

## 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).

# COUNTY OF ORANGE

FOREIGN-TRADE ZONE 37

## ZONE SCHEDULE

Issued by:  
County of Orange  
Goshen, New York

# **ADMINISTRATIVE PAGE**

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## ZONE SCHEDULE CHANGE LOG

NATURE OF CHANGE	DATE
Updated list of administrative officials	5/9/2014
Updated the Grantee Fees (pages 31-32)	9/21/2012

## ABBREVIATIONS USED IN ZONE SCHEDULE

\$	Dollars (U.S)
CF	Customs Form
CR	Customs Regulations
Customs	Customs and Border Protection
FTZ	Foreign-Trade Zone
No.	Number
U.S.	United States

## **DEFINITIONS**

### **ACT:**

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

### **ACTIVATION:**

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

### **ADMISSION:**

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

### **ADMIT:**

To bring merchandise into a Zone with Zone status.

### **AUDIT -INSPECTION INVENTORY CONTROL SYSTEM:**

The procedures used to maintain the records necessary for inventory control of merchandise that is under the supervision and control of the Bureau of Customs and Border Protection.

### **BOARD:**

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

### **BULK:**

The term used in describing fungible merchandise, which can be poured, scooped or shoveled which generally cannot be counted or identified piece by piece.

### **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.

## **DEFINITIONS (continued)**

### **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 purposes 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 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 into Customs territory and properly released from Customs custody.

### **EXAMINER:**

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

## **DEFINITIONS (continued)**

### **FOREIGN MERCHANDISE:**

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

### **FOREIGN-TRADE ZONE:**

A Foreign-Trade Zone is a restricted access site, in or adjacent to a Customs port of entry, operated under public utility principles under the sponsorship of a corporation granted authority by the Foreign-Trade Zones Board. U. S. Foreign-Trade Zones are restricted areas, under supervision of the Bureau of Customs and Border Protection, in which, when activated under Zone procedures, merchandise is treated for Customs and taxation purposes as if it is outside the Customs territory of the United States. Foreign-Trade Zones are the U. S. version of what are generally known internationally as Customs free trade zones; however, U. S. Foreign-Trade Zones are different in several important respects from other types of free trade zones. Located in or near U. S. Customs Ports of entry, Zones are operated under public utility principles by qualified corporations. Authority for establishing these facilities is granted by the Foreign-Trade Zones Board under the Act and regulations. The term "Foreign-Trade Zone" typically refers to a Zone environment known as a "General-Purpose Zone". The General-Purpose Zone is established to accommodate various Zone activities carried on by multiple users. Storage, distribution, testing, repair, and repackaging are typical of activities carried on within a General-Purpose Zone. Manufacturing or processing activity within a General-Purpose Zone requires prior approval by the Foreign-Trade Zones Board. "Foreign-Trade Zone" might, as a general term, include special purpose subzones. If a zone site is designed to serve a special type of activity, the term "subzone" may be used. Like the General-Purpose Zone, Subzones are established under the sponsorship of a corporation granted authority by the Foreign-Trade Zones Board (See "Grantee"). When a Zone consists of more than one site under the same Grantee, the sites shall be considered part of the same Zone project.

The term "alternative site framework" refers to the alternate designate for general purpose foreign-trade zone sites. It allows an initial limit of up to 2,000 acres authorized for FTZ activation within a specific geographic area, and users within that geographic area may be designated as "magnet sites", or they may use the minor boundary modification procedures to apply to designate acreage as a "usage-driven site" if they meet required criteria.

Foreign and domestic merchandise may be moved into Zones for operations not otherwise prohibited by law involving storage, exhibition, assembly, manufacture or other processing. The usual formal Customs entry procedures and payment of duties are not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the importer has a choice of paying the duty rate which applies to either the original foreign material or to the finished product. Quota restrictions do not normally apply to foreign goods in Zones, except that special



procedures may apply when manufacturing is involved. Domestic goods moved into a Zone for export may, at the request of the exporter, be considered exported upon entering the Zone for purposes of excise tax rebates and drawback.

**FTZ DIRECTOR:**

The FTZ Director of Foreign-Trade Zone No. 37 is appointed by the Grantee.

**GRANTEE:**

The County of Orange to which the privileges of establishing, operating and maintaining Foreign-Trade Zone No. 37 and its subzones have been granted.

**HOLIDAYS:**

Those legal holidays\* during which the offices of the Grantee are closed for regular business are as follows:

New Year's Day	1 <sup>st</sup> Day of January
President's Day	3 <sup>rd</sup> Monday of February
Good Friday	
Memorial Day	Last Monday of May
Independence Day	4 <sup>th</sup> Day of July
Labor Day	1 <sup>st</sup> Monday of September
Columbus Day	2 <sup>nd</sup> Monday of October
Veteran's Day	11 <sup>th</sup> Day of November
Thanksgiving Day	4 <sup>th</sup> Thursday of November
Christmas Day	25 <sup>th</sup> Day of December

\*If a holiday falls on Saturday, the day immediately preceding such Saturday will be observed; and if a holiday falls on Sunday, the following day will be observed. The Zone office will close at 4 P.M. on election days.

**IMPORTS:**

Foreign merchandise of every description, (except articles specifically and absolutely prohibited by statute), passing physically into the U.S. territory. 1) Subsequently entered into customs territory to become a part of the domestic supply for the purpose of domestic commerce or consumption and particularly that which is entered into customs territory through the Zone; 2) Foreign merchandise which, under the laws and regulations of various other federal agencies having jurisdiction within the Zone, is said to be "imported" into Foreign-Trade Zones, Customs Bonded warehouse or Customs custody. This latter merchandise, in relation to operations of the Zone, is considered to be foreign merchandise until its entry into the commerce of the United States.

## **DEFINITIONS (continued)**

### **IN-TRANSIT MERCHANDISE:**

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

### **MANIPULATION:**

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

### **NON-PRIVILEGED FOREIGN MERCHANDISE:**

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

### **OPEN YARD STORAGE:**

The keeping of merchandise in open space within the Foreign-Trade Zone where merchandise not requiring weather protection may be stored.

### **OPERATOR:**

Operators, including subzone Operators, are designated by the Grantee pursuant to a written agreement with the Grantee. A Zone or subzone Operator is that party which accepts Customs liability for Zone or subzone operations through a bond filed with the U. S. Customs Service. FTZ 37 has multiple operators at its different zone sites within the project. It will not agree to an exclusive contract with a single operator.

## **DEFINITIONS (continued)**

### **PERSON OF RECORD:**

The person, firm or corporation in whose name the application to admit merchandise into the Zone (CF 214) is made, recognized by the Zone Operator 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

### **PORT DIRECTOR, CUSTOMS:**

The Customs official assigned by the Port of New York/Newark to service the County of Orange and the Stewart International Airport. The Port Director is the Board's representative for Foreign-Trade Zone No. 37 and any of its subzones.

### **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 enforces the various provisions of the Customs laws.

### **PRIVILEGED-FOREIGN MERCHANDISE:**

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

### **QUANTITY:**

The numerical count of the units composing a shipment of a commodity, except bulk commodities, which must be measured by weight, size or volume.

### **RE-EXPORTS OR RE-SHIPMENTS:**

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

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

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

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

**SECRETARY:**

The Secretary of Commerce.

**STORAGE:**

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

**SUBZONES:**

Special-purpose ancillary Zone sites authorized by the Board, through Grantees of public Zones, for operations by individual firms that cannot be accommodated within an existing Zone, when it can be demonstrated that the activity, usually manufacturing, will result in a significant public benefit. They are considered noncontiguous extensions of Zones for single Users, usually at their own facilities, and in a sense, are private rather than public Zone facilities. Separate Zone sites within an industrial or commercial complex subject to common management and covenants may be considered as contiguous, and thus a part of the Zone, rather than as subzones.

**TENANT:**

A person or firm utilizing Zone facilities pursuant to a lease agreement with the owner of the property.

**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.

**UNIT OF QUANTITY:**

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

**UNITED STATES:**

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

**USER:**

A person or firm using a Zone or subzone. An individual, company or corporation utilizing the services and facilities of the Zone. The user usually deals directly with the operator of the Zone. A user that is the sole occupant of a noncontiguous site or a subzone may be designated by the Grantee as an operator.

**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 is also 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" refers to a Foreign-Trade Zone and/or Foreign-Trade Zone No. 37.

**ZONE PROJECT:**

All of the Zone and subzone sites established by the Board under a single grantee, normally in a single port of entry area.

**ZONE RESTRICTED MERCHANDISE:**

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

### **DESCRIPTION OF FOREIGN-TRADE ZONE 37**

Foreign-Trade Zone 37 was established by Board Order Number 130 on May 4, 1978. The Grantee is the County of Orange, NY. The County of Orange established the Zone project as part of its continuing efforts to promote trade and economic development in the Mid-Hudson Valley area.

It was reorganized under the Alternative Site Framework, and currently consists of one magnet site and one usage driven site, one in Orange County and one in Dutchess County. The service area of Foreign-Trade Zone 37 includes Orange, Dutchess, and Rockland Counties.

Site 3 (Magnet Site): (1,000 acres) Stewart International Airport near the intersection of I-87 and I-84, New Windsor/Newburgh, NY (Orange County). The first facility at Site 3 was activated in late September of 2003. The facility is a warehouse that is immediately adjacent to the terminal at Stewart International Airport, at the site of an approved customs examination facility. This site was

deactivated in September, 2006.

Site 7 (Magnet Site): (173 acres) – Goshen/Westgate FTZ Industrial Park, off Exit 124 of NY Rt. 17 (the Quickway), Village of Goshen (Orange County), New York. This site includes Konica Minolta’s bulk toner packaging facility (20 acres) which was activated on 7/14/05.

Site 8 (Usage Driven Site) (36 acres) – Pep Boys, Inc facility located in the Chester Business Park at 29 Elizabeth Drive, Chester, NY. Plans for activation of this facility were put on hold by Pep Boys, Inc. due to other business priorities.

Site 9 (Usage Driven Site) (196 acres)– Gap, Inc. facility located in Fishkill, New York, was approved on November 8, 2011, and was activated in January 2012.

Site 10 (Usage Driven Site) (8.1 acres)– Takasago, Inc. facility located in Harriman, New York and was approved as a usage-driven site, and submitted production notification. It has not yet been activated.

The subzones that have been approved for Foreign-Trade Zone 37 include the following:

Subzone 37A	General Motors Corporation, Tarrytown (deactivated)
Subzone 37B	Bally, Inc, New Rochelle (deactivated)
Subzone 37C	IBM, Inc., Poughkeepsie (deactivated)
Subzone 37D	Xylem Water Systems USA, LLC., Auburn, New York (formerly ITT Water Technology, Inc.) (24.5 acres for manufacturing plant and 2.5 acres for warehouse) Application approved on October 18, 2012. The site activated in November 2012.

## **ZONE POLICY**

### **SCHEDULE AUTHORITY**

This schedule is published pursuant to a Grant issued by the Foreign-Trade Zones Board, U. S. Department of Commerce, Washington, D. C. on May 4, 1978, to the County of Orange under provisions of Public Law No. 397, 73rd Congress, approved June 18, 1934, as amended. The Zone policy, rules, regulations, rates and charges of this schedule shall apply at Foreign-Trade Zone No. 37 and its subzones unless otherwise provided for.

### **ZONE OPERATED AS A PUBLIC UTILITY**

The rates and charges for space, facilities and services within a Zone shall be fair and reasonable, and the Grantee shall afford uniform treatment under like conditions to all users. The Board shall determine whether the rates and charges are fair and reasonable in the event of a dispute following the procedures outlined at 15 CFR 400.42 (b) (5).

## **BOARD REGULATIONS**

Foreign-Trade Zone No. 37 is regulated by the Foreign-Trade Zones Board, Washington, D. C. under U. S. Code of Federal Regulations; Title 15, Chapter IV, Part 400. Copies of these regulations are maintained at the Foreign-Trade Zone No. 37 office for reference.

## **CUSTOMS AND BORDER PROTECTION REGULATIONS**

Foreign-Trade Zone No. 37 is subject to special Customs Regulations as defined in U.S. Code of Federal Regulations, Title 19, Chapter I, U. S. Customs, Part 146 - Foreign-Trade Zones; and the "U. S. Customs Service Foreign-Trade Zones Operations Manual." Copies of these publications are available at the U.S. Foreign-Trade Zones office.

## **INTERPRETATION OF SCHEDULE**

The FTZ Director shall interpret and determine the applicability of any rates, rules, regulations or services provided for in this schedule. However, any matter involving interpretation or action by Customs or another agency of the U. S. Government will be determined by the Port Director of Customs or his duly appointed representative.

## **PRIVILEGES OF FOREIGN-TRADE ZONES**

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

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

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

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

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

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

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

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

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

Provided further that articles produced or manufactured in a Zone and exported there from shall on subsequent importation into the Customs territory of the United States be subject to the import laws applicable to like articles produced or manufactured in a Zone exclusively with the use of domestic merchandise, the identity of which has been



maintained in accordance with the second provision of this section may, on such importation, be entered as American goods returned."

#### **USE OF ZONE FACILITIES**

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

#### **INSPECTION OF ZONE AREA**

The Grantee may inspect any area designated as part of the Foreign-Trade Zone 37 at any and all reasonable times to ascertain whether or not the conditions related to its proper use are being observed.

### **OPERATIONS IN ZONES**

#### **MERCHANDISE PERMITTED IN A ZONE**

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

- (1) Merchandise, which is specifically and absolutely 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. A distinction is made between (a) 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 (b) Merchandise which is subject to conditional prohibition only, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal agencies. Port Directors of Customs are required to exclude the first class of articles and may not permit them to be transferred to a Zone if they are aware of their prohibited status, except that the Port Director may permit the temporary deposit of any such merchandise in the Zone pending final determination of its status. The transfer of articles of the second class to a Zone is subject to any requirements of the Federal agency concerned. There is no prohibition against placing over quota merchandise in a Zone pending its rights to

transfer to Customs territory pursuant to the applicable quotas provisions.

- (2) The application for the admission of merchandise into a Zone shall be approved or disapproved by the Port Director, as the representative of the Board, where the merchandise is not excluded by any other Federal agency having jurisdiction over the merchandise.
- (3) Zone procedures may not be used to circumvent the laws and regulations. Upon order of the Secretary of the Commerce, or his designee, the Commissioner of Customs, or his designee, shall direct that an importer place goods in a specific status for this purpose, subject to appeal to the Board.

**DISPOSITION OF MERCHANDISE IN A ZONE:**

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

**MANIPULATION, MANUFACTURE AND EXHIBITION OF MERCHANDISE**

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

- (1) Permission for any manufacturing or processing in a Zone shall be obtained from the Foreign-Trade Zones Board prior to such activity commencing under Zone procedures. All requests or applications for manufacturing or processing authority shall be rendered under the auspices of the grantee, and shall include a letter of transmittal or concurrence from the Grantee. Upon Board approval for manufacturing or processing authority under Zone procedures, an application for permission to conduct the manufacturing or processing activity approved by the Board must be submitted to and approved by the Port Director of Customs.
- (2) Permission for any manipulation or exhibition in a Zone shall be obtained from the Port Director of Customs, as the representative of the Board, subject to such application and procedure prescribed by the Secretary of the Treasury for the protection of the revenue.
- (3) In the event of the denial of any application by the Port Director of Customs for any reason, the applicant, the Grantee or the Operator of the Zone may appeal the adverse ruling to the Board. If any revenue protection considerations are involved in such an application, the Board

shall be guided by the determinations of the Secretary of the Treasury with respect to them.

#### **STATUS OF MERCHANDISE IN A ZONE**

- (1) For the purpose of the Act and the regulations of this section, all merchandise within a Zone, except merchandise in transit through a Zone, as provided in Sections 146.14 and 146.13 of Customs Regulations and except merchandise temporarily transferred to a Zone for manipulation, as provided in Paragraph (2) of this section, shall be given a Zone Status as (a) Privileged Foreign Merchandise, (b) Non-Privileged Foreign Merchandise, (c) Domestic Merchandise or (d) Zone Restricted Merchandise.
- (2) Imported Merchandise which has been entered and which has remained in continuous Customs custody may be temporarily transferred to a Zone for manipulation under Customs supervision pursuant to Section 562, Tariff Act of 1930, as amended, and for return to Customs territory. Any such merchandise shall not be considered within the purview of the Foreign-Trade Zones Act, but shall be treated in all respects as though remaining in Customs territory. Therefore, no Zone form or procedure shall be considered applicable, but the merchandise shall remain subject in the Zone to such requirements as are necessary for the enforcement of Section 562 and other pertinent Customs laws.

#### **SUBSEQUENT IMPORTATION OF ZONE MERCHANDISE**

Articles produced or manufactured in a Zone and exported there from 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 county, except those articles produced or manufactured in a Zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the Second Proviso of Section 3 of the Act, as amended, may, on such importation, be entered as American goods returned.

#### **PUBLIC INTEREST PROVISION**

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

- (1) Adversely affected parties may submit complaints to the Board under this section, requesting the prohibition or restriction of a Zone activity; or the Board may conduct investigations on its own initiative. A complaint must contain information as to how the Zone activity in question is or would be detrimental to the public interest, health or safety. When good cause is found by the Board or the Executive Secretary, the matter shall be investigated pursuant to these regulations. In deciding whether good cause exists, special consideration shall be given to conducting investigations when the Zone activity in question involves an "import sensitive" industry. In determining whether an industry is import sensitive, the Board and the Executive Secretary

shall be guided by references to such industries in trade laws and regulations, and decisions of federal courts and agencies.

- (2) In investigations under this section, either self-initiated or in response to complaints, the factors considered by the Board shall include:
  - a. Whether the adverse effect is significant in relation to actual and potential public benefits.
  - b. Whether additional exports from the U. S. will be created.
  - c. Whether Zone procedures will encourage activity related to import displacement or substitution.
  - d. Whether employment and investment will be generated or sustained in the U.S.
  - e. Whether Zone activity will undermine a remedial action or program in effect because an unfair trade practice, or materially or substantially harm an existing domestic industry.
- (3) Zone activity may be approved for limited periods, subject to extension after a review as to whether the anticipated public benefits have materialized.
- (4) Zone activity, which is exclusively for export, shall be presumed to be in the public interest.
- (5) Interested parties shall have an opportunity to submit comments or participate in any public hearings or proceedings held on such investigations.

#### **RETAIL TRADE WITHIN A ZONE**

No retail trade shall be conducted within activated Zone space except under permits issued by the Grantee and approved by the Board. Only domestic, duty-paid and duty-free goods may be sold in such cases. In considering whether to approve requests under this section, the Board shall consider the economic impact on the retail trade outside the Zone in the port of entry area. No approval is required for sales involving domestic or duty-paid food products sold within the Zone or subzone to be consumed on the premises by persons working therein. Grantees shall revoke permits when there is a violation of this restriction. The Port Director of Customs shall determine which sales are to be classified as retail sales under this section, subject to review by the Board when a question arises. Appeals from his decision may be made to the Executive Secretary. Retail sales within non-activated but approved Zone areas may be prohibited if found by the Board, the Executive Secretary or the Port Director to be incompatible with Zone operations.

### **RESIDENCE WITHIN A ZONE**

No person shall be allowed to reside within a Zone except Federal, State or Municipal officers or agents whose resident presence is deemed necessary by the Board or the Customs Service.

### **CONTROLLED ACCESS TO ZONES**

Plans for the controlled access of persons and vehicles to activate Zone areas shall be subject to the approval of the Port Director as part of his review for operation approval. All persons and vehicles entering such areas shall be subject to the requirements of the Customs Service and the Zone Schedule.

### **CONSTRUCTION OF BUILDINGS AND FACILITIES**

Zone Grantee, Operators, and Users may construct buildings and facilities necessary to implement a Zone plan approved by the Board. Any building construction within the General-Purpose Zone shall be subject to approval by the Grantee. Such approval shall not constitute a vested right against the United States and the consideration for the sale of any such buildings or facilities shall not be affected by Zone status. The commencement of operations conducted under zone procedures in any building or facility shall be subject to approval by the Port Director of Customs.

### **HOURS OF BUSINESS AND SERVICE**

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

### **SUBJECT TO CUSTOMS SUPERVISION**

Zone operations are subject to the control of the Bureau of Customs and Border Protection, exercised mainly through the Port Director who shall be in charge of the Zones within the port for purposes of enforcement of the requirements of the Act and Regulations, the Board and the Customs Service. Requirements for such matters as Zone forms, inventory control systems, cargo security standards and physical security shall be determined by the U. S. Customs 19 CFR Part 146.

## **GENERAL REGULATIONS**

### **APPLICATION OF REGULATIONS**

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

### **CONFIDENTIAL RELATIONSHIPS**

The FTZ Director will take precaution to avoid the divulging of information regarding merchandise and services thereon performed in the Zone. Any Zone employee, whether

employed by the Grantee or an Operator, violating this confidential relationship will be suitably disciplined or discharged.

### **GOVERNMENT AGENCIES**

Users shall comply with all lawful regulations of government agencies in or about ports of entry insofar as they are not in conflict with Public Law 397 of the 73rd Congress and the Regulations issued there under.

### **REPORTS TO GOVERNMENTAL AGENCIES**

The Grantee is required to submit periodic reports to the Foreign-Trade Zones Board and the Bureau of Customs and Border Protection or may be required to perform other acts as the Grantee in compliance with governmental regulations. Operators and users are required to and shall cooperate with the Grantee in the creation and maintenance of procedures, systems, regulations or programs and provide information and statistics, which the Grantee considers necessary to ensure compliance with governmental requirements.

### **REQUESTS, APPLICATIONS, AND PETITIONS TO GOVERNMENT AGENCIES**

All requests, applications, and petitions to government agencies by Zone Operators or Users shall be rendered under the auspices of the Grantee, and shall include a letter of transmittal or concurrence from the Grantee. Such requests include, but are not limited to, applications for manufacturing authority, subzone applications, minor boundary modifications, determinations of or expansions of previously approved scope of authority for Zone procedures, activation, deactivation, or alteration of zone areas, and changes in Zone procedures. All requests to the Foreign-Trade Zones Board of any nature whatsoever shall be rendered only upon prior notification to, and under the auspices of, the Grantee.

Prior to the rendering of any request, application or petition that would alter or expand the physical bounds of Foreign-Trade Zone 37 to include property not owned by the Grantee, the Grantee requires that a Zone Property Agreement be executed between and among the requester or applicant and the Grantee prior to the submission of said request or application to the Foreign-Trade Zones Board for their consideration. Should the request or application be withdrawn or denied, the Zone Property Agreement will be terminated.

### **GOVERNMENTAL LICENSES**

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

## **OPERATOR AGREEMENTS**

The Grantee requires that a Zone Operator Agreement be executed between and among the Operator and the Grantee prior to any person or firm conducting Zone business in Foreign-Trade Zone No. 37 or any of its subzones.

## **PUBLIC INTEREST, HEALTH AND SAFETY**

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

## **INDEMNIFICATION**

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

## **RELEASE OF GRANTEE FROM LIABILITY**

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

## **REGULATIONS APPLICABLE TO SUBZONES**

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

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

- (1) Whether the operation can be accommodated in the public Zone serving the area.
- (2) Whether efforts have been made to accommodate the operation, such as enlarging the public Zone area, the cost of locating in a public Zone not being a determining factor.
- (3) Whether convincing evidence has been presented as to a resulting significant public benefit, including export development and displacement or substitution or imports usually measured in terms of new or sustained employment.

The Grantee and all persons and entities doing business within a subzone established by a Grantee must comply with the provisions of the Foreign-Trade Zones Act; with the rules, regulations and procedures of the Foreign-Trade Zones Board; with such laws and regulations of the United States, the operators, occupants, their employees and invitees, and Users of sub zones; and with such of the provisions of this Schedule and subsequent issues and modifications thereof as may be applicable to the operations conducted in the subzone. If, following the review as outlined above, an applicant desires to have a subzone located within the Grantee's jurisdiction and the Grantee has no site available for its location or where sites available are not suited for proposed operations, the Grantee will assist the applicant in arranging for the acquisition of a suitable and available site.

All persons and entities who request the Grantee to apply for authority to establish a subzone must first enter into an agreement with the Grantee governing proposed subzone operations. This agreement will contain provisions including, but not limited to, those relating costs incident to the preparation of the applications and any subsequent amendments or modification thereof; costs incident to public hearings and legal proceedings; charges for providing required Customs Services; Start-up, Activation and User Fees; and charges for Grantee's special services not provided in this schedule. Applicants for the establishment of a subzone will bear application costs and charges resulting to preparing and filing of application by Grantee whether or not the application is favorably acted upon by the Foreign- Trade Zones Board.

All applications for subzone status shall be rendered under the auspices of the Grantee. All subsequent requests, applications, and petitions to government agencies by subzone Users shall be rendered under the auspices of the Grantee, and shall include a letter of transmittal or concurrence from the Grantee. Such requests include, but are not limited to, applications for manufacturing authority, minor boundary modifications, determinations of or expansions of previously approved scope of authority for Zone procedures, activation, deactivation, or alteration of zone areas, and changes in Zone procedures. All requests to the Foreign-Trade Zones Board of any nature whatsoever shall be rendered only upon prior notification to, and under the auspices of, the Grantee.



## **REGULATIONS PERTAINING TO MERCHANDISE**

### **CUSTOMS PERMIT**

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

### **TRANSPORTATION**

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

### **ZONE ACCOMMODATIONS**

Before merchandise may enter or exit the Zone, applications must be completed by a Zone User or his agent and approved by the Zone Operator and authorized Customs personnel. The application shall describe the merchandise fully and be accompanied by all supporting documents as required.

### **TENDER FOR ACCEPTANCE**

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

### **CUSTOMS INSPECTION OF MERCHANDISE**

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

### **SPECIAL SECURITY**

The Operator will assist in making special security arrangements for the receipt, handling and protection of high value merchandise which will remain in the Zone for a short period of time. Costs of personnel overtime, additional security guards, special security devices and other precautions will be the sole responsibility of the Operator. The Grantee assumes no liability for loss of or damage to this merchandise.

### **MERCHANDISE HANDLING SERVICES**

Operators provides a variety of services related to the handling and storage of merchandise and the provision of equipment, facilities, and utilities to the general public. A complete listing of the services and amenities provided by each Operator is included as a separate section within this Zone Schedule for the convenience of potential Users.

### **INVENTORY PROCEDURES**

Zone Operators are responsible for establishing and maintaining an Audit Inspection Inventory Control System acceptable to Customs and the Grantee for all merchandise in their care, custody and control. Inventory actions may be conducted by the User or through an agent authorized to maintain inventory records at the discretion of the Operator. The Operator will assist Users in establishing an Audit Inspection Inventory Control System, monitor records, conduct periodic selective inventories of merchandise and advise the Port Director of any inventory discrepancies. However, the Operator bears full responsibility for the accuracy of the users' inventory and recordkeeping systems.

### **FOREIGN-TRADE ZONE FORMS**

The following Customs Forms are available upon request to the Grantee:

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

### **PERMIT TO MANIPULATE, EXHIBIT, MANUFACTURE AND PROCESS**

Before merchandise may be manipulated, exhibited, manufactured or processed within the Zone, application must be submitted to the Port Director of Customs. (Manufacturing and processing operations must also have the prior approval of the Foreign- Trade Zones Board. Reference: Page No. 20, MANIPULATION, MANUFACTURE, AND EXHIBITION OF MERCHANDISE.) Upon approval by the appropriate agencies, including the approval of the application by the Port Director of Customs, the contemplated operations will be permitted under Zone procedures.

### **TRANSITING MERCHANDISE**

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

### **MARKING**

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

## **RATES AND CHARGES**

### **GRANTEE FEES**

All Grantee fees as described below are payable to the County of Orange.

### **FEES RELATED TO THE ALTERATION OR EXPANSION OF THE ZONE (INCLUDING SUBZONES AND MANUFACTURING AUTHORIZATION)**

All persons and entities who request the Grantee to apply for authority to alter or expand the physical boundaries of the general purpose foreign-trade zone to include property not owned by the Grantee or for the establishment of a subzone must enter into a Zone Property Agreement with the Grantee. This agreement will contain provisions including but not limited to, administrative fees, marketing, right to sell or lease the property once designated as part of Foreign-Trade Zone 37 and the activation (or lack thereof) of the property.

Upon execution of the Zone Property Agreement or upon agreement by the Grantee to submit a request for manufacturing authorization, an application fee will be charged. This fee will cover the costs incident to the preparation of the applications or modification and any subsequent amendments or modifications thereof; costs incident to public hearings and legal proceedings; and charges for Grantee's special services not provided in this schedule. Due to the nature of the information required, applicants for the establishment of a subzone will bear application costs related to the preparation of the applications in addition to the application fees cited below.

Subzone Application	\$ 2500
ASF Minor Boundary Modification Request (usage-driven site)	\$ 2000
Production Notification	No charge.
Production Application	No charge.

The application fees are payable to the Grantee in advance of the filing of the application request with the Foreign-Trade Zones Board.

The person or entity requesting the alteration, expansion or subzone authorization will also be responsible for paying any application or filing fees required by any governmental agency (other than the Grantee), including but not limited to, the Foreign-Trade Zones Board.

**ACTIVATION FEE**

Each Operator of Foreign-Trade Zone 37, including its subzone operators, shall pay the Grantee an activation fee following the Grantee’s review of the Operator’s Procedures Manual, its Inventory and Recordkeeping System. And the other documentation necessary for activation of the Operator’s Zone Site by Customs. Upon receipt of the Activation Fee from the Operator, the Grantee shall issue the Grantee’s Letter of Concurrence required for activation.

Activation Fee \$ 1000

**DEACTIVATION FEE**

Each Operator of Foreign-Trade Zone 37, including its subzone operators, shall pay the Grantee a deactivation fee prior to the actual submission of documentation to Customs requesting deactivation of the zone site. The deactivation fee will be waived if liability for zone operations is being transferred to a new Operator. The deactivation fee will cover the Grantee’s costs associated with the final review by the Grantee to ensure that all Customs’ obligations have been met by the Operator prior to deactivation.

Deactivation \$ 1500

**ANNUAL FEE**

Each Operator of an activated site within Foreign-Trade Zone 37 (including subzone Operators) and each Property Owner of an inactive site shall pay the Grantee an annual fee. The annual fee shall be assessed to cover the administration of the Zone by the Grantee and will be fair and reasonable, affording uniform treatment under like conditions. The Annual fee shall be based on, but not limited to, the costs of services provided to the Operator(s) and Property Owners, usage of the zone, the potential liability associated with the Zone use, preparation of the Annual Report required by the Board and other support services as deemed necessary. The Annual Fee will be payable on the anniversary date of either the Operator’s or Zone Property Owner’s Agreement, whichever is applicable.

Activated Zone site \$10,000

Non-Activated Zone site \$ 1,000

**OTHER FEES AND CHARGES**

**RESPONSIBILITY FOR DUTY AND TAXES**

Users of the Zone are responsible and liable for payment of any duties, taxes, fines, penalties, or liquidated damages due any agency of the federal, state or local government arising from use of the Zone, including liabilities on merchandise which is not accounted for to the satisfaction of the Bureau of Customs and Border Protection. In the event the Grantee or Operator is required to pay any duty or tax to the Bureau of Customs and

Border Protection under conditions of the Customs Bond maintained by Grantee or Operator, the person responsible for payment of the duty or tax will immediately reimburse the Grantee or Operator for such payments. Such person shall be liable to the Grantee or Operator for all costs, expenses and attorney fees that may be incurred or sustained by the Grantee or Operator by reason of collection of such duty or taxes. Any sums due to the Grantee or Operator under the provisions of this paragraph shall constitute a lien against the interest of the User in the Zone and all its property situated in the Zone to the same extent and the same condition as delinquent rent would constitute a lien on such premises and property.

#### **CUSTOMS FEES**

The Operator shall reimburse the Grantee for any Customs fees connected with its conducting business within the Zone. Such Customs Fees may include activation and deactivation fees, alteration fees, transaction fees and annual fees. Whenever the Grantee pays fees to Customs, which concern the entire general purpose Zone or the entire Zone project, reimbursement by Operators to the Grantee will be done by apportionment.

#### **CUSTOMS BOND FEE**

The Operator provides a Foreign-Trade Zones Operator's Bond to the U. S. Customs Service, which is applicable to all merchandise in the Zone that is under U. S. Customs supervision. The amount of the bond required for a specific facility is established by U. S. Customs and the appropriate cost of the bond will be the responsibility of the Operator.

#### **FOREIGN-TRADE ZONES 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.

#### **CHARGES BY OTHER GOVERNMENT AGENCIES**

Charges made by government agencies that are not included in this Schedule should be arranged for and paid by the Operator or User who requires the use of such services.

#### **FINES, PENALTIES AND LIQUIDATED DAMAGES**

Fines, Penalties, or liquidated damage claims assessed by any governmental agency that affect Zone merchandise or Zone activities will be paid by the incurring party. The Grantee will not be liable or responsible for any fines, penalties, and forfeiture or liquidated damage claims incurred by any Operator or User.

#### **ENFORCEMENT OF CHARGES**

Zone fees and charges are due and payable when invoiced. All fees and charges are non-refundable. Failure to pay fees and charges on a timely basis may also result in the cancellation of the Operator Agreement, deactivation of a Zone Site, eviction or other remedies deemed appropriate by the Grantee.