

## **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).

TITLE PAGE

**ZONE SCHEDULE NO. 1**

Operating Policies, Rules, Regulations and Fees  
Effective November 1, 1996  
which apply  
to

**Foreign-Trade Zone No. 164  
General Purpose Site  
Port of Muskogee**

**Muskogee, OK**

Operating under a Grant of Authority  
Dated November 17, 1989  
From

**THE UNITED STATES FOREIGN-TRADE ZONES**  
to

**MUSKOGEE CITY-COUNTY PORT AUTHORITY  
GRANTEE/ZONE OPERATOR**

Prepared for Muskogee City-County Port Authority, **Grantee/Zone Operator**, Physical Address:  
5201 Three Forks Road Fort Gibson Oklahoma, Mailing Address: P. O. Box 2819 Muskogee,  
Oklahoma, 74402744 (918-682-7886/918-683-4811 fax)

Prepared by Scott Robinson, Port Director

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**SECTION I - ADMINISTRATIVE INFORMATION**

SECTION I.1  
GRANTEE/ZONE OPERATOR

FOREIGN-TRADE ZONE NO. 164  
Zone Schedule No. 1

GRANTEE

Muskogee City-County Port Authority  
Physical Address:  
5201 Three Forks Road  
Fort Gibson, OK 74434  
Mailing Address:  
P. O. Box 2819  
Muskogee, OK 74402  
1-918-682-7886  
1-918-683-4811 Fax  
muskogeeport@muskogeeport.com

ZONE SITE OPERATORS

Site 1 Port of Muskogee Parcels 1, 2 and 3

Muskogee City-County Port Authority  
Physical Address:  
5201 Three Forks Road  
Fort Gibson, OK 74434  
Mailing Address:  
P. O. Box 2819  
Muskogee, OK 74402  
1-918-682-7886  
1-918-683-4811 Fax  
muskogeeport@muskogeeport.com

Site 2 Port of Muskogee / John T. Griffin Industrial Park Parcel 1.

Muskogee City-County Port Authority  
Physical Address:  
5201 Three Forks Road  
Fort Gibson, OK 74434  
Mailing Address:  
P. O. Box 2819  
Muskogee, OK 74402  
1-918-682-7886  
1-918-683-4811 Fax  
muskogeeport@muskogeeport.com

Site 3 Komar Distribution Facilities Parcels 1 and 2

Komar Distribution Services  
400 W. Chickasaw  
McAlester, OK 74501

SECTION I.2  
SITE DESCRIPTIONS

FOREIGN-TRADE ZONE NO. 164  
SITE DESCRIPTIONS

The Port of Muskogee is located at the headwaters of the Arkansas River portion of the McClellan Kerr Arkansas River Navigation System. Immediately adjacent to the Muskogee Turnpike, connecting Interstates 40 and 44, and served by the Union Pacific Railroad Company, the Muskogee Port and Industrial Park affords Industry the option of utilizing the most cost effective combination of barge, rail and truck transportation.

**SITE 1 PORT OF MUSKOGEE, MUSKOGEE OKLAHOMA**

Site 1 Parcel 1 consists of 14.6 acres of land located within the public terminal area and within the jurisdictional boundaries of the Port of Muskogee, in Muskogee, OK, together with two existing warehouse type buildings: 1) 18,000 square foot Transit Shed building and 2) 76,000 square foot Steel Warehouse building

Site 1 Parcel 2 consists of 6 acres of land commonly referred to as Port Site F within the jurisdictional boundaries of the Port of Muskogee in Muskogee, Oklahoma.

Site 2 Parcel 3 consists of 47 acres of land commonly referred to as Port Site G within the jurisdictional boundaries of the Port of Muskogee in Muskogee, Oklahoma.

**SITE 2: PORT OF MUSKOGEE / JOHN T. GRIFFIN INDUSTRIAL PARK, MUSKOGEE OKLAHOMA**

Site 2 Parcel 1 consists of 47 acres of land platted as Lot 2 Port of Muskogee / John T. Griffin Industrial Park and located on Dal-Tile Road near the intersection of State Highway 165, aka Peak Boulevard, and U. S, Highway 64.

**SITE 3 KOMAR DISTRIBUTION FACILITIES, MCALESTER, OKLAHOMA**

Site 3 Parcel 1 consists of 8 acres of land located at 400 West Chickasaw in McAlester OK

Site 3 Parcel 2 consists of 14 acres of land located at 10 V. Hulbert Smith Drive in McAlester OK



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## SECTION II - DEFINITION OF TERMS

FOREIGN-TRADE ZONE NO. 164  
Zone Schedule No. 1

DEFINITION OF TERMS

ACT - The Foreign-Trade Zones Act of June 18, 1934, as amended (Title 19 U.S.C. 81a-81u).

BOARD - The Foreign-Trade Zones Board created by the Act to carry out provisions thereof. The Board shall consist of the Secretary of Commerce, who shall be the Chairman and Executive Officer, the Secretary of the Treasury and the Secretary of the Army.

BULK - In trade, a product or a mass (of a product) which is not packaged, bundled, bottled or otherwise packed, so that it is designated as bulk or bulk merchandise.

CONTROL NUMBER - The number used on all Zone entry and exit forms to identify all merchandise and commodities. The control number shall, in all cases, be the same as the tariff number for that same merchandise described in the Tariff Schedules of the United States Annotated.

CUSTOMS FORM 214 - Application and permit to admit merchandise into a Foreign-Trade Zone, permit to transfer merchandise through Customs territory to Zone and Customs return thereon, and Customs or operator's report of merchandise received at the Zone. Application and permit for Foreign-Trade Zone status designation.

CUSTOMS FORM 216 - Application and permit for the manipulation, manufacture, exhibition or destruction of merchandise within a Foreign-Trade Zone.

CUSTOMS TERRITORY - The territory of the United States in which the general tariff law of the United States applies but which is not included in any foreign-trade zone.

DISTRICT DIRECTOR OF CUSTOMS - The District Director of Customs, Dallas, Texas, U.S. Customs Service.

DOMESTIC EXPORTS - Domestic merchandise exported from the United States and particularly such merchandise exported through a foreign-trade zone. It includes merchandise of every description (except articles specifically and absolutely prohibited by statute) which has been (1) grown, produced or manufactured in the United States and not exported therefrom or (2) previously imported into Customs territory and properly released from Customs custody.

For the purpose of marking and labeling, it includes (1) the product of manipulation or manufacture in the Zone in which only domestic merchandise is used, (2) the product of manipulation or manufacture in the zone in which there is a mixture of foreign and domestic merchandise which results in a change in form or nature of the commodities and in which the domestic merchandise consists of a component part or parts or a substantial portion of the finished product and (3) foreign merchandise which by manipulation or manufacture in the Zone has been so changed in form and nature or enhanced in value that the product is deemed to be one of domestic manufacture.

DOMESTIC MERCHANDISE - Merchandise of every description (except articles specifically and absolutely prohibited by statute) which has been (1) grown, produced or manufactured in the United States and not exported therefrom or (2) previously imported to Customs territory and properly released from Customs custody.

For the purposes of return to Customs territory from a Zone and freedom from liability for the payment of duties or taxes, it includes only (1) domestic merchandise brought in the Zone from Customs territory whose identity has been maintained and (2) the product of manipulation and manufacture in the Zone in which only domestic commodities are used. It does not include the product of manipulation or manufacture in a Zone in which privileged foreign and domestic commodities are mixed or combined; or in which foreign merchandise is so changed in form or enhanced in value as to be considered a product made in the United States, except that duties and taxes are payable only on the quantity of foreign merchandise contained in the product.

EXECUTIVE SECRETARY - The Executive Secretary of the Foreign-Trade Zones Board.

FOREIGN MERCHANDISE - Imported merchandise of every description (except articles specifically and absolutely prohibited by statute) which has not been properly released from Customs custody into Customs territory.

GRANTEE - The Muskogee City-County Port Authority to which the privilege of establishing, operating and maintaining Foreign-Trade Zone No. 164 has been granted.

HOLIDAYS - Those legal holidays during which the Zone is closed for regular business are as follows:

New Year's Day .....	January 1
Memorial Day .....	Fourth Monday of May
Independence Day .....	July 4
Labor Day .....	First Monday of September
Thanksgiving Eve .....	Fourth Wednesday of November
Thanksgiving Day .....	Fourth Thursday of November
Christmas Eve .....	December 24
Christmas Day .....	December 25

If a holiday falls on Saturday, the preceding Friday will be observed. If a holiday falls on Sunday, the following Monday will be observed.

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

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

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

MEASUREMENT TON - Ton based on measurement of 40 cubic feet.

NON-PRIVILEGED FOREIGN MERCHANDISE - (1) Foreign Merchandise properly in the Zone which does not have the status of (a) Privileged Foreign Merchandise or (b) Zone Restricted Merchandise; or (2) waste recovered from any manipulation or manufacture of Privileged Foreign Merchandise or (3) Domestic Merchandise taken into a Zone whose identity has been lost.

OPEN OR YARD STORAGE - The keeping of merchandise on open space within a fenced-in area of the foreign-trade zone where merchandise not requiring weather protection may be stored.

PERSON OF RECORD - The person, firm or corporation in whose name the application to admit merchandise into the Zone (CF214) is made, recognized by the Grantee as having the legal right to make the application. Evidence of this right of the applicant is the same as would be required to establish the right to apply for release of the merchandise from Customs custody at the end of its transit through Customs territory and usually consists of an original bill of lading in the name of the applicant, an original bill of lading endorsed to him or a carrier's certificate.

PRIVILEGED FOREIGN MERCHANDISE - Foreign Merchandise for which an application (CF214) has been made for determination of taxes and liquidation of duties and which has been taken under supervision by the District Director of Customs.

QUANTITY - The numerical count of the units composing a shipment of a commodity.

RE-EXPORTS OR RESHIPMENTS - Merchandise from one foreign country initially destined to the United States which, after being unladen, stored and/or manipulated or manufactured in this country, is transported under a new bill of lading or other new documentation to another foreign country. The term is particularly applied to re-exports or reshipments through a foreign-trade zone.

It includes Privileged Foreign Merchandise, Non-privileged Foreign Merchandise or Zone Restricted Merchandise which (1) is in the same condition as when transported into the United States or (2) has been manipulated without any changes in its form or nature or (3) has been manipulated or processed in such manner as to change its form, whether or not mixed with Domestic Merchandise, provided the Domestic Merchandise is not a component part or substantial ingredient thereof.

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

SECRETARY - The term "Secretary" means the Secretary of Commerce.

STORAGE - The keeping of merchandise in or upon the premises of a foreign trade zone. Covered storage means keeping within a covered and enclosed structure affording weather protection. The term "storage", without other designation, ordinarily implies covered storage.

TON - Weight of 2,000 pounds, unless otherwise indicated.

TRANSSHIPMENT MERCHANDISE - Foreign Merchandise which enters and leaves the United States through the same port, being transferred from one vessel to another directly or by way of a foreign trade zone or Customs bonded warehouse. The term is particularly applied to such merchandise transferred through a foreign trade zone.

UIN - The unique identifying number assigned to fungible merchandise in place of zone lot numbers.

UNIT OF QUANTITY - The customary groupings of a commodity as a unit to indicate the medium or method of measure.

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

WAREHOUSE - A covered and enclosed structure, affording weather protection, used primarily for short- or long-term storage of merchandise and often containing business offices. In a foreign-trade zone, it also is used for manipulation, manufacture and exhibition of merchandise.

WEIGHT - The gross weight of the merchandise, including container, except as noted to the contrary.

ZONE - The term "zone" means a "foreign-trade zone" and/or Foreign-Trade Zone No. 164.

ZONE LOT- The unit or units of goods for which a separate record and account is to be kept by the Zone operator.

ZONE LOT NUMBER - The number assigned to a Zone Lot by the Operator.

ZONE SITE MANAGER - The Manager for each site of Foreign-Trade Zone No. 164 or in the absence of such, the Zone Operator.

ZONE OPERATOR - The operator of each site designated by the Grantee.

ZONE RESTRICTED MERCHANDISE - Foreign Merchandise or Domestic Merchandise taken into the Zone, under the rules and regulations of the controlling Federal agency, for the sole purpose of storage, exportation or destruction.

ZONE TENANT - An individual, company or corporation utilizing the services and facilities of Foreign-Trade Zone No. 164.

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### SECTION III - ZONE OPERATION

SECTION III.1  
APPLICATION OF REGULATIONS

FOREIGN-TRADE ZONE NO. 164  
Zone Schedule No. 1

## APPLICATION OF RATES, RULES AND REGULATIONS

ZONE SCHEDULE AUTHORITY - This zone schedule is published pursuant to a Grant issued by the Foreign-Trade Zones Board, Washington, D.C..

BOARD REGULATIONS - Foreign-Trade Zone No. 164 is regulated by the Foreign-Trade Zones Board, Washington, D.C. under U.S. Code of Federal Regulations, Chapter IV, Part 400. Copies of these regulations are maintained at the Foreign-Trade Zone No. 164 office for reference.

U.S. CUSTOMS REGULATIONS - Foreign-Trade Zone No. 164 is subject to special Customs regulations as defined in U.S. Code of Federal Regulations, Title 19, Chapter 1, U.S. Customs Service, Part 146-Foreign-Trade Zones. Copies of these regulations are maintained at each site office for reference.

ZONE TO BE MANAGED AS A PUBLIC UTILITY - 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 and appurtenances 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, (15 CFR, Chapter IV, Part 400, Section 1003a).

APPLICATION AND INTERPRETATION OF ZONE SCHEDULE - The Foreign-Trade Zone Operations Committee shall be the sole judge to interpret and determine the applicability of any of the rates, rules, regulations or services provided for in this zone schedule. However, any matter involving interpretation or action by U.S. Customs or other agency of the U.S. Government will be determined by the District Director of Customs or his duly appointed representatives.

SECTION III.2  
GENERAL RULES

GENERAL RULES AND REGULATIONS

ENTERING AND LEAVING A ZONED AREA - Employees and other persons entering and leaving a zoned area shall pass through the area designated by the Zone Tenant for this purpose. Employees and other persons shall be subject to such examination upon entering and leaving a zoned area as the Zone Tenant, Zone Site Manager or Zone Operator may deem necessary for the protection of the revenue. All persons entering a zoned area for any reason whatsoever shall be bound by the regulations promulgated by the Foreign-Trade Zones Board, U.S. Customs, the Grantee and the Zone Operator.

SITE SECURITY - Each Zone Tenant will furnish its own fencing or other suitable and approved safeguards for the protection of the revenue. Where alternate barriers are considered, such shall be installed subject to the full approval of the Foreign-Trade Zones Board and/or the District Director of Customs.

DOCUMENTATION - All movements of merchandise through the Zone must be documented according to U.S. Customs regulations. All applicable Zone and Customs documents must be presented, in completed form, to the Zone recordkeeping personnel within the timeframe prescribed by U.S. Customs Regulation and/or the Foreign-Trade Zone No. 164 Inventory Control Procedures Manual.

It is the responsibility of each Zone Tenant to insure that all required documentation be submitted as described.

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SECTION III.3  
RULES PERTAINING TO MERCHANDISE

RULES PERTAINING TO MERCHANDISE

ZONE ACCOMMODATIONS - Before merchandise may be entered into the Zone, applications on appropriate forms must be completed, filed and approved by the Zone Operator and/or Customs. The application shall describe the merchandise fully in terms of the Harmonized Tariff Schedule of the United States and be accompanied by all supporting documents as required by CFR146.

PERMISSION TO MANIPULATE, MANUFACTURE, EXHIBIT OR DESTROY - Foreign-Trade Zones Board approval of any manufacture process is required prior to such activity. Application to manipulate, exhibit or destroy merchandise within the Zone must be made to the Zone Site Manager on CF216 for concurrence by the Zone Operator. The form will then be forwarded to the District Director of Customs or his designated officer. On approval by Customs, the contemplated manipulation will then be permitted.

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

LIABILITY - The responsibility of the Zone in the absence of written provisions is that required by law.

Perishable goods, or goods which are susceptible to damage through temperature changes or other causes incident to general storage, are accepted in general storage only at the risk of the person of record for such damage as might result from general storage conditions.

LIMITATION OF LIABILITY - The Muskogee City-County Port Authority will not be liable and cannot assume any responsibility for any loss or damage to freight, cargo, merchandise or other property within the Zone, or for any loss or damage arising from acts of commission or omission of co-tenants, occupants, or users of adjacent or contiguous premises or of other portions in or about the Zone, nor for the breakdown of cranes or power service, nor for loss or damage from any cause whatsoever.

Zone Tenants, through their use of the Zone, agree that neither the Grantee, or Zone Site Manager or Zone Operator shall be responsible nor liable for any claims for damages or injury (including death) caused by or arising from:

- (1) Acts of negligence of co-tenants upon or within the Zone.
- (2) The occupants or users of adjacent or contiguous premises.
- (3) The breakdown of plant or machinery.



- (4) The interruption of power service.
- (5) The breakdown of plumbing, electrical wires, automatic fire or sprinkler apparatus or any facilities upon or about the Zone or other premises of the Grantee.
- (6) Water being upon or coming through the roof, skylights or trapdoors.
- (7) Accidents on tracks, roadways or elsewhere upon or within the Grantee's property.

CUSTOMS BOND - The Grantee, Zone Operator and Zone Tenant maintain for Customs purposes a Customs Bond as a guarantee for the payment from the Zone of all duties and taxes on such merchandise as may be removed from the Zone without a proper customs permit or liquidated damages which may be assessed under the Customs audit-inspection program.

CUSTOMS PERMIT - Merchandise will not be delivered to or through Customs territory unless the delivery order is accompanied by Customs permit.

HAZARDOUS COMMODITIES - The Zone will not be required to accept for storage any commodity that will affect the rate of insurance on other merchandise in storage.

MARKING - All merchandise handled in the Zone, before entry to Customs territory, must be truly marked in accordance with Customs regulations as to the country of origin and in accordance with all other government regulations and no merchandise will be permitted to leave the Zone for any purpose that carried any false or misleading label or mark.

TRUCKING OR LIGHTERAGE - Transfer of Foreign Merchandise between Customs territory and the Zone must be made by Customs bonded trucks or other Customs bonded carriers and subject to Customs regulations.

CUSTOMS INSPECTION OF MERCHANDISE WHILE IN ZONE - The consignee or his agent or the Zone Tenant shall at all times be immediately available to make the merchandise subject to inspection required by the United States Customs Service and shall have the sole responsibility of opening crates and packages, handling merchandise and securing the crates and packages following inspection. In the event that the consignee or his agent or the Zone Tenant is not immediately available for inspections, Zone Operator shall be authorized to open such packages for the United States Customs Service and shall not be liable for any loss or damage for any reason whatsoever to the goods of the consignee.

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SECTION III.4  
OPERATING RULES

## OPERATION OF ZONE

AUDIT-INSPECTION METHOD OF ZONE SUPERVISION - Foreign-Trade Zone No. 164 operates under the Audit/Inspection method of Zone supervision. Under this method, the Zone Operator exercises physical supervision over Zone activities, recordkeeping and other responsibilities under its operator's bond. U.S. Customs exercises general supervision through an audit/inspection program which includes selective merchandise examinations, spot checks and audits.

OPERATIONS, FORMS AND PROCEDURES - GENERAL - The merchandise and operations permitted in a Zone, the disposition of merchandise in a Zone, the Zone status of the merchandise and special provisions applicable to each status, the subsequent importation of merchandise exported from a Zone and other operations in a Zone authorized by the Act, are hereinafter in this Section generally described. The Zone forms required for such activities are available upon request from the Grantee/Zone Operator.

MERCHANDISE PERMITTED IN ZONE - Foreign Merchandise 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 the Zone.

- (a) Merchandise which is specifically and absolutely prohibited by law shall not be admitted into the Zone. Any merchandise so prohibited by law which is found within the Zone shall be disposed of in the manner provided for in laws and regulations applicable to such merchandise. A distinction is made between (1) merchandise which is specifically and absolutely prohibited by law on the grounds of policy and morals, such as immoral or subversive literature, obscene articles or lottery matter and (2) merchandise which is subject to conditional prohibition only, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal agencies. The District Director of Customs is required to exclude the first class of articles and may not permit them to be transferred to a Zone except that the District Director may permit the temporary deposit of any such merchandise in a Zone pending final determination of its status. The transfer of articles of the second class to a Zone is subject to any requirements of the Federal agency concerned. There is no prohibition against placing over-quota merchandise in a Zone pending its right to transfer to Customs territory pursuant to the applicable quota provisions.
- (b) The application for the admission of merchandise into the Zone shall be approved by the District Director as the representative of the Board, where the merchandise is not excluded by any other Federal agency having jurisdiction over the merchandise.

DISPOSITION OF MERCHANDISE IN ZONE - In general, merchandise lawfully brought into the Zone may, in accordance with these and other regulations made under the provisions of the Act, be exported, destroyed or sent into Customs territory of the United States therefrom, in the original package or otherwise; but when Foreign Merchandise and Domestic Merchandise whose identity has been lost, is so sent from the Zone into Customs territory of the United States, it shall be subject to the laws and regulations of the United States affecting imported merchandise.

MANIPULATION, MANUFACTURE AND EXHIBITION OF MERCHANDISE - In general, merchandise lawfully brought into the Zone may, in accordance with these and other regulations made under the provision of the Act, be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with Foreign Merchandise and Domestic Merchandise, or otherwise manipulated, or manufactured except as otherwise provided by the Act.

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

STATUS OF MERCHANDISE IN ZONE - (a) In accordance with the provisions of the Act and the regulations of this Section, all merchandise within the Zone, **except** merchandise in transit through the Zone as provided in section 146.34 of Customs regulations, merchandise temporarily deposited in the Zone because of incomplete documentation as provided in section 146.35 of Customs regulations and merchandise temporarily deposited in the Zone for manipulation as provided in section 146.33 of Customs regulations shall be given Zone status as:

- (1) Privileged Foreign Merchandise
- (2) Non-privileged Foreign Merchandise
- (3) Zone Restricted Merchandise
- (4) Domestic Merchandise

as provided in Subpart D, Customs Regulation 146.

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

EXCLUSION FROM ZONE OF GOODS OR PROCESS OR TREATMENT - When it shall be reported to the Board that any goods or process or treatment is detrimental to the public interest, health or safety, the Board shall cause such investigation to be made as it may deem necessary. The Board may order the exclusion from the Zone of any goods or process or treatment that in its judgment is detrimental to the public interest, health or safety.

RETAIL TRADE WITHIN ZONE - No retail trade shall be conducted within the Zone except under permits issued by the Grantee and approved by the Board. Such permittees shall 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 shall 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 applicant will sell no goods except the kinds specifically authorized by the Act, which are brought into the Zone from Customs territory. No goods shall be offered for sale or sold in the 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 provision of the regulations in this Section, his permit shall be revoked by the Grantee, who shall immediately report such action to the Board.

USE OF THE ZONE BY CARRIERS - The loading or unloading stations of a zoned site are intended primarily for the use of vehicles, for unloading merchandise into the Zone or lading merchandise from the Zone, and their use for other purposes may be terminated by the Secretary of Treasury if found to endanger the revenue, or by the Board if found to interfere with the primary uses of the Zone.

RESIDENCE WITHIN ZONE - No person shall be allowed to reside within the Zone except Federal, State or municipal officers or agents whose resident presence is deemed necessary by the Board.

ERECTION OF BUILDING WITHIN ZONE - The Grantee may, with the approval of the Board, and under reasonable and uniform regulation for like conditions and circumstances to be prescribed by it, permit other persons, firms, corporations or associations to erect such buildings and other structures within the Zone as will meet its particular requirements as set forth in the Protective Covenants for the Port of Muskogee Industrial Park, a copy of which is attached hereto marked Exhibit "B", as modified or changed from time to time, provided:

- (a) That such permission shall not constitute a vested right as against the United States nor interfere with or complicate the revocation of the grant by the United States;
- (b) That in the event of the United States or the Grantee desiring to acquire the property of the permittee, no good will shall be considered as accruing from the privilege granted to the Zone; and
- (c) That such permits shall not be granted on terms that conflict with the public use of the Zone as set forth in the Act. And provided further, that accepted sanitary practices be followed in the construction, installation of equipment and operation of such buildings and other structures.

HOURS OF BUSINESS AND SERVICE - Hours of business and service, for Customs purposes, shall be the same as those prescribed in Customs regulations.

The Zone shall be available for business activities on a 24-hour basis. Regular or normal business hours shall be between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with the exception of the legal holidays as previously listed under Section II-Definition of Terms.

The Zone may be opened at other times, on an irregular or regular basis, upon application and with approval of the Zone Site Manager. However, any deviation from the normal business hours may be subject to overtime charges.

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SECTION III.5

ACTIVATION

### ZONE SITE ACTIVATION

GENERAL - All persons and firms doing business in their own facility, without the daily supervision of the Zone Operator, established by the Grantee, must comply with the provisions of the Foreign-Trade Zone Act, as amended; with the lawful and effective rules, regulations and procedures of the Foreign-Trade Zone Board; with such of the laws and lawful regulations of the United States, the States or the subdivision and agencies thereof as may be applicable to operators, occupants, their employees, invitees and users of the site location; with such of the provisions of this schedule and subsequent issues and modification thereof; and with Foreign-Trade Zone No. 164 Inventory Control Procedures Manual and subsequent issues and modifications thereof as may be applicable to the operations conducted in the site locations.

GRANTEE ZONE OPERATOR-TENANT AGREEMENT - The Grantee/Zone Operator will activate and administer Zone Tenants in their own facility without the daily presence of the Zone Operator. All persons or firms who request the Grantee/Zone Operator to apply for activation of a site location must first enter into an agreement with the Grantee/Zone Operator governing general purpose site operations. This agreement will contain provisions, including, but not limited to, size of the area to be activated, amount of Foreign-Trade Zone No. 164 service fees, type of operations to be conducted, **indemnification of Grantee/Zone Operator.**

INDEMNIFICATION - Applicant must furnish a financial guarantee in the amount of not less than \$100,000 annually to **indemnify the Grantee/Zone Operator** against U.S. Customs fines and penalties levied against Foreign-Trade Zone No. 164. This indemnification can be in one or more of the following forms:

1. Financial Guarantee Bond.
2. Letter of Credit from a bank approved by the Grantee/Zone Operator on which the **Grantee/Zone Operator has the right to collect.**
3. Escrow account on which the **Grantee/Zone Operator has the right to draw.** Any earnings on the account would be retained by the Zone Tenant.

The instrumentation of indemnification must be submitted to the Zone Manager or Zone Operator prior to the execution of the Grantee/Zone Operator-Tenant Agreement by the Grantee/Zone Operator. The Grantee reserves the right to adjust the amount of the indemnification required due to special circumstances which increase its liability.

The maximum amount of indemnification must be in place at all times and proof provided to the Zone Site Manager or Zone Operator.

LIABILITY INSURANCE - The Zone Tenant must keep in full force and effect Public Liability and Property damage Insurance with a combined single limit of not less than \$500,000 covering the operations to be carried out upon or in their zoned area. Such insurance shall name the **Grantee/Zone Operator** as additional insured. The Grantee/Zone Operator reserves the right to adjust the amount of the insurance due to special circumstances which would increase its liability.

The policy or policies shall contain a clause that the insurer will not cancel or change the insurance without first **giving the Grantee/Zone Operator thirty (30) days prior written notice**. A copy of the policy or policies of insurance, or certificates of insurance, shall be furnished to the Zone Site Manager or Zone Operator prior to the execution of the Grantee/Zone Operator-Tenant Agreement by the Grantee/Zone Operator. The Zone Tenant must provide the Zone Site Manager or Zone Operator with renewal verifications annually.

APPLICATION FEES AND CHARGES - The Grantee/Zone Operator will prepare and submit the application for activation or modification of a zoned site. Any costs incidental to the preparation and/or submission of the application and any subsequent amendments or modifications, including, but not limited to, U.S. Customs fees and survey charges, will be born by the applicant.

MODIFICATIONS OF ZONE SITES - The Zone Tenant must notify the Zone Site Manager or Zone Operator in writing prior to any physical modification of the zoned site or change in usage from that in the original application for activation so that necessary permits and approvals may be obtained from U.S. Customs.

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SECTION IV  
RATES, CHARGES AND PAYMENT

FOREIGN-TRADE ZONE NO. 164  
Zone Schedule No. 1

GENERAL PURPOSE SITE RATES, CHARGES AND PAYMENT

F.T.Z. SERVICE FEES - Fee calculation will be based on the site dimensions and usage as determined by U.S. Customs in site activation.

The minimum service charge for any activated site will be \$5,000.00 per year.

INSURANCE ON MERCHANDISE - Insurance on commodities or other property stored in the Zone must be carried by and at the expense of the Zone Tenant or owner of the commodities or other properties. Merchandise stored, manipulated or transferred within the Zone is not insured by the Grantee/Zone Operator and the Zone schedule rates do not include insurance on merchandise.

LIABILITY INSURANCE - All persons or firms conducting business on or in a zoned area shall keep in full force and effect Public Liability and Property Damage Insurance in accordance with the requirement in FTZ No. 164, Section III.5, "Zone Site Activation, Liability Insurance".

FINANCIAL GUARANTEE BOND - Each Zone Tenant must furnish the Muskogee City-County Port Authority, as Grantee of Foreign-Trade Zone No. 164, with a financial guarantee in the amount of not less than \$100,000 annually. The accepted forms of this indemnification are outlined in FTZ No. 164, Zone Schedule III.5, "Zone Site Activation".

ADDITIONAL CHARGES

U.S. Customs Fees - The cost of maintaining the Customs Service in the Zone during regular working hours is included in the FTZ Service Fee previously described. Overtime, holidays or shift work resulting in additional U.S. Customs costs will be charged to the Zone Tenant requesting and using the services at the cost billed to the Zone. Customs charges for activating or modifying a zoned site will be paid by the Zone Tenant requesting the services.

Any Customs fee levied against the entire Zone will be passed on to each Zone Tenant proportionally, employing the same basis used by Customs in assessing the fee (i.e., declared dollar value, transaction count, area occupied, etc.).

Special Zone Staff Services - The cost of maintaining a staff to assist in the normal operation of the Zone during regular business hours is included in the FTZ Service Fee previously described. Zone staff services required during holidays, Saturdays, Sundays or overtime hours will be charged at a rate of \$25 per hour or portion thereof for supervisory personnel and \$18.50 per hour or portion thereof for non-supervisory personnel; a minimum charge of two (2) hours will apply in all instances.

ENFORCEMENT OF CHARGES - Zone charges are due and payable when invoiced. Failure to pay these charges and/or failure to correct any violation of Zone regulations will result in cancellation of the Grantee/Zone Operator-Tenant Agreement and deactivation of the zoned site by the Grantee.

### FINES AND PENALTIES

U.S. Customs Fines and Penalties - The Grantee will attempt to mitigate all U.S. Customs penalties resulting from inventory discrepancies, operation infractions or other occurrences occurring at zoned sites without daily Zone Operator supervision. The Zone Tenant at whose site the infraction occurred must provide assistance in preparing the defense. The Zone Tenant will bear the cost of any legal fees or other costs or charges incidental to the mitigation of the fine or penalty.

Upon final determination by U.S. Customs of the amount of fine or penalty, the **Grantee/Zone Operator** will submit payment to U.S. Customs and bill the Zone Tenant at whose site the infraction occurred for the same amount.

Any Customs fee levied against the entire Zone will be passed on to each Zone Tenant proportionally, employing the same basis used by Customs in assessing the fee (i.e., declared dollar value, transaction count, area occupied, etc.)

Grantee Fines - The Grantee has the right to levy fines against any Zone Tenant for non-compliance with U.S. Customs Regulations, Foreign-Trade Zone No. 164 Zone Schedule, Foreign-Trade Zone No. 164 Inventory Control Procedures Manual and subsequent issues and modifications of each.

Fines, ranging from a minimum \$250 to a maximum of \$1,000, shall be assessed according to the nature and severity of the violation as determined by the Zone Site Manager or Zone Operator. Repeated violations could result in direct supervision of the Zone site by the Zone Operator with the Zone Tenant billed for expenses incurred or in cancellation of the Grantee/Zone Operator-Tenant Agreement and deactivation of the zoned site.

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SECTION V  
ABBREVIATIONS AND SYMBOLS

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SECTION VI  
AMENDMENT RECORD

Muskogee City-County Port Authority  
 Foreign-Trade Zone No. 164  
 Zone Schedule No. 1

CHECK SHEET FOR AMENDMENTS

This schedule is issued in loose leaf form and all changes will be made by reprinting the entire page. Such reprinted page will bear the same number as the original page and also show that it is a revised page.

Upon receipt of revised pages, the revised page number should be placed in the space opposite the amendment number below corresponding to the amendment number shown on new or changed page. If revised page numbers are entered as received, check spaces will be filled in order with no omissions. If check spaces indicate an amendment sheet has not been received, request should be made to the Foreign Trade Zone Office for a copy of the missing page.

Amendment Number	Amendment Date	Revised Page No	Amendment Number	Amendment Date	Revised Page No
1	02 12 07	5, 7, 37	16		
2			17		
3			18		
4			19		
5			20		
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ISSUED: October 14, 1996

EFFECTIVE: November 1, 1996

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