will make merchandise subject to Customs inspection immediately available to Customs at the Zone site or a location designated by Customs and will have the sole responsibility of opening crates and packages, handling the merchandise, and securing the crates and packages following the inspection.

Development/Ownership of Zone Land and Facilities: It is the responsibility of Zone Site Owners to notify the Zone Grantee of any development projects and/or transfers of title to Zone land or Zone facilities. (FTZ Act, section 17; 19 U.S.C. 81q)

Spot Checks/Site Surveys: The Zone Administrator will conduct annual Zone Operator spot checks and physical Zone site surveys.

## **VIII. Applications to the Foreign-Trade Zones Board**

### **New Zone Sites**

If a company is interested in taking advantage of the benefits of Foreign-Trade Zone No. 226 at a location other than the currently approved sites as listed in Section IV, the company may request that an application be filed by Merced County for another location. The process for applying for sponsorship by the Grantee of FTZ No. 226 is included as Appendix A.

### **Manufacturing Permits**

Any activity involving foreign merchandise which causes the merchandise to undergo a substantial transformation which leads to a change in Customs tariff classification while in the Zone must be approved in advance by the Foreign-Trade Zones Board. If a company is interested in conducting manufacturing, processing, or assembly operations in the Zone, the company may request that an application be filed by Merced County to the Foreign-Trade Zones Board for approval of the contemplated operation.

The Zone Administrator will work with the company interested in conducting the activity to determine if the activity is consistent with the criteria established by the Board for approval.

### **Types of Applications to the Foreign-Trade Zones Board**

There are several types of applications for new Zone sites:

- Subzone.
- ASF Expansion for an additional Magnet Site.
- Usage Driven Site Minor Boundary Modification.

Requests to the Board for manufacturing authority can generally be made as part of an application for a new Zone site, or they can be filed separately with the Board for a manufacturing permit at an existing Zone site. Manufacturing requests to the Board are available for fast-track consideration.

### **Procedures for Filing Applications to the Foreign-Trade Zones Board**

Merced County and its Zone Administrator will determine which type (or types) of application(s) is appropriate to accommodate an interested Zone user.

The specific procedures and estimated time frames for requesting the sponsorship of Merced County for an application to the Board and the filing, processing, and approval of the various types of applications to the Board are provided in Appendix A of this Zone Schedule.

## **IX. Activation, Deactivation, and Alteration of Zone Sites with Customs**

### Activation

The Zone Administrator will provide a checklist of items necessary to assist the Operator toward activation of the Zone site with Customs for commencement of Zone operation. The Grantee/Administrator recommends that an Operator retain a qualified consultant to assist in the management of the activation process or bring such expertise in-house to properly plan for and implement the activation and operation of the FTZ site or Subzone. When an Operator desires to activate Zone space, the Operator will complete the following as part of the full activation procedures outlined in Appendix B:

- 1) Procedures manual establishing how the Zone site will be operated, in conformance with the procedures manual standard maintained by the Zone Administrator.
- 2) Statement of personal history in order to permit the Customs Service to perform a background check. This form must be completed on principal officers and key employees who will be involved in the operation.
- 3) Request and obtain a letter of concurrence from the Zone Grantee.
- 4) If activity is for manufacturing, a description of the proposed manufacturing activity and a copy of the Foreign-Trade Zones Board approval of this activity.
- 5) Operations Agreement, duly executed, between the Operator and the Grantee, covering the Zone site for which activation is sought.
- 6) A security inspection of the Zone site to ensure security systems are in place as listed in the procedures manual will be conducted by Customs.
- 7) FTZ Operator's Bond to U.S. Customs as specified by Customs prior to activation.

### Deactivation

An Operator may deactivate all or a portion of a Zone site by notifying the Grantee pursuant to the terms of the Operating Agreement between the Operator and the Grantee, and 19 CFR, Part 146, Customs Regulations.

### Alteration

An Operator may increase or decrease the amount of activated space within an authorized Zone site or Subzone by giving five (5) working days advance written notice to the Grantee and to Customs and by applying for alteration which includes a new layout diagram and a letter request for alteration, subject to 19 CFR.

### Procedures

Specific procedures and estimated time frames for the activation of a Zone site or sites by a Zone Operator are contained in Appendix B to this Zone Schedule.

## **X. Activity Permitted in Zone**

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

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

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

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

Exhibition of Merchandise: Any merchandise admitted to the Zone may be exhibited. The Operator must obtain permission from Customs to exhibit merchandise through submission of CF 216.

Retail Trade Within Zone: No retail trade will be conducted within a Zone except under permits issued by the Grantee and approved by the Board. Such permittee will sell no goods except such domestic or duty-paid or duty-free goods as are brought into the Zone from Customs territory. Permits which are sent to the Board for approval will be accompanied by a sworn statement, subscribed to by the applicant before a duly authorized officer to administer oaths setting forth in detail the nature of the retail trade to be conducted, and containing an agreement that such applicants will sell no goods except the kinds specifically authorized by the Act which are brought into the Zone from Customs territory.

No goods will be offered for sale or sold in a Zone which are not of the same kind and quality permitted to be offered for sale or sold in the political jurisdiction in which the Zone is located. If the permittee violates any provisions of the regulations in this section, their permit will be revoked by the Grantee who will immediately report such action to the FTZ Board.

Change in Zone Status: The Zone status of merchandise may be changed in the Zone. Merchandise in NPF status may be changed to PF status if done prior to manipulation or manufacture effecting a change in tariff classification of the merchandise. PF status may not be changed to NPF status. Merchandise in PF or NPF status may be changed to Zone-restricted status. The Operator will submit a CF 214 to Customs for approval of a Zone status change.



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

Temporary Removal from Zone: Merchandise may be removed temporarily from the Zone for repair, restoration, or incidental operations on application by the Operator to Customs.

## XI. Fee Schedule

FTZ fees are authorized under the regulations at 400.42(b)(ii). The structure of FTZ No. 226 fees meets all regulatory requirements, including those pertaining to the operation of Zones as public utilities. As a public utility, the Grantee is entitled to charge fees to Operators and users in order to recoup the direct and indirect costs of operations and amortized costs of Zone start-up expenses including a minimal surplus, if possible. The Grantee structured these fees to achieve this recoupment within five years, instead of immediately, in an effort to minimize the financial burden on initial Zone Operators. By design, the fees charged by the Grantee are expected to stabilize over a 10-year period and, as in the case of other large Zone projects, to actually reduce if the Zone has grown to a point where reducing the fees will still cover costs.

As an extension of Merced County, the FTZ has been developed to affect the following objectives:

1. Diversify the economy of the Valley.
2. Provide enhanced job opportunities for the citizens of the Valley.
3. Provide a relocation incentive for companies involved in international trade which, if successful, would bring investment, jobs, and commerce to the Valley.

In order to accomplish these goals, the Grantee established the following fee structure. The fee structure is intended to encourage FTZ use. **A lack of use or a delay in the utilization of each site is viewed as detrimental to the overall Zone project and is discouraged.** Zone activation is the outward evidence of Zone use. The fees are not based on benefits, number of entries, etc. as in the case of some FTZ projects; they are instead based on the marketing, administration, and other services provided by the Grantee in Zone operations, which is closer to the letter and intent of the FTZ Board regulations.

The fees are divided into two elements: one-time fees and recurring fees. One-time fees are charged usually only once during the life of an FTZ site, and recurring fees are those charged either each year or every time a site or Operator makes significant changes in its operations or size.

### PUBLICLY-OWNED SITES WITH NO ACTIVATED OPERATORS (ACTIVITY)

For the first three years following Zone approval, no annual or application fees will be charged to publicly-owned sites. At the end of the third year after FTZ Board approval of the Zone, the Grantee will send a letter to each public site with as yet no FTZ-related activity informing them of the requirement to begin active Zone operations. If activity has not commenced by the end of the fourth year, half of the application fee that was delayed for publicly-owned sites must be paid as a “marketing fee.”

By the fifth year after Board approval, if activity has still not commenced, the remaining half of the application fee must be paid as a marketing fee, and the site will be notified of the requirement to begin some type of activity or provide a plan for marketing and activation.

This reflects a federal requirement that all Zones show activity or specific plans for activity within five years.

#### PRIVATELY-OWNED SITES WITH NO ACTIVATED OPERATORS (ACTIVITY)

Within the first four years after approval of the Zone, private sites are encouraged, but not required, to initiate activity. If no activity has occurred by the end of the fourth year, the Grantee will send an alert letter at the beginning of the fifth year informing the site owner of the requirement to commence Zone activity within a reasonable time. If no activity has commenced by the beginning of the sixth year, an additional warning letter will be sent informing the site of the requirement to either initiate activity or notify the Grantee of specific plans for activation and/or marketing.

#### NEW SITES ADDED AFTER DECEMBER 22, 1997 WITH NO ACTIVATED OPERATORS (ACTIVITY)

Within the first four years after approval of the Zone site through an Expansion Application or Minor Boundary Modification, sites are encouraged, but not required, to initiate activity. If no activity has occurred by the end of the fourth year, the Grantee will send an alert letter at the beginning of the fifth year informing the site owner of the requirement to commence Zone activity within a reasonable time. At the beginning of the fourth year a marketing fee will be charged as listed in Section XI of the Zone Schedule. Each year there is no activity, a marketing fee will be invoiced at the beginning of the year as listed in this Section of the Zone Schedule.

#### NEW SITES ADDED AFTER JULY 2004 WITH NO ACTIVATED OPERATORS (ACTIVITY)

Within the first year after approval of the Zone site through an Expansion Application or Minor Boundary Modification, sites are encouraged, but not required, to initiate activity. If no activity has occurred by the end of the first year, the Grantee will send an alert letter at the beginning of the second year informing the site owner of the requirement to commence Zone activity within a reasonable time. At the beginning of the second year a marketing fee will be charged as listed in Section XI of the Zone Schedule. Each year there is no activity, a marketing fee will be invoiced at the beginning of the year as listed in this Section of the Zone Schedule.

**Foreign-Trade Zone Fees  
Public and Private Site Owners**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
<b>Public Sites</b>	No activity or fee required, but effort to secure an Operator must be made and reported annually.		No fees charged. "Start Activity" alert letter sent.	Activity must begin or ½ of the application fee is due as a marketing fee.	If no activity, remainder of the application fee due for additional marketing.	If still no activity, letter sent requesting submission of plans for marketing/activation.
<b>Hub/Private Sites</b>	No activity or fee required, but effort to secure an Operator must be made and reported annually.				No fees charged; letter sent requesting plans for activation and/or marketing.	Second letter sent, and requirement for marketing plan submitted, if no Operator.
<b>New Sites added after 12-22-97</b>	No activity or fee required, but effort to secure an Operator must be made and reported annually.			If no activity, the \$2,500 annual marketing fee is due to begin in the fourth year and continue until there is an activated Operator.		
<b>New Sites added after July 2004</b>	No activity or fee required, but effort to secure an Operator must be made and reported annually.	If no activity, the \$2,500 annual marketing fee is due to begin in the second year and continue until there is an activated Operator.				

Application Fee

An application fee will be charged to any new site owner, Subzone applicant, or minor boundary modification site owner when an application to the FTZ Board is being requested. In instances where a site owner will operate on more than one site, only one application fee is required. The fee will cover Grantee expenses for obtaining the necessary approvals and resolutions, letters, and support services. This fee does not cover any costs to prepare the application, which must be borne by the applicant. The fee is based on the following schedule:

\$10,000 for each Subzone, Production Authority request, and/or ASF Magnet Site Expansion application.

\$5,000 for each Usage Driven minor boundary modification.

The application fees are payable in advance of the application request (See Appendix A).

The Operator will also be responsible for paying any application or filing fees required by the Foreign-Trade Zones Board for such an application.

### Activation Fee

An activation fee will be charged to an Operator when seeking to activate a Zone site. The fee will cover Grantee expenses for the preparation and processing of the Operator Agreement, the Grantee concurrence letter to the U.S. Customs Service, and review of the activation request and related documents. This fee does not cover any costs to prepare the application, which must be borne by the applicant.

The activation fee is \$5,000, payable in advance of requesting activation from Customs. The Operator will also be responsible for paying any activation fees required by Customs for such a request.

### Deactivation Fee

A deactivation fee of \$3,000 will be charged to an Operator when seeking to deactivate a Zone site but will not include temporary deactivation or alteration of a Zone site or Subzone.

### Annual Fee

The annual fee will cover the administration of the Zone by the Grantee, preparation of the Annual Report to the Foreign-Trade Zones Board, and support services from the Grantee staff. Upon activation, an Operator shall be charged an annual fee. In those instances where one site owner has more than one operating site, the owner must only pay the single highest applicable fee. Standard annual fees are:

All Subzones:	\$16,068
General-Purpose Zone Sites/Operators:	
Castle Airport FTZ Hub Operator	\$ 4,018
Public Agency Industrial Park FTZ Operator	\$ 5,356
Private, Non-Profit Industrial Park FTZ Operator	\$ 8,034
Private Industrial Park FTZ Operator	\$ 8,034
Usage Driven Site FTZ Operator	\$ 8,034

\* Pricing for Operators at the economically disadvantaged hub site is reduced due to initial application fees greater than other sites and the County's desire to develop the hub site.

All annual fees will be adjusted on February 1 of each year at a CPI-tied rate (currently 3%), as reported in the Wall Street Journal during the month of January for the previous year. Annual fees for special uses, large area uses, and enterprise zone/redevelopment zone projects are subject to negotiation with the Grantee. The annual fee is payable on the date of Customs activation and annually for each subsequent year the facility remains activated.

Marketing Fee-Annual

New Magnet Sites added after 12/22/97 with no Activated Operator to begin in 4th year	\$ 2,500
New Magnet Sites added after July 2004 with no Activated Operator to begin in 2nd year	\$ 2,500

Charges for Special Zone Staff Services

The Grantee maintains at the Zone a staff of employees to assist in the normal operation of the Zone during regular business hours as set forth in the Schedule. Zone staff services rendered at other hours or during holidays (overtime rates) at the specific request of an Operator will be at the following rates, with a four (4) hour minimum:

Supervisory Personnel:	\$80.00 per hour or portion thereof.
Non-Supervisory Personnel:	\$45.00 per hour or portion thereof.

If the Operator requests on-site assistance in performing reconciliations, annual reports, etc., the Grantee will charge \$80/hour.

**All Grantee fees, as described herein, are payable to Merced County.**

Customs Fees

At the time of issue of this Schedule, no fees are charged by Customs for Zone services. Should any fees or charges be imposed in the future, all such fees and charges shall be payable by the Operator of the affected Zone site. However, Customs does charge for overtime and other special services provided at the request of an Operator. Such fees and charges shall be payable by the Operator of the affected Zone site to Customs. Under no circumstances will the Grantee be liable or responsible for any such Customs fees or charges.

FTZ Board Fees

Any fees or charges imposed by the Foreign-Trade Zones Board shall be payable by the Applicant/Operator of the affected Zone site or as apportioned by the Grantee among the Zone sites. Under no circumstances will the Grantee be liable or responsible for any FTZ Board fees or charges.

### Other Government Agency Fees

Charges for services of other government agencies should be arranged for and paid by the Operator who requires the use of such services. Under no circumstances will the Grantee be liable or responsible for any other government agencies' fees or charges.

### Fines, Penalties, and Notices

U.S. Customs Service fines, penalties, or liquidated damage claims affecting Zone merchandise or Zone activities will be paid by the Operator of the affected Zone site. The same is true of any other fines, penalties, or liquidated damage claims by other government agencies concerning operations at the Zone site. Under no circumstances will the Grantee be liable or responsible for any fines, penalties, forfeiture, or liquidated damage claims.

The Grantee may send an Operator a notice for violation or failure to correct any violation of the Foreign-Trade Zones Act, Zone regulations, Customs regulations, this Schedule, or the requirements of the Grantee/Operator Agreement. The Grantee will issue this written Notice of Violation to the Operator with a written response required from the Operator within seven (7) business days. The Grantee will review the written response for mitigating circumstances and within fifteen (15) business days thereafter issue a final decision. Failure of the Operator to reply to the Notice of Violation shall become a breach of the Grantee/Operator agreement. Nothing herein shall preclude the Grantee from recovering actual damages sustained from Operator's violation or failure to correct such violation.

In case of a violation of this Zone Schedule, or any regulation under this Zone Schedule, by a site owner, any officer, agent or employee thereof responsible for or permitting any such violation shall be subject to a fine of not more than \$1,000 as imposed by the U.S. Foreign-Trade Zones Board or U.S. Customs and Border Protection will be passed through from the Grantee to the site owner. Each day during which a violation continues shall constitute a separate offense. Under no circumstances will the Grantee be liable or responsible for any fines, penalties, forfeiture, or liquidated damage claims due to site owner violations.

### Enforcement of Charges

Zone fees and charges are due and payable when invoiced. All fees and charges are non-refundable. Any and all amounts required to be paid by Operator/Site Owner to Grantee, or which are to be paid "with interest" or which Grantee advances on behalf of Operator/Site Owner, which are not paid when due shall bear interest at the following rate: the legal rate provided by law for judgment in California plus three percent (3%). The interest rate shall be per annum from the due date until paid, unless otherwise specifically provided. The rate shall be modified from time to time as the legal rate or prime rate changes. Failure to pay fees and charges in a timely fashion may also result in cancellation of the Operator Agreement, deactivation of the Zone site, eviction, or other remedies deemed appropriate by the Grantee.

## **Appendix A: Procedures for Sponsorship of Applications to the Foreign-Trade Zones Board**

Submitting an application to the FTZ Board involves a three-step process. First, a request must be submitted to the Grantee/Administrator. Second, the request must be reviewed for Grantee sponsorship. Then, the application must be prepared for submission, submitted, and preparations for activation must begin.

### **Step 1: The Request.**

Requests to submit any kind of application to the FTZ Board, including requests for Subzone sponsorship, manufacturing permit, expansion, or minor boundary modification, must be in executive summary form and include the following information:

- (a) Name of applicant, address, phone number, facsimile number, and name and title of person responsible and authorized for the application preparation.
- (b) Type of designation sought, i.e., Subzone, manufacturing, expansion, or minor boundary modification.
- (c) Brief description of proposed site (acreage, square footage, number of buildings) and layout/diagram of site.
- (d) Short description of applicant (for Subzones, manufacturing permit requests, and minor boundary modifications), including SIC code, number of years in existence, product lines, imported items, manufactured goods, number of employees, prior experience with Foreign-Trade Zones, and staff resources to be devoted to Zone activity.

For expansion applications, a description of the initial activity at or planned for the site, level of marketing committed to develop Operator(s) and/or user(s) at the site(s), and a statement as to why this site adds any unique characteristics to the current Zone project.

- (e) Data input form to conduct a cost/benefit analysis or a copy of a completed analysis.
- (f) Financial statement or other evidence/information indicating the applicant's financial ability to make application and sustain active Zone operations.
- (g) Name of the selected consultant to assist the applicant or information on in-house expertise and resources which will be used to prepare and submit the application.



## **Step 2: The Review.**

All requests to submit applications go through a 30-day process which uses the following criteria:

- (a) Operation “qualifies” to become a Zone site or Subzone under federally-established criteria.
- (b) Applicant demonstrates ability and commitment to comply with applicable regulations and activate and operate a Zone site/Subzone.
- (c) Operation demonstrates a clear Foreign-Trade Zone need and meets the public interest criteria, such as sufficient investment, jobs, import substitutions, exports, etc.
- (d) Operations involving trade-sensitive merchandise must show how FTZ benefits outweigh other trade considerations on a national and local scale.
- (e) Other criteria as may be set by the Grantee’s Administrator.
- (f) The application must be professionally prepared according to the guidelines established by the FTZ Board.

The Grantee suggests all applicants utilize professional assistance when considering FTZ use and preparing applications.

## **Step 3: Application Submission.**

Submission of an application to the FTZ Board and activation preparation is a complex process, and close attention must be paid to the relevant regulations.

- (a) Prior to submission of an application, the Grantee/Operator agreement must be executed, and the application fee must be paid. If, for any reason, this has not been done prior to the application submission, the applicant has 90 days from the submission date to execute the agreement and pay the application fee. After the 90- day deadline, if the applicant has not followed these requirements, the Grantee will revoke its sponsorship of the application. The Administrator has a standard agreement the Grantee follows.
- (b) The application must be prepared consistent with FTZ Board regulations. This application is complex and consists of many exhibits and attachments, therefore it is recommended that applicants seek professional expertise in preparation. This will save time and expense. The Administrator can provide a list of qualified firms to any applicant upon request.

- (c) Administrator assists in obtaining government support at federal, state, and local levels.
- (d) Grantee provides resolution in support of application.
- (e) Administrator reviews and, if accepted, submits application to Foreign-Trade Zones Board in Washington, D.C. on behalf of the applicant. If a technical and/or legal review is required, the Grantee will inform the applicant of said cost. If rejected, Administrator will return the application to the applicant for revision to meet FTZ Board guidelines or strengthen justification arguments.
- (f) Approval and designation by FTZ Board.
- (g) Company prepares for activation.

## **Appendix B: Procedures for Activation of Zone Sites**

In the interest of making activation as easy as possible for all involved parties, the Grantee established the following procedures for activation of a Zone site:

### **I. Application to Grantee for Approval**

Before application can be made to Customs, the applicant must have the Grantee's permission for activation.

1. Request permission through a letter of interest to Administrator, including:
  - (a) Facility size and location.
  - (b) Description of the area to be activated.
  - (c) Number of employees.
  - (d) Activities to be conducted, specifying product.
  - (e) Number of shipments weekly (in and out).
2. The Administrator reviews the request and responds within two weeks. If accepted, proceed to next step. If rejected, Administrator will advise the reason(s).
3. The Grantee/Operator agreement is executed (if not already done), and the activation fee is due. The Administrator has a standard agreement.

### **II. Application to Customs for Activation**

4. The applicant must submit an application to the Port Director geographically nearest to the Zone including:
  - (a) A description of all sites included.
  - (b) A description of any operation to be conducted therein.
  - (c) A statement of the general character of the merchandise to be admitted.
  - (d) Completed Customs Form 5106's (background check forms) on all officers and managing officials.
  - (e) Customs bond form 301.
  - (f) Physical and procedural security survey.
  - (g) A detailed blueprint of the FTZ site with the area to be activated outlined in red.
  - (h) A procedures manual detailing the inventory control and recordkeeping system that will be used in the Zone, including a description of any special procedures.
5. The complete application requesting activation of a site in Foreign-Trade Zone No. 226 should be forwarded to the Port Director of U.S. Customs. Submit a copy to the Administrator.

### III. Activation Approval

6. Notification, in writing, from Customs with approval/denial of request. At this time, Customs will specify amount of Operator Bond\*. Annual fee due.
7. Obtain Operator Bond.

The Administrator will work with the applicant in obtaining all approvals necessary to commence Zone operations, specifically, interfacing with the U.S. Customs Service and the Grantee.

\* Amount is determined by Customs based upon the average value of inventory and the Customs duties payable; minimum \$50,000.