

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.

ZONE SCHEDULE

RULES, REGULATIONS, RATES, AND CHARGES APPLYING AT:

CITY OF VALDEZ, ALASKA

FOREIGN-TRADE ZONE NO. 108

VALDEZ, ALASKA

Operating under granted authority by the Foreign-Trade Zones Board, Washington, D.C., to the City of Valdez, Alaska

2014

CITY OF VALDEZ, ALASKA

Miller & Company P.C.

ISSUED: FEBRUARY 15, 2000 EFFECTIVE: FEBRUARY 15, 2000

ISSUED BY: CITY OF VALDEZ, ALASKA

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ZONE GRANTEE/ZONE OPERATOR

ZONE SCHEDULE

GRANTEE: City of Valdez, Alaska

OPERATOR: North Star Terminal & Stevedoring Co.

GENERAL OFFICES

Grantee Office:

City of Valdez, Alaska
P.O. Box 307
Valdez, Alaska 99686
Contact Person: Nancy Robb, Port Director
Telephone Number: (907) 835 - 4313
Fax Number: (907) 835 - 2992

Operator Office:

North Star Terminal & Stevedoring Co.
P.O. Box 889
Valdez, Alaska 99686
Contact Person: Mr. Ryan Sontag, Manager
Telephone Number: (907) 835 - 4670
Fax Number: (907) 835-4273

DESCRIPTION OF FOREIGN-TRADE ZONE NO. 108

Pursuant to a Grant issued by the Foreign-Trade Zones Board, Washington D.C., as Board Order No. 275 on October 4, 1994, to the City of Valdez, Alaska, under provisions of the Foreign-Trade Zones Act (19 U.S.C. 81a-81u), Foreign-Trade Zone No. 108, has issued the following Zone Schedule on rules, regulations, rates and charges.

Foreign-Trade Zone No. 108, which is operated as a public utility under Foreign-Trade Zones Board Regulations, has offices located at the 212 Chenega Avenue, Valdez, Alaska 99686. The zone has adequate electric power, water, waste disposal, communications, and access to all modes of transportation. The buildings are equipped to provide private lease storage, manipulation, manufacturing, and office space.

Foreign-Trade Zone No. 108 comprises five sites, totaling 175 acres in the City of Valdez, Alaska, modified by Administrative Action Nos. A-12-86, and A(27f)-44-96.

- Site 1: 10 acres at the City Dock and adjacent laydown area and Valdez Civic and Convention Center located at 110 Clifton Drive, Valdez.
- Site 2: 29.7-acre parcel which includes all the new Port of Valdez marine general cargo terminal.
- Site 3: 60-acre parcel located across from the terminal.
- Site 4: 75.5-acre fenced parcel.
- Site 5: 4,034 square feet at the airport.

DESCRIPTION OF FOREIGN-TRADE ZONE NO. 108

Copies of this Zone Schedule are on file with the Foreign-Trade Zones Board, Washington, D.C. and the U.S. Customs Port Director in Anchorage, Alaska, and are available at the general offices of Foreign-Trade Zone No. 108 upon request at a price of \$5.00 per copy.

More detailed guidance on U.S. Customs Service issues may be found in the U.S. Customs Service FTZ Manual. A copy is maintained for review by the Foreign-Trade Zone Operator.

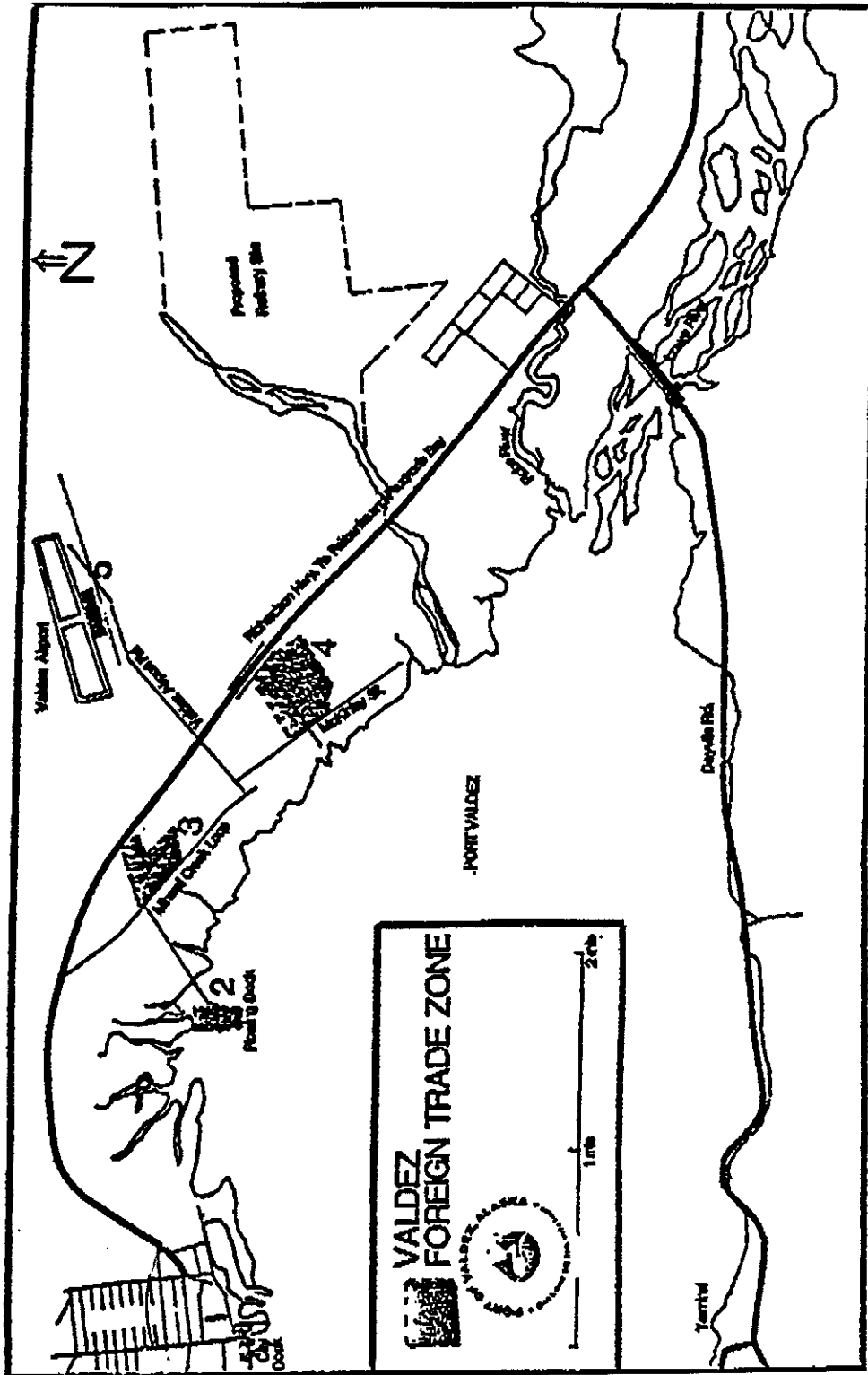
Communications should be addressed to:

Nancy Robb, Port Director
City of Valdez, Alaska
P.O. Box 307
Valdez, Alaska 99686
Telephone Number: (907) 835 - 4313
Fax Number: (907) 835 - 2992

Mr. Ryan Sontag, Manager
North Star Terminal & Stevedoring Co.
P.O. Box 889
Valdez, Alaska 99686
Telephone Number: (907) 835 - 4670
Fax No.: (907) 835-4273

SITE PLAN/FEDERAL REGISTER NOTICE/ADMINISTRATIVE ACTIONS

DESCRIPTION OF FOREIGN TRADE ZONE No. 108



The purpose of the meeting is to conduct program planning for Fiscal Year 1985 and plan follow-up activities to the Committee's report: *Policy v. Results: Affirmative Action in the Hawaii State Department of Education.*

Persons desiring additional information, or planning a presentation to the Committee, should contact the Western Regional Office at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-27360 Filed 10-16-84; 8:45 am]

BILLING CODE 6335-01-M

Hawaii Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 11:30 a.m., on November 10, 1984, at the Ala Moana Hotel, Board Room, 410 Atkinson Drive, Honolulu, Hawaii 96814. The purpose of the meeting is for the Subcommittee on Native Issues to review the status of implementation of the Hawaiian Homes Commission Act and to discuss recent U.S. Congressional Hearings on Native Hawaiian Home Lands.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Western Regional Office at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-27362 Filed 10-16-84; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 11:00 a.m. and will end at 2:00 p.m., on November 2, 1984, at the

U.S. Commission on Civil Rights, Room 3290, 230 South Dearborn Street, Chicago, Illinois 60604. The purpose of the meeting is to develop program plans for Fiscal Year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-27363 Filed 10-16-84; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on November 8, 1984, at the Westin Hotel, Renoir Room, 400 East Jefferson, Renaissance Center, Detroit, Michigan 48243. The purpose of the meeting is to develop program plans for Fiscal Year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-27364 Filed 10-16-84; 8:45 am]

BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on November 19, 1984, at the Holiday Inn, U.S. 52-W, Division Street and Street 15 at 37th Avenue, St. Cloud, Minnesota 56301. The purpose of the meeting is to discuss the status of current projects and program plans for Fiscal Year 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-27361 Filed 10-16-84; 8:45 am]

BILLING CODE 6335-01-M

Nevada Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 1:00 p.m., on November 3, 1984, at the Caesar's Palace, 3570 Las Vegas Boulevard South, Las Vegas, Nevada 89109. The purpose of the meeting is to discuss followup to the Community forum sessions and future program alternatives.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Midwestern Regional Office at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 11, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-27365 Filed 10-16-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 275]

Resolution and Order Approving the Application of the City of Valdez, AK, for a Foreign-Trade Zone in Valdez

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has

adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Valdez, Alaska, filed with the Foreign-Trade Zones Board (the Board) on April 17, 1984, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Valdez, Alaska, within the Valdez Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application, except for proposed Site 2.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Valdez, AK

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Valdez, Alaska (the Grantee) has made application (filed April 17, 1984, Docket No. 15-84, 49 FR 17788) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Valdez, Alaska, within the Valdez Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 108 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 4th day of October 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,
Chairman and Executive Officer.
Attest:

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 84-27387 Filed 10-16-84; 8:45 am]
BILLING CODE 3510-DS-M

[Order No. 276]

Resolution and Order Approving the Application of the City of San Jose, CA, for a Special-Purpose Subzone in Fremont, CA, Within the San Francisco-Oakland Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of San Jose, California, grantee of Foreign-Trade Zone 18, filed with the Foreign-Trade Zones Board (the Board) on April 30, 1984, requesting subzone status for the automobile manufacturing facility of New United Motor Manufacturing, Inc., a joint venture between General Motors Corporation and Toyota Motor Corporation, in Fremont, California, within the San Francisco-Oakland Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Fremont, CA, Within the San Francisco-Oakland Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the City of San Jose, California, grantee of Foreign-Trade

~~NOT 2/13/86~~

Mr. James Watson
City Manager
City of Valdez
P.O. Box 307
Valdez, Alaska 99686

A-12-86

Dear Mr. Watson:

This is to advise you that your request for a modification of the boundary of FTZ 108, Valdez, Alaska, is approved pursuant to Section 400.1301 (j) of the FTZ Board's regulations.

The change involves the inclusion of 4,034 sq. ft. of space, the entire second floor of the air terminal at the Valdez Airport, to the zone. It is being requested to allow the grantee to make more efficient use of the zone by locating a site at the airport for smaller zone users who deal primarily in air cargo merchandise. The change does not involve manufacturing activity and does not alter the basic zone plan approved by the Board.

As required by Section 400.1301 (j), you have obtained the concurrences of the District Director of Customs and the Army District Engineer.

The requested boundary modification is approved effective this date.

Sincerely,

John J. Da Ponte
Executive Secretary

cc: Kaplan
Da Ponte
Reading
A-12-86 ✓
FTZ 108

SRS
CUSTOMS
ARMY



United States Department of Commerce
The Foreign-Trade Zones Board
Washington, D.C. 20230

DEC 24 1993

Honorable David C. Cobb
Mayor
City of Valdez
P.O. Box 307
Valdez, Alaska 99686

A:2761-44-96


Dear Mayor Cobb:

This is to inform you that your request for a minor modification of the boundary of Foreign-Trade Zone 108, Valdez, Alaska, is approved pursuant to Section 400.27(f) of the FTZ Board's regulations.

The change involves transferring general-purpose zone space from FTZ 108, Site 4, from which 7 acres would be deleted, to the Valdez Civic and Convention Center, located at 110 Clifton Drive, Valdez, Alaska, which would be included as part of Site 1. The modification will allow you to offer zone services to prospective users involved in general-purpose zone warehousing activities related to conventions and exhibitions. This action will not result in an expansion of the zone and is consistent with the original zone plan approved by the Board.

This approval does not include authority for manufacturing activity under zone procedures. As required by Section 400.27(f), you have obtained the concurrence of the District Director of Customs. The requested boundary modification is approved effective this date.

Sincerely,


John J. Da Ponte, Jr.
Executive Secretary

ZONE SCHEDULE CORRECTIONS LIST

Changes in and additions to this Zone Schedule will be made by reprinting the page upon which the change or addition is made, and such page will be designated as a revised page and will carry a "Correction" number in the lower left hand corner. Upon the receipt of a revised or new page, place a check opposite the "Correction" number (shown below) corresponding to the number shown in the lower left hand corner of the new or revised page. If "Correction" numbers are properly checked on receipt of new or revised pages, they will appear checked off in consecutive order with no omissions. If the check marks indicate that a "Correction" has not been received, a request should be made at once for a copy of the missing page. Amendments to the Zone Schedule must be submitted to the Executive Secretary of the Foreign-Trade Zones Board and the local Port Director of the U.S. Customs Service before or at the time of implementation. 15 C.F.R. § 400.42(b)(4).

Correction Number	Page No.	Date Issued	Date Implemented
1	Full Text	February 15, 2000	February 15, 2000

SECTION I - DEFINITION OF TERMS

Act--The Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 998 - 1003; 19 U.S.C. 81a-81u), as amended by Public Law 397, 73rd Congress, approved June 18, 1950. (15 C.F.R. § 400.2(a)).

Admission Suspense Account--Merchandise received without complete U.S. Customs Service documentation or which is unacceptable to the inventory control and recordkeeping system will be recorded in a suspense account or record until documentation is complete or the system is capable of accepting the information. (19 C.F.R. § 146.22(c)). See Section I - Definition of Terms, Temporary Deposit.

Alteration--A change in the boundaries of a Foreign-Trade Zones Board approved and designated Zone or Subzone; designation of a separate Site of an already-activated Zone or Subzone with the same Zone Operator at the same port; or the relocation within a Foreign-Trade Zones Board approved and designated area of an already-activated Site with the same Zone Operator. Notification must be sent to the Foreign-Trade Zones Board. The Operator must make a written application to the local Port Director of the U.S. Customs Service for approval of an alteration of an activated area as it must be checked by Customs through its security survey to ensure the security suitability and fitness of the area for receipt of merchandise in zone status.

Antidumping/Countervailing Duty--FTZ Board Regulations require that any merchandise admitted to a zone that is subject to an AD/CVD Order must be placed in privileged foreign status. (15 C.F.R. § 400.33(b)(2)).

Applicant 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 U.S. Customs Service 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 U.S. Customs Service with the right to make entry. (19 C.F.R. § 146.32(b)(2)).

Board--The Board means the Foreign-Trade Zones Board created by the Act to carry out the provisions thereof. The Foreign-Trade Zones Board shall consist of the Secretary of the Department of Commerce, who shall be the chairman, and the Secretary of the Treasury. (15 C.F.R. § 400.2(b)).

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.

Conditionally Admissible Merchandise--Merchandise which may be admitted to the zone or be imported into the U.S. under certain conditions. Merchandise subject to antidumping and countervailing duty, subject to Foreign-Trade Zones Board Grant Restrictions, or merchandise

SECTION I - DEFINITION OF TERMS

transferred from a bonded warehouse, are examples of conditionally admissible merchandise for admission to the zone. Merchandise which is subject to permits or licenses (i.e. FDA controlled merchandise, certain firearms, motor vehicles, etc.), and merchandise which must be reconditioned to bring it into compliance with the laws administered by various federal agencies are examples of conditionally admissible merchandise for import. See Sections 6.3, 6.7(h), and 11.4, U.S. Customs Service FTZ Manual.

Container--A container is a shipping device--a non-self propelled, rigid, non-disposable, returnable, cargo-carrying device with or without wheels, enclosed or otherwise and includes any container, trailer, chassis platform, specially constructed skid, pallets, mount, or combination thereof, and which is designed to be transported integrally as one unit directly and mechanically between vessels and piers so as to eliminate intermediate rehandling and/or storage of cargo.

Customs Form 214--Application and permit to admit merchandise into a Foreign-Trade Zone and/or designation of zone status.

Customs Form 214A--Application For Foreign-Trade Zone Admission and/or Status Designation. This form is the pink or salmon colored statistical copy of the CF 214 utilized for Bureau of Census reporting purposes. Approval may be requested by the Zone Operator to submit statistical information directly to Census by flexible diskette transmission, 3480 data cartridge, or direct computer transmission. If this is not requested, the CF 214A is required to be submitted to the U.S. Customs Service.

Customs Form 216--Application and permit for the manipulation, manufacture, exhibition, temporary removal 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.

Domestic Merchandise--Domestic sourced or foreign sourced previously duty paid merchandise. See Status of Merchandise herein.

Foreign Merchandise--Imported merchandise which has not been properly released from the U.S. Customs Service custody in the Customs territory of the United States. See Status of Merchandise herein.

Fungible Merchandise--Merchandise which for commercial purposes is identical and interchangeable in all situations.

SECTION I - DEFINITION OF TERMS

Grantee--The Grantee of Foreign-Trade Zone No. 108 is the City of Valdez, Alaska, an organization to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign Trade Zone Board.

Harmonized Tariff Schedule of the U.S. (HTSUS) Number--The ten digit number used to identify all imported and exported merchandise. The complete text is available from the U.S. International Trade Commission, Publication 2831.

In-Transit Merchandise--The term "in-transit merchandise" includes all foreign merchandise transported into and out of the United States, whether in 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.

Inventory Records--

- A. Zone Lot Number (ZLN)**--A number assigned to the unit or units of goods (zone lot) for which a separate record and account is to be kept by the Zone Operator or Zone User. The merchandise must be physically segregated and marked by lot at all times. (19 C.F.R. 146.37(a)(1) and (d)).
- B. Unique Identifier Number (UIN)**--Number, letters, or combination of both (alphanumeric) that identify merchandise admitted to a zone. It is fungible material typically identified by a part number, model number, style number, SKU, etc. This number may be used for control and accounting of the goods. FIFO (First In, First Out) and FOFI (Foreign First) inventory relief methods have been authorized by the U.S. Customs Service. (19 C.F.R. 146.37(a)(2) and (d)). Generally, a FIFO system is used for UIN activity.

Lease--The document of agreement entered into between the owner or lessor of the property and the lessee for use of space within the Foreign-Trade Zone.

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

Manufacturing--Activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, use, and HTS classification. Authority for such activity in a zone must be secured from the Foreign-Trade Zones Board and authorized on a CF 216 by the U.S. Customs Service.

SECTION I - DEFINITION OF TERMS

Merchandise--Merchandise includes goods, wares and chattels of every description except prohibited merchandise. (Building materials, production equipment, and supplies for use in operation of a zone may not be considered "merchandise.")

North American Free Trade Agreement (NAFTA) Duty Deferral Program--The NAFTA Duty Deferral Program is currently in effect for trade between the United States and Canada and will become effective January 1, 2001 for trade between the United States and Mexico. Under this Program, all foreign sourced, non-NAFTA-qualified merchandise used in manufacturing in a foreign-trade zone, whether or not the finished product is NAFTA-qualified, when exported to Canada must be the subject of a special NAFTA "08" code Customs entry and be subject to U.S. Customs duties, applicable antidumping/countervailing duties, and merchandise processing fees.

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

Operating Agreement--The agreement between the Zone Operator and the Zone User, or the Zone Grantee and the Zone Operator describing rights, responsibilities, and financial considerations.

Port Director, U. S. Customs--The Port Director of the U.S. Customs Service located in Anchorage, Alaska, or his representative.

Prohibited Merchandise--Merchandise, the importation of which is prohibited by law on grounds of public policy or morals, or any merchandise which is excluded from a zone by order of the Foreign-Trade Zones Board. Books urging treason or insurrection against the U.S., obscene pictures, and lottery tickets are examples of prohibited merchandise. Also, certain operations involving the following merchandise are prohibited: Tobacco, cigars, cigarettes and cigarette papers and tubes (26 U.S.C. 5701-5706); Firearms (26 U.S.C. 4181-4182/5811); Distilled spirits, alcohol, wine and beer (26 U.S.C. 5001-5008/5010); Sugar (26 U.S.C. 4501-4503); Watch movements (19 U.S.C. 1367-1368); Bicycle parts were prohibited for a limited time period (19 U.S.C. 81b(c)) until December 31, 1992; and retail sales in a zone (19 U.S.C. 81 (o)(d) & CR 146.14). Detailed information on exactly what merchandise is prohibited from being admitted to the foreign-trade zone is available from the Zone Operator.

Quantity--Means the numerical count of the units composing a shipment of merchandise.

Quota--Means a set limit of a given item that may be imported during a set period of time (normally one year). Tariff rate quota only limits the quantity that may be imported at the lower rate, imports above the quota quantity would be at a higher rate of duty.

SECTION I - DEFINITION OF TERMS

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. 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.

Regulations--All operations within the foreign-trade zone are subject to the Foreign-Trade Zones Board Regulations, 15 C.F.R. Part 400; and U.S. Customs Service Regulations, 19 C.F.R. Part 146. Imports and exports may also be governed by the Regulations or Guidelines of other Federal Agencies. All products to be admitted to a foreign-trade zone must be reviewed for potential compliance issues.

Restricted Merchandise/Operations--Merchandise which may not be authorized for delivery from Customs custody without a special permit, or a waiver thereof, by an agency of the U.S. Government. Contact the Zone Operator for a list of Restricted Merchandise. Also, the Foreign-Trade Zones Board and U.S. Customs Service have restricted certain operations involving the following products: steel, apparel/textiles, television tubes, auto parts, milk, and sugar, orange juice, printers ink, alcohol/gasohol, oil refining, tires, chain saws and golf carts. The restrictions may vary on a case-by-case basis. Contact the Zone Operator for a current list of Foreign-Trade Zones Board Grant Restrictions. (15 C.F.R. § 400.31).

Status of Merchandise--

- A. Domestic Merchandise**--Merchandise produced in the U.S., not exported therefrom, and on which all internal revenue taxes, if applicable, have been paid; and, imported merchandise properly released from Customs' custody on which all applicable duties and taxes have been paid. (19 C.F.R. § 146.43).
- B. Nonprivileged Foreign Merchandise**--Foreign merchandise or non-tax-paid domestic merchandise upon which the duty and applicable taxes will be determined at the time the merchandise enters the Customs territory of the United States from the zone for consumption. (19 C.F.R. § 146.42).
- C. Privileged Foreign Merchandise**--Foreign merchandise or non-tax-paid domestic merchandise upon which the duty and applicable taxes have been determined at the time this status is approved. The determined duty rate and taxes are not subject to future fluctuation. However, if merchandise is subject to antidumping or countervailing duties, and therefore placed in Privileged Foreign status, the merchandise will be entered under the HTSUS rate of duty in effect at the time of admission to the zone; however, the estimated AD/CVD rates are those in effect at the time of withdrawal from the zone. Merchandise subject to antidumping or countervailing duties, that must be placed

SECTION I - DEFINITION OF TERMS

in privileged foreign status pursuant to Section 400.33(b)(2), Foreign-Trade Zones Board Regulations, may be exported duty free except to North American Free Trade Agreement countries. Once established, Privileged Foreign status cannot be changed. If merchandise has already been admitted to a zone with Nonprivileged Foreign status, Privileged Foreign status may be obtained by filing a CF 214 and related documents. Application for this status, however, must be filed prior to manipulation or manufacture in the zone. (19 C.F.R. § 146.41).

- D. Zone-Restricted Merchandise**--Merchandise admitted to a zone for the sole purpose of exportation or destruction. Merchandise with Zone-Restricted Status may not enter U.S. Customs territory for consumption except when approved by the Foreign-Trade Zones Board. No manufacturing or processing may occur with merchandise that is in Zone Restricted Status. Drawback may be filed immediately upon merchandise admission. (19 C.F.R. § 146.44).

Sequential Number--The control number or the zone admission number on the CF 214 in block #6. The number structure is set by the Zone Operator. It is not the zone lot number or the UIN.

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", without other designation, ordinarily implies covered storage.

Subzone--A special purpose zone established as part of a zone project for a limited purpose, that cannot be accommodated within an existing zone. Foreign merchandise may be admitted to the area without the payment of U.S. Customs duties and taxes or the imposition of U.S. quotas; domestic merchandise is allowed in the area. No U.S. Customs duties, taxes, or quotas apply if the merchandise is exported; U.S. Customs duties, taxes and quotas are applicable if the merchandise is imported into the U.S. Customs territory either on the basis of the imported materials or the finished product depending on the zone status designation.

Temporary Deposit--Merchandise admitted to a foreign-trade zone under 146.35, C.R. when information or documentation is insufficient in order to complete the CF 214. The documentation and time period restraints under this provision are avoided if the Admission Suspense Account procedures in 146.22(c), C.R. are followed. See Section I - Definition of Terms, Admission Suspense Account.

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.

SECTION I - DEFINITION OF TERMS

Unit of Quantity--Means the customary grouping of a commodity as a unit to indicate the medium or method of measure.

United States--The several States, the District of Columbia, and Puerto Rico that constitute the Customs territory of the U.S. 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, which are not considered part of the U.S. Customs territory.

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--Means the gross weight of the merchandise including all containers, except as noted to the contrary.

Zone Admission Number--The control number or sequential number on the CF 214 in block #6. The number structure is set by the Zone Operator.

Zone Operator--The foreign-trade zone may be managed by the Grantee, a firm that oversees one or multiple zone users, or each firm may be its own foreign-trade Zone Operator. For the purposes of this Schedule, the term Zone Operator shall apply to both general-purpose zones and subzones. The zone or subzone may be an organization, corporation, partnership, or person that operates under the terms of an agreement with the Zone Grantee. There may also be multiple Zone Operators operating under the terms of agreement with the Zone Grantee. The Zone Operator of Foreign-Trade Zone No. 108 is the North Star Terminal & Stevedoring Company.

Zone User--A person or firm using a zone for storage, handling or processing of merchandise. The Zone Operator may authorize a Zone User to maintain its individual inventory control and recordkeeping systems and procedures manual; however, the Zone Operator will remain responsible to Customs and liable under its bond for supervision, defects in, or failures of the systems unless the Zone User posts its own FTZ Operator's Bond and becomes a Zone Operator.

Zone Year--Each Zone Operator may choose its own zone year. September 30 is the year-end for Foreign-Trade Zones Board Annual Report purposes.

SECTION II - OVERVIEW OF FOREIGN-TRADE ZONES

Foreign-trade zones (zones) are restricted-access sites in or near ports of entry, which are licensed by the Foreign-Trade Zones Board and operated under the supervision of the U.S. Customs Service (see, 19 C.F.R. Part 146). Authority for establishing these facilities is granted to qualified corporations. Applications submitted to the Foreign-Trade Zones Board for grants of authority must show the need for zone services and a workable plan that includes suitable facilities and financing.

Zones are operated under public utility principles. Zone Grantees usually contract with private firms to operate facilities and provide services to zone users. Zones have as their public policy objective the creation and maintenance of employment through the encouragement of operations in the United States which, for Customs reasons, might otherwise have been carried on abroad. The objective is furthered particularly when zones assist exporters and re-exporters, and usually when goods arrive from abroad in an unfinished condition for processing here rather than overseas.

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 procedure and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the importer ordinarily has a choice of paying duties either on the original foreign material or the finished product. Quota restrictions do not normally apply to foreign goods stored in zones, but the Foreign-Trade Zones Board can limit or deny zone use in specific cases on public interest grounds. Domestic goods moved into a zone for export may be considered exported upon entering the zone for purposes of excise tax rebates and drawback. "Subzones" are a special-purpose type of ancillary zone authorized by the Foreign-Trade Zones 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 will result in a significant public benefit and is in the public interest. Foreign merchandise and domestic merchandise for export in a zone are exempt from state and local ad valorem taxes. (15 C.F.R. § 400.1(c)).

More detailed information is contained in the Foreign-Trade Zones Act - 19 U.S.C. 81a-u; Foreign-Trade Zones Board Regulations - 15 C.F.R. Part 400; and U.S. Customs Service Regulations - 19 C.F.R. Part 146.

SECTION III - APPLICATION OF RULES, REGULATIONS AND RATES

Section III.0

Application and Interpretation of Foreign-Trade Zone No. 108, Zone Schedule--The rules, regulations and rates of this Zone Schedule shall apply at Foreign-Trade Zone No. 108, its subzones and annexes unless otherwise provided for. The Zone Grantee/Operator, shall be the sole judge to interpret and determine the applicability of any of the rates, regulations or services provided for in this Zone Schedule. However, any matter involving interpretation or action by the U.S. Customs Service or other agency of the U.S. Government will be determined by the Port Director of Customs, with the concurrence of the Foreign-Trade Zones Board. Where applicable, the Foreign-Trade Zones Board and U.S. Customs Service Regulations shall prevail should any conflict arise with this schedule.

Section III.1

Regulations - Foreign-Trade Zones Board--Foreign-Trade Zone No. 108, is regulated by the Foreign-Trade Zones Board, Washington, D.C., special regulations as defined in the U.S. Code of Federal Regulations, Title 15, Chapter IV, Part 400-Regulations of the Foreign-Trade Zones Board. Copies of these regulations are attached for reference.

Section III.2

Regulations - United States Customs Service--Foreign-Trade Zone No. 108 is subject to special U.S. Customs Service regulations as defined in U.S. Code of Federal Regulations, Title 19, Chapter I, Part 146-Foreign-Trade Zones. Copies of these regulations are attached for reference.

Section III.3

Public Utility Status--Pursuant to Foreign-Trade Zones Board Regulation, the zone must be operated as a public utility. All rates and charges for all services or privileges within the zone shall be fair and reasonable, and the Zone Grantee and Zone Operator(s) 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 C.F.R. § 400.2(g)). The General-Purpose Zone Project contains buildings available for sale or lease, and open land suitable for construction, to ensure that the reasonable zone needs of the business community are being met. The buildings are equipped to provide storage, manipulation, manufacturing, and other office space for individual companies to act as their own Operator within their own facility. Additionally, there are buildings available, or land available for construction, that would accommodate a third party provider public warehouse building or buildings, making zone services available to those companies who did not wish to lease or

SECTION III - APPLICATION OF RULES, REGULATIONS AND RATES

purchase their own building, or physically handle their own merchandise while within the foreign-trade zone site. In this manner, the Grantee provides the community the opportunity for a wide range of firms to be accommodated under public utility principles.

SECTION IV - SECURITY PROCEDURES

Section IV.0

Background Investigation--In order to permit the U.S. Customs Service to complete the activation request, a background investigation on the qualifications, character and experience of key employees and principal officers who will be involved in the operation of the zone must be completed. A list of each individual, including full names, addresses, social security numbers, and dates and places of birth or a completed CF 3078 must be submitted to the U.S. Customs Service in order for them to perform this investigation. (C.F.R. 19 § 146.6(c)).

Section IV.1

Employees and Persons Entering and Leaving Activated Portion of Zone--Persons desiring admittance to the zone shall make application to the Zone Operator and shall be bound by the Foreign-Trade Zones Board and U.S. Customs Service Regulations and the rules of the Zone Operator. The identification badge issued must be worn and shown upon request. Upon leaving the zone, any temporary pass must be surrendered. All persons having business in the zone will enter and leave at the prescribed pedestrian entrances and be subject to examination as deemed necessary for the protection of the Customs revenue.

Section IV.2

Identification of Employees Within Activated Portion of Zone--Every employee on duty within the zone and in connection with the operation of the zone, shall be required while within the zone to wear appropriate identification badges to be provided by the Zone Operator of the zone or individual Users of the zone. Adequate security will be maintained for unissued badges. All persons having business within the zone, but not possessing appropriate zone-issued badges, passes, or other approval to enter the zone, shall apply for the appropriate approval and entry identification at the Zone Operator's office. A visitor's log will be maintained by the Zone Operator and will contain the date, name, firm, person to be visited, and pass number for each visitor permitted to enter the zone.

Section IV.3

Physical Facilities--All merchandise stored in the zone will be stored in a safe and sanitary manner. Aisles will be established in storage areas and may be changed from time-to-time. All entrances shall be left unblocked. Trash and waste shall be promptly removed from the zone. All local, state, and federal health laws shall be observed to ensure protection of public safety. (C.F.R. 19 § 146.4 (f)).

SECTION V - OPERATION OF ZONE

Section V.0

Activation--Pursuant to regulations of the U.S. Customs Service, all or any portion of the zone approved by the Foreign-Trade Zones Board may be approved by the Zone Grantee and the Port Director of Customs for foreign-trade zone operations and for the admission, handling, and shipment for import or export of merchandise in zone status. All procedures of the U.S. Customs Service shall be followed. (19 C.F.R. § 146.6).

Section V.1

Boundary Modification--The Zone Grantee may submit to the Foreign-Trade Zones Board an Application to modify the boundary of an existing zone or subzone. This process involves the exchange, not an increase, of like acreage/square footage. The procedure is administrative at the Foreign-Trade Zones Board without a Federal Register notice. (15 C.F.R. § 400.26(c)). No fee is owed the Foreign-Trade Zones Board.

Section V.2

Construction of Buildings and Facilities Within a Zone--The Zone Grantee may, with the approval of the Foreign-Trade Zones Board, permit other persons, firms, or corporations to erect buildings and other structures within the zone as will meet their particular requirements. The Foreign-Trade Zones Board statute and regulations contain certain requirements. All security related construction should be in accordance with U.S. Customs Service requirements and the building activated by the U.S. Customs Service prior to use. The Foreign-Trade Zones Board must be notified of all such construction in a general purpose foreign-trade zone that was not approved in the original Application. Notification will occur with the Annual Report to the Board. In a foreign-trade subzone, all such construction not approved in the original Application must be approved by an Expansion Application to the Foreign-Trade Zones Board in advance of any zone activity. (19 U.S.C. § 81m)(15 C.F.R. § 400.28(a)(6)).

Section V.3

Deactivation--A Zone Operator may file a request with the Customs Port Director to deactivate all or a portion of an existing activated zone or subzone and shall cease to admit merchandise into the zone site in zone status. Final action and disposition of the merchandise must be made with the concurrence of the Customs Port Director.

SECTION V - OPERATION OF ZONE

Section V.4

Disposition of Merchandise in a Zone--In general, merchandise lawfully admitted to a zone may, in accordance with these and other regulations made under the provisions of the Act be sent into Customs territory of the United States, destroyed or exported. (19 C.F.R. § 146.71).

Section V.5

Exclusion from Zone of Goods or Process of Treatment/Grant Restrictions--When it shall be reported to the Foreign-Trade Zones Board that any goods or process of treatment is detrimental to the public interest, health, or safety, the Foreign-Trade Zones Board shall cause such investigation to be made as it may deem necessary. No operation or process of treatment will be permitted in the zone, that in the judgment of the Foreign-Trade Zones Board or the Zone Operator is detrimental to the public interest, health, or safety. (15 C.F.R. § 400.31). Normally, the Foreign-Trade Zones Board issues a Grant Restriction by means of a Board Order governing such activity. Grant Restrictions are restrictions or conditions placed in a Grant or other approval by the Foreign-Trade Zones Board which may limit the zone status allowed, the kind of operation or the merchandise in a zone, the entry of merchandise into the commerce, the life of the Grant, or the amount of acreage allowed to be activated. See also the definition of Restricted Merchandise/Operations.

Section V.6

Forms, Procedures and Operations in a Zone--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, compliance with requirements of other Federal Agencies, the subsequent importation of merchandise, the exportation of merchandise from a zone, and other operations in a zone authorized by the Act are all controlled by U.S. Customs Service Forms or forms of other Federal Agencies. The Customs forms required are available upon request from the Zone Operator.

Section V.7

Grant Sale/Conveyance, Transfer, Assignment, Etc.--The Foreign-Trade Zone Grant of Authority may not be sold, conveyed, transferred, set over, or assigned (FTZ Act, Section 17; 19 U.S.C. 81q). (15 C.F.R. § 400.28(a)(8)). Application may be made to the Foreign-Trade Zones Board to reissue a Grant under certain conditions.

Section V.8

Hours of Business and Service--Hours of business and service, for U.S. Customs Service purposes, shall be prescribed by the Zone Operator.

SECTION V - OPERATION OF ZONE

Section V.9

Independent Contractor Status--Zone Grantee, Zone Operator, and Zone User are not and shall not be considered as joint venturers, partners, or agents of each other, and neither shall have the power to bind or obligate the other except as set forth in any written agreements. Zone Grantee, Zone Operator, and Zone User agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another except as set forth in any written agreements.

Section V.10

Lapse/Sunset Provision--The grant of authority for every general purpose zone or subzone may lapse if it is not activated and in operation within five years of the initial Foreign-Trade Zones Board Order issued after November 7, 1991 or after the date November 7, 1991. Detailed provisions apply. Contact the Zone Grantee for a complete explanation. (15 C.F.R. § 400.28(a)(5)).

Section V.11

Manipulation, Manufacture, 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.

(a) Permission for any manipulation, manufacture, destruction, or exhibition in a zone shall be obtained from the Port Director of Customs, as the representative of the Foreign-Trade Zones Board, subject to such application and procedure prescribed by the Secretary of the Treasury for the protection of the revenue by means of a CF 216.

(b) Manufacturing is defined by the Foreign-Trade Zones Board as any change in HTS classification. All manufacturing operations must be approved by the Foreign-Trade Zones Board. Any new manufacturing operation beyond the scope approved in the Grant of Authority must be authorized by the Foreign-Trade Zones Board. See generally 15 C.F.R. 400.28(a)(2). The Foreign-Trade Zones Board must be notified if sourcing changes occur with an approved manufacturing activity involving new foreign materials subject to quotas or inverted duty benefits. (15 C.F.R. 400.28(a)(3)). In a general purpose zone, expedited action under fast-track procedure can be secured for previously approved manufacturing activity. (15 C.F.R. 400.32(b)(1)).

(c) In the event of the denial of any application by the Port Director for any reason, the applicant, the Zone Grantee, or the Zone Operator of the zone may appeal the adverse ruling.

SECTION V - OPERATION OF ZONE

If any revenue protection considerations are involved in such an application, the Foreign-Trade Zones Board shall be guided by the determinations of the Secretary of the Treasury.

Section V.12

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

(a) 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 the 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 or 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. Port Directors of Customs are required to exclude the first class of articles and may not permit them to be admitted 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. See 19 C.F.R. § 146.31(a) and (b).

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 a zone shall be approved or disapproved by the Port Director of Customs as the representative of the Foreign-Trade Zones Board on a CF 214.

(c) For definitions of Prohibited and Restricted Merchandise, see Section I.

Section V.13

Retail Trade Within Zone--No retail trade shall be conducted within a zone except under permits issued by the Foreign-Trade Zones Board. Duty paid and domestic merchandise may be sold in a foreign-trade zone under certain circumstances. Contact the Zone Operator for more detailed information.

SECTION V - OPERATION OF ZONE

Section V.14

Scope of Authority--Foreign-Trade Zone No. 108 is authorized by Foreign-Trade Zone Board Order No. 275 to undertake the activities set out therein. All production and manufacturing activity that results in a change in the imported material's Harmonized Tariff Schedule of the United States classification must be authorized by the Foreign-Trade Zones Board. Any change in imported materials and finished products for such activity must also be authorized to only undertake those activities approved by the Foreign-Trade Zones Board. Zone Operator/User shall promptly notify the Zone Grantee of any activity requiring Foreign-Trade Zones Board notice and authorization.

Section V.15

Sponsor of New Zone or Subzone--The Zone Grantee may in its sole discretion decide to sponsor a new zone or subzone project and forward an Application to the Foreign-Trade Zones Board. In order to make its determination, the interested party must submit, in letter form to the Grantee, sufficient data in summary form as required in an Application to the Foreign-Trade Zones Board. (15 C.F.R. § 400.24, 400.25). If the Zone Grantee decides to sponsor the proposed project, the Application must be prepared at the cost of the applicant.

Section V.16

Status of Merchandise in a Zone--For the purposes of the Act and the regulations relating to this Section, all merchandise within a zone, except merchandise in transit through a zone as provided in the U.S. Customs Service Regulations, and except merchandise temporarily transferred to a zone for manipulation under Customs supervision pursuant to Section 562, Tariff Act of 1930, as amended, shall be given a zone status on a CF 214 document. Any changes to the zone status must be made on a CF 214 and approved by the U.S. Customs Service. For definitions see Section I.

Section V.17

Subsequent Importation of Zone Merchandise--Articles produced or manufactured in a 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 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. (19 C.F.R. § 146.67(e)). Contact the Zone Operator for more detailed information on this topic.

SECTION V - OPERATION OF ZONE

Section No. V.18

Termination-Accrued Obligations/Survival--All Zone Operator/Users will specifically acknowledge and agree that, upon termination or expiration of tenancy in the foreign-trade zone for any reason whatsoever, Zone Operator/User shall not be released or relieved from fulfilling any and all of its obligations or duties which arose or accrued during the term of its zone usage, and Zone Operator/Users will specifically represent and warrant to Zone Grantee that upon termination or expiration of its zone usage for any reason whatsoever, Zone Operator/User shall completely perform and fulfill any and all of its obligations or duties which arose or accrued during the term of its zone use including the immediate preparation and filing of all necessary reports with the Grantee and the U.S. Customs Service. Specifically, the Zone Operator/User's indemnity obligations, bond obligations, and record and record retention obligations shall survive the termination or expiration of any Agreement and/or zone activity for any such reason. Zone Grantee may require the tender of all such records for safekeeping.

Section V.19

Termination-Bankruptcy--The Foreign-Trade Zone activity or any rights hereunder shall not be subject to involuntary assignment, transfer or sale or to assignment, transfer or sale by operation of law in any manner whatsoever, and any such attempted involuntary assignment, transfer or sale shall be void and of no effect. Without limiting the generality of the foregoing, Zone Operator/User agrees that in the event any proceedings under the Bankruptcy Act or any amendment thereto be commenced by or against Zone Operator/User, and, if against Zone Operator/User, said proceedings shall not be dismissed before either an adjudication in bankruptcy or the confirmation of a composition, arrangement or plan of reorganization, or in the event Zone Operator/User be adjudged insolvent or make an assignment for the benefit of its creditors, or if a writ of attachment or execution be levied against any real or personal property owned or leased by Zone Operator /User within the Zone and be not released or satisfied within 15 days thereafter, or if a receiver be appointed in any proceedings or action to which Zone Operator/User is a party with authority to take possession or control of the business conducted thereon by Zone Operator/User and such receiver be not discharged within a period of 15 days after his appointment, any such event or any involuntary assignment shall constitute a termination by the Zone Grantee of the use of the Zone without notice or any other action and also shall terminate all rights hereunder.

Section V.20

Termination-Conviction/Abandonment--Foreign-Trade Zone usage may be terminated if Zone Operator/User shall be convicted under any law of a felony as defined by such law; if the Foreign-Trade Zones Board or U.S. Customs Service should suspend or terminate Zone Operator/User or the activated status of the zone; or if the Zone Operator/User shall voluntarily abandon, desert, or vacate the premises or discontinue its operations. Zone Operator/User shall

SECTION V - OPERATION OF ZONE

immediately provide all records and reports for Zone Grantee, the Foreign-Trade Zones Board, and the U.S. Customs Service.

Section V.21

Use of Zone by Carriers--The loading or unloading areas of a zone are intended primarily for the use of vehicles unloading merchandise into the zone or loading merchandise from the zone, and their use for other purposes may be terminated by the Secretary of the Treasury if found to endanger the revenue, or by the Foreign-Trade Zones Board or Zone Grantee if found to interfere with the primary uses of the zone.

SECTION VI - GENERAL RULES AND REGULATIONS

Section VI.0

Agreements--All firms using the services of a Foreign-Trade Zone Operator must enter into an operating agreement. All Foreign-Trade Zone or Subzone Operators must enter into an agreement with the Zone Grantee. If there is a conflict between the operating agreement and this Schedule, the agreement will prevail. Copies of the agreements are available from the Zone Grantee/Operator(s).

Section VI.1

Charges--

- A. For Special Zone Staff Services**--The Zone Operator maintains in the zone an assigned staff of employees to assist in the normal operation of the zone during regular business hours as set forth in Appendix B of this Zone Schedule.

Zone staff services rendered during National holidays, Saturdays and Sundays or during overtime hours, at the specific request to the Zone Operator of the user of zone facilities for such purpose, will be charged to Zone User of such services. A list of said charges outlined in Appendix B of this Zone Schedule.

- B. Government Agencies**--Charges made by government agencies are not included in this Zone Schedule and should be arranged by the Zone User or his agent with the government agency concerned.
- C. How Enforced**--For the purpose of enforcing the payment of charges named in this schedule on merchandise of the zone facilities, the zone may take possession of such merchandise, and remove and store same at the charge, risk, and expense of the owner or consignee thereof and/or may sell the goods by public auction, and/or pursue other remedies as may be provided by law.
- D. Service Charges**--Service fees will be charged on all accounts receivable at 30 days age, checks returned due to "insufficient funds" in an account, etc. A list of such charges is outlined in Appendix B of this Zone Schedule.
- E. When Payable**--Zone charges are due and payable as they accrue.

Section VI.2

Communication, Audits, Inspections and Requests for Information--Zone Operator/User shall inform Zone Grantee of any written or oral communication with the U.S. Customs Service, the

SECTION VI - GENERAL RULES AND REGULATIONS

Foreign-Trade Zones Board, and any other Federal Agency that involves the merchandise held in the zone with respect to zone activity. All written submissions to the Foreign-Trade Zones Board with respect to the Foreign-Trade Zone activity must be made by Zone Grantee. The Zone Operator/User shall promptly notify Zone Grantee of any oral or written request for information, inspection, spot check, or audit of any kind from the U.S. Customs Service or the Foreign-Trade Zones Board or other reports requested by any government agency and of any audit or investigation commenced by any government agency which directly concerns zone operations, and shall accompany such notification with copies of all letters, requests, reports and investigative documentation to Zone Grantee.

Section VI.3

Confidential Relationship--All foreign-trade zone documentation contains confidential business information that may not be copied or disclosed without the express written permission of the particular party in interest. All information shall be kept confidential except that which is required to be made public by the Foreign-Trade Zones Board or U.S. Customs Service. The Zone Operator is specifically required by 19 C.F.R. 146.4(d)(3) to maintain all transaction records confidential. This document contains trade secrets and commercial and financial information relating to the confidential business of private parties. The Trade Secrets Act (18 U.S.C. 1905) provides penalties for disclosure of such information.

Section VI.4

Foreign-Trade Zone Usage--Zone Operator agrees to place the following language in all lease agreements involving the referenced property:

The Premises are within Foreign-Trade Zone No. 108. If a purchaser, lessee, or tenant wishes to utilize the foreign-trade zone, it must enter into an appropriate Agreement with the Foreign-Trade Zone Grantee or Zone Operator as appropriate.

Section VI. 5

Government Agencies--All lawful regulations regarding U.S. or Alaska government agencies must be complied with by Zone Operator/User. Besides the U.S. Customs Service, many U.S. agencies have specific laws that apply to the import and export of merchandise. The Zone Operator/User and its Customshouse Broker, if applicable, are responsible for assuring compliance. See also Regulations definition in Section 1.

SECTION VI - GENERAL RULES AND REGULATIONS

Section VI.6

Governmental Licenses--Zone Operators/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 government that are or may be necessary in the conduct of business in or from the zone.

Section VI.7

Insurance--All Zone Operators/Users shall secure and maintain throughout the term of their zone tenancy insurance with requirements and limits as required by the Zone Grantee. Zone Operators/Users must furnish certificates of insurance evidencing the required coverage ten (10) business days prior to the commencement of operations. As appropriate insurance shall include statutory workmen's compensation, automobile liability, and general liability.

Zone tenancy may be terminated if, at any time, a Zone Operator/User fails to maintain the required insurance for any period of time or fails to comply with any of the insurance requirements. Detailed insurance requirements may be secured from the Zone Grantee/Operator. Insurance is carried by Zone Operator on its own property only and does not include insurance on the contents stored therein. Zone User is obligated to put nothing within the zone which will cause the cancellation or forfeiture of the insurance or affect the premium rate thereof on the building or buildings of which the leased premises forms a part. A list of such materials is available in the office of the Zone Operator. Insurance on commodities or other property stored on the leased premises must be carried by and at the expense of Lessee or owner of the commodities or other properties. Merchandise stored, manipulated, or transferred within the zone is not insured by the Zone Operator, and the Zone Schedule rates do not include insurance on merchandise.

Section VI.8

Public Interest, Health and Safety--No operation or process of treatment will be permitted in the zone that, in the judgment of the Foreign-Trade zones Board, Zone Grantee or Zone Operator, is detrimental to the public interest, health and/or safety. Zone management reserves the right to refuse merchandise which would, in the opinion of the zone management, pose unusual or unacceptable problems or hazards to the zone. See also Restricted Merchandise/Operations in Section I. (15 C.F.R. § 400.31(a)).

Section VI.9

Regulations - General--All persons and merchandise of every description entering or leaving Foreign-Trade Zone No. 108 for any purpose whatsoever shall be bound by the lawful

SECTION VI - GENERAL RULES AND REGULATIONS

regulations of the Foreign-Trade Zones Board and by the Board Order issued thereunder, and the U.S. Customs Service and actions of the Port Director of Customs.

Although zones are outside the Customs territory, most Federal laws apply in zones. The extent to which they apply or do not apply depends on their precise wording, their relationship to the Foreign-Trade Zones Act, and the interpretation thereof by the particular Federal Agency affected. State and local laws apply in zones except to the extent they are preempted or modified by Federal laws. The Foreign-Trade Zones Board and the Port Director of Customs cooperate with Federal, State, and local government authorities in the administration of their laws, regulations, and ordinances. The Zone Grantee, Zone Operator, and Zone Users shall allow such authorities access to the zone to carry out their duties. They are, however, subject to admission and departure requirements as noted herein.

Section VI.10

Regulations - Zone--The following rules governing procedure within Foreign-Trade Zone No. 108 are issued in conformity with and supplementary to the Foreign-Trade Zones Board and U.S. Customs Service regulations and such other United States laws and regulations relating to the Port of Entry as are applicable to Foreign-Trade Zone Operations.

SECTION VII - SPECIAL RULES PERTAINING TO MERCHANDISE

Section VII.0

Bureau of Census Reporting--Certain statistical information is necessary to be provided to the Bureau of the Census on all FTZ admission receipts. If provided to Customs, the CF 214A must be salmon or pink in color and be identified as "Statistical Copy". (19 C.F.R. §146.32(a)). Editions of the CF 214A dated 10-09-81 or prior are obsolete and will not be accepted for transmittal to Census. The current CF 214 to be utilized is available from the Operator. The U.S. Customs Service is responsible for transmitting the CF 214As to Census. This data may be provided to the Bureau of the Census monthly in a number of different automated ways by the Operator pursuant to an agreement with Census, or it may be provided to the U.S. Customs Service by completion and transmittal of the CF 214A. Other means of transmittal may be direct automated submission by the Operator to Census by a monthly diskette, or direct transmission of data. The reports must be received by the Bureau of the Census no later than the tenth calendar day following the month covered by the report. Technical specifications are available from the Bureau of the Census. A request letter to Census for approval authorizing the zone to submit this information directly must be submitted by the Zone Operator.

Section VII.1

Customs Bond--A Customs Form 301, Activity Code 4, is utilized for the foreign-trade zone Operator's Bond. Provisions are set forth at 19 C.F.R. § 113.73.

Section VII.2

Customs Inspection of Merchandise While in Zone--The Zone Operator/User or his agent shall at all times be immediately available to make the merchandise subject to inspection required by the U. S. Customs Service and shall have the sole responsibility of opening crates and packages, handling the merchandise and securing the crates and packages following the inspection. In the event that the Zone Operator/User or his agent is not immediately available for inspection, then the zone personnel shall be authorized to open such packages for the U. S. Customs Service and shall not be liable for any loss or damage for any reason whatsoever to the goods of the consignee. The Zone Operator/User shall be charged for such services at rates established. A list of said charges is available at Appendix B herein.

Section VII.3

Customs Permit--Merchandise will not be delivered to or through Customs territory unless the delivery order is accompanied by a CF 3461/7501 (entry for consumption) or a CF 7512 (entry of transportation or transportation and exportation) or appropriate alternate procedures.

SECTION VII - SPECIAL RULES PERTAINING TO MERCHANDISE

Section VII.4

Grantee Knowledge--The Zone Grantee is not obligated to, and does not intend to, monitor the day-to-day activity of the Foreign-Trade Zone. The Zone Grantee shall have no knowledge, actual or constructive, of the quantity, character, status designation, identification, or time of admission, transfer, or release of goods into or from the Foreign-Trade Zone.

Section VII.5

Handling of Merchandise--Zone Operator/User will be responsible for the receipt and verification of all merchandise admitted to the Zone on the proper Customs Forms and for handling of all merchandise having activity being performed under the proper Customs Forms. Zone Operator/User will perform all these functions according to all Customs Regulations that apply to these activities. Zone Operator/User will not allow removal of any merchandise located within the Zone without prior approval from Customs under the applicable laws, rules and regulations of the U.S. Customs Service.

Section VII.6

Harbor Maintenance Fee--The Water Resources Act of 1986 provides for a Harbor Maintenance Fee to be imposed for commercial use of Ports in the United States. All merchandise arriving at deepwater ports is subject to a fee of .125%. The Applicant for admission is liable for payment of the fee and the filing of the CF 349 quarterly is the responsibility of the Zone Operator/User or its Customhouse broker. The CF 350 is used for amendments or refunds.

Section VII.7

Hazardous/Objectionable 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. Products will not be stored except in locations or areas that are not restricted in the acceptance of any commodity for storage under the insurance rate established on contents stored therein. The Grantee reserves the right to not allow certain merchandise to be stored, processed, or manufactured in the zone.

Section VII.8

Indemnification-- Zone Operator/User will protect, indemnify and hold harmless Zone Grantee and its respective Boards, officers and employees from and against any and all actions, suits, proceedings, claims, demands (including attorneys' fees and costs), whether insured or not, arising out of or incident to Zone Operator/Users obligations and operations hereunder. Zone

SECTION VII - SPECIAL RULES PERTAINING TO MERCHANDISE

Grantee/Zone Operator may require a bond at any time Zone Grantee/Zone Operator deems it necessary to adequately protect the parties indemnified hereby.

Section VII.9

Indemnity Bond--Zone Users shall be required, upon notice by the Zone Operator, to post an indemnity bond executed by a U.S. surety on a form and acceptable to the Zone Operator, or other security, payable to the Zone Operator as a guarantee of payment of Customs duty or taxes or other obligations of or to the Zone Operator to protect past, present, or future obligations or liabilities of the Zone Operator.

Section VII.10

Marking--All merchandise handled in the zone, before entry to Customs territory, must be marked in accordance with U.S. Customs Service regulations as to the country-of-origin and in accordance with all other government regulations. No merchandise will be permitted by Customs to be transferred from the zone for any purpose that is not properly labeled or carries any false or misleading label or mark. A CF 216 must be filed and approved by the U.S. Customs Service prior to any repacking and labeling which may occur in the zone. A schedule of charges is included in appendix B of this Zone Schedule.

Section VII.11

Merchandise Processing (User) Fee--The current Customs Merchandise Processing (User) Fee of .21 % ad valorem is applicable only to the value of foreign non-duty paid merchandise entered into the U.S. from a foreign-trade zone. In 1995, the North American Free Trade Agreement for Canadian NAFTA qualifying merchandise provides that the fee is zero, not .21% as for all other imports. For Mexican NAFTA qualifying merchandise, the fee was eliminated June 30, 1999. It is collected on a Customs entry CF 7501. Merchandise that is exported, scrapped, etc. from the zone is not subject to the Merchandise Processing Fee. The fee has a minimum of \$25 and is capped at \$485 per entry.

Section VII.12

Permission to Manipulate, Manufacture, Exhibit, Repack or Destroy--Before merchandise may be manipulated, repacked, manufactured, exhibited, or destroyed within the zone application on CF 216 must be presented to the Zone Operator for concurrence. The Zone Operator will then forward the application to U.S. Customs Service. On approval by the U.S. Customs Service, the contemplated activity will then be permitted. The Zone Operator maintains a schedule of charges.

SECTION VII - SPECIAL RULES PERTAINING TO MERCHANDISE

Section VII.13

Record Deficiencies--In the event that any audit, inspection, or examination by U.S. Customs Service, the Foreign-Trade Zones Board, Zone Grantee or Zone Operator discloses that books, records or operational procedures of Zone Operator/User are not in conformance with the requirements of Federal, State and/or local law and the Operator's Agreement, the U.S. Customs Service, the Foreign-Trade Zones Board, Zone Grantee or Zone Operator may order the immediate correction of the documents or procedures. In the event that it is anticipated that such correction will take in excess of five (5) working days, a plan of performance will be submitted to responsible party(s) for the correction of such discrepancy which shall be approved if necessary, by the Foreign-Trade Zones Board and the U.S. Customs Service, and shall proceed with all due diligence to correct the deficiency as described in the approved plan.

Section VII.14

Record Retention--All financial and accounting records of Zone Operator/User concerning zone operations shall be retained for five (5) years after the act or occurrence recorded or after the merchandise covered by such records has been forwarded from the Zone, whichever is longer, and all such records shall be available for inspection and audit by any appropriate government agency and by Zone Grantee during normal business hours.

Section VII.15

Reports to Governmental Agencies--The Zone Operator is required to submit periodic reports to the Grantee and the U.S. Customs Service, or may be required to perform other acts as the Zone Operator of the zone in compliance with governmental regulations. Zone Users are required to and shall cooperate with the Zone Operator in the creation and maintenance of procedures, systems, regulations, or programs, and provide information and statistics which the Zone Operator considers necessary to ensure compliance with governmental requirements. An Annual Report to the Foreign-Trade Zones Board as of September 30 of each year must be filed by the Zone Grantee. Each Zone or Subzone Operator and Zone User must cooperate in providing the necessary data (15 C.F.R. § 400.46(d)). An Annual Reconciliation and Annual Internal Review is required of each Foreign-Trade Zone or Subzone Operator. (19 C.F.R. § 146.25, 146.26). A letter notification must be forwarded to the Customs Port Director within ninety (90) days of the end of the zone year.

Section VII.16

Right of Entry--Representatives of the Zone Grantee, Zone Operator, Zone User, the Foreign-Trade Zones Board, the U.S. Customs Service and other authorized U.S. Government officers, shall have the right of access to enter the Zone for the authorized and lawful purpose of examining same, conferring with Zone Operator/User, its agents, invitees, and employees on

SECTION VII - SPECIAL RULES PERTAINING TO MERCHANDISE

such premises, inspecting and checking operations, supplies, equipment and merchandise, and determining whether the business is being conducted in accordance with the procedures established for the operation and management of the zone.

Section VII.17

Temporary Removal--Merchandise held in the zone may be temporarily removed from the zone for the limited purposes of repair, restoration, or any incidental operation which would not constitute a "manufacture or production" under drawback law, 19 U.S.C. 1313, and then returned to the zone. Application on a CF 216 must be presented to the Zone Operator and then to the U.S. Customs Service for concurrence. See Customs Headquarters Ruling 214189 (August 31, 1982), Ruling 218458 (January 27, 1986), Customs Directive 3260-20 (August 4, 1986) and Section 9.2 of the U.S. Customs Service FTZ Manual for a more detailed description of this limited provision.

Section VII.18

Trucking and Lighterage--Transfer of foreign merchandise from the first Port of arrival through Customs territory to the zone and from the zone to the port of export must be made by Customs bonded trucks, rail cars, airplanes, lighters or other carriers and subject to U.S. Customs Service regulations. Alternate procedures for transfer of merchandise under the Foreign-Trade Operators Bond (see 19 C.F.R. § 146.40(b)), not on bonded carriers, may be available with Customs approval.

SECTION VIII - CHARGES

Section VIII.0

Charges - Each General Purpose Zone Operator that makes its facilities available to multiple zone user firms is responsible for preparing and submitting to the Grantee and Appendix which sets out the rules, rates and charges at the zone site. Each Zone Operator assumes responsibility for maintaining a complete and current Zone Schedule. Each Zone Operator will provide an Appendix of their charges to the Grantee and any changes and/or revisions to the Appendix upon implementation. Additionally, firms utilizing the General Purpose Zone may act as their own Zone Operator. No other charges will be levied other than those in Appendix A. Under these circumstances, the zone sites will operate under the Rules and Regulations and Grantee Rates and charges as set out herein.

Section VIII.1

Uniform Pricing--All customers having similar volume and circumstances will be afforded the same contractual terms.

GRANTEE CHARGES

APPLICATION, ACTIVATION, AND ANNUAL FEES--

(a) Foreign-Trade Zones Board Application Fees--Zone Applications submitted to the Foreign-Trade Zones Board must be accompanied with a check in the following amount, as required by 15 C.F.R. § 400.29:

(1) Additional General Purpose Zones (15 C.F.R. § 400.24 and 400.21 (a)(2)).....	\$3,200
(2) Special Purpose Subzones (15 C.F.R. § 400.25)	
(i) Non-manufacturing/processing or less than three products.....	\$4,000
(ii) Manufacturing/processing three or more products.....	\$6,500
(3) Expansions (15 C.F.R. § 400.26(b)).....	\$1,600

These fees are payable by the Zone Operator of the appropriate site as described in 1, 2, and 3 above. The Zone Grantee will not be liable for any such fees. Note that no fees are payable to the Foreign-Trade Zones Board for Boundary Modifications.

(b) U.S. Customs Service Activation and Annual Fee--These fees were suspended pursuant to the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

OPERATOR CHARGES

**THERE ARE NO CHARGES APPLICABLE AT THIS TIME.
WHEN NECESSARY, A LIST OF CHARGES WILL BE COMPLETED AND
ADDED AS A CORRECTION TO THIS ZONE SCHEDULE.**

**FOREIGN-TRADE ZONES ACT
19 U.S.C. § 81**

FOREIGN-TRADE ZONES ACT

CHAPTER 1A—FOREIGN TRADE ZONES

19 U.S.C. § 81a Definitions

When used in this Act [19 U.S.C. §§ 81a et seq.]--

(a) The term "Secretary" means the Secretary of Commerce;

(b) The term "Board" means the Board which is hereby established to carry out the provisions of this Act [19 U.S.C. §§ 81a et seq.]. The Board shall consist of the Secretary of Commerce, who shall be chairman and executive officer of the Board, and the Secretary of the Treasury;

(c) The term "State" includes any State, the District of Columbia, and Puerto Rico;

(d) The term "corporation" means a public corporation and a private corporation, as defined in this Act [19 U.S.C. §§ 81a et seq.];

(e) The term "public corporation" means a State, political subdivision thereof, a municipality, a public agency of a State, political subdivision thereof, or municipality, or a corporate municipal instrumentality of one or more States;

(f) The term "private corporation" means any corporation (other than public corporation) which is organized for the purpose of establishing, operating, and maintaining a foreign-trade zone and which is chartered under special Act enacted after the date of enactment of this Act [enacted June 18, 1934] of the State or States within which it is to operate such zone;

(g) The term "applicant" means a corporation applying for the right to establish, operate, and maintain a foreign-trade zone;

(h) The term "grantee" means a corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted;

(i) The term "zone" means a "foreign-trade zone" as provided in this Act [19 U.S.C. §§ 81a et seq.].

19 U.S.C. § 81b Establishment of zones

(a) Board authorization to grant zones

The Board is authorized, subject to the conditions and restrictions of this chapter and of the rules and regulations made thereunder, upon application as hereinafter provided, to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States.

(b) Number of zones per port of entry

Each port of entry shall be entitled to at least one zone, but when a port of entry is located within the confines of more than one State such port of entry shall be entitled to a zone in each of such States, and when two cities separated by water are embraced in one port of entry, a zone may be authorized in each of said cities or in territory adjacent thereto. Zones in addition to those to which a port of entry is entitled shall be authorized only if the Board finds that existing or authorized zones will not adequately serve the convenience of commerce.

(c) Preference to public corporations

In granting applications preference shall be given to public corporations.

(d) Ownership of harbor facilities by State

In case of any State in which harbor facilities of any port of entry are owned and controlled by the State and in which State harbor facilities of any other port of entry are owned and controlled by a municipality, the Board shall not grant an application by any public corporation for the establishment of any zone in such State, unless such application has been authorized by an Act of the legislature of such State (enacted after June 18, 1934).

19 U.S.C. § 81c Admission of foreign merchandise; treatment; shipment to customs territory; appraisal; reshipment to zone

(a) [Caution: See note below for applicability of Dec. 8, 1993 amendments to this section.] Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in this Act [19 U.S.C. §§ 81a et seq.], be brought into a zone and may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, or be manufactured except as otherwise provided in this Act [19 U.S.C. §§ 81a et seq.], and be exported, destroyed, or sent into customs territory of the United States therefrom, 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 and there has been no manipulation or manufacture effecting a change in tariff classification, the appropriate customs officer shall take under supervision any lot or part of a lot of foreign merchandise in a zone, cause it to be appraised and taxes determined and duties liquidated thereon. Merchandise so taken under supervision may be stored, manipulated, or manufactured under the 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 article. 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. Where two or more products result from the manipulation or manufacture of merchandise in a zone the liquidated duties and determined taxes shall be distributed to the several products in accordance with 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, if subject thereto, and articles previously imported on which duty and/or tax has 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 appropriate customs officer, and whether or not they have been combined with or made part, while in such zone, of 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 noncompliance 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 thereunder; and

(2) the statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.

Such a transfer may also be considered an exportation for the purposes of other 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 deems such return to be in the public interest, in which event the articles shall be subject to the provisions of 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 or production of alcoholic products unfit for beverage purposes) which were permissible under this Act [19 U.S.C. §§ 81a et seq.] prior to July 1, 1949: *Provided further*, That articles produced or manufactured in a 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 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 this section, may, on such importation, be entered as American goods returned: *Provided, further*, That no merchandise that consists of goods subject to NAFTA drawback, as defined in section 203(a) of the North American Free Trade Agreement Implementation Act [19 U.S.C. § 3333 (a)], that is manufactured or otherwise changed in condition

shall be exported to a NAFTA country, as defined in section 2(4) of that Act [19 U.S.C. § 3301 (4)], without an assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of its exportation (or if the privilege in the first proviso to this subsection was requested, an assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of its admission into the zone) and the payment of the assessed duty before the 61st day after the date of exportation of the article, except that upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid or owed to the NAFTA country on the article, the customs duty may be waived or reduced (subject to section 508(b)(2)(B) of the Tariff Act of 1930 [19 U.S.C. § 1508 (b)(2)(B)]) in an amount that does not exceed the lesser of (1) the total amount of customs duties paid or owed on the merchandise on importation into the United States, or (2) the total amount of customs duties paid on the article to the NAFTA country: *Provided, further*, That, if Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, with the exception of drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 [19 U.S.C. § 2112 note], no article manufactured or otherwise changed in condition (except a change by cleaning, testing or repacking) shall be exported to Canada during the period such Agreement is in operation without the payment of a duty that shall be payable on the article in its condition and quantity, and at its weight, at the time of its exportation to Canada unless the privilege in the first proviso to this subsection was requested.

(b) The exemption from the customs laws of the United States provided under subsection (a) shall not be available on or before December 31, 1992, to bicycle component parts unless such parts are reexported from the United States, whether in the original package, as components of a completely assembled bicycle, or otherwise.

(c) (1) Notwithstanding the provisions of the fifth proviso of subsection (a), any article (within the meaning of section 5002(a)(14) of the Internal Revenue Code of 1986 [26 U.S.C. § 5002 (a)(14)]) may be manufactured or produced from denatured distilled spirits which have been withdrawn free of tax from a distilled spirits plant (within the meaning of section 5002(a)(1) of the Internal Revenue Code of 1986 [26 U.S.C. § 5002 (a)(1)]), and articles thereof, in a zone.

(2) Notwithstanding the provisions of the fifth proviso of subsection (a), distilled spirits which have been removed from a distilled spirits plant (as defined in section 5002(a)(1) of the Internal Revenue Code of 1986 [26 U.S.C. § 5002 (a)(1)]) upon payment or determination of tax may be used in the manufacture or production of medicines, medicinal preparation, food products, flavors, or flavoring extracts, which are unfit for beverage purposes, in a zone. Such products will be eligible for drawback under the internal revenue laws under the same conditions applicable to similar manufacturing or production operations occurring in customs territory.

(d) In regard to the calculation of relative values in the operations of petroleum refineries in a foreign trade zone, the time of separation is defined as the entire manufacturing period. The price of products required for computing relative values shall be the average per unit value of each product for the manufacturing period. Definition and attribution of

products to feedstocks for petroleum manufacturing may be either in accordance with Industry Standards of Potential Production on a Practical Operating Basis as verified and adopted by the Secretary of the Treasury (known as producibility) or such other inventory control method as approved by the Secretary of the Treasury that protects the revenue.

(e) Production equipment. (1) In general. Notwithstanding any other provision of law, if all applicable customs laws are complied with (except as otherwise provided in this subsection), merchandise which is admitted into a foreign trade zone for use within such zone as production equipment or as parts for such equipment, shall not be subject to duty until such merchandise is completely assembled, installed, tested, and used in the production for which it was admitted.

(2) Admission procedures. The person who admits the merchandise described in paragraph (1) into the zone shall, at the time of such admission, certify to the Customs Service that the merchandise is admitted into the zone pursuant to this subsection for use within the zone as production equipment or as parts for such equipment and that the merchandise will be entered and estimated duties deposited when use of the merchandise in production begins.

(3) Entry procedures. At the time use of the merchandise in production begins, the merchandise shall be entered, as provided for in section 484 of the Tariff Act of 1930 [19 U.S.C. § 1484], and estimated duties shall be deposited with the Customs Service. The merchandise shall be subject to tariff classification according to its character, condition, and quantity, and at the rate of duty applicable, at the time use of the merchandise in production begins.

(4) Foreign trade zone. For purposes of this subsection, the term "foreign trade zone" includes a subzone.

19 U.S.C. § 81d Customs officers and guards

The Secretary of the Treasury shall assign to the zone the necessary customs officers and guards to protect the revenue and to provide for the admission of foreign merchandise into customs territory.

19 U.S.C. § 81e Vessels entering or leaving zone; coastwise trade

Vessels entering or leaving a zone shall be subject to the operation of all the laws of the United States, except as otherwise provided in this chapter, and vessels leaving a zone and arriving in customs territory of the United States shall be subject to such regulations to protect the revenue as may be prescribed by the Secretary of the Treasury. Nothing in this chapter shall be construed in any manner so as to permit vessels under foreign flags to carry goods or merchandise shipped from one foreign trade zone to another zone or port in the protected coastwise trade of the United States.

19 U.S.C. § 81f Application for establishment and expansion of zone

(a) Application for establishment; requirements
Each application shall state in detail--

(1) The location and qualifications of the area in which it is proposed to establish a zone, showing (A) the land and water or land or water area or land area alone if the application is for its establishment in or adjacent to an interior

port; (B) the means of segregation from customs territory; (C) the fitness of the area for a zone; and (D) the possibilities of expansion of the zone area;

(2) The facilities and appurtenances which it is proposed to provide and the preliminary plans and estimate of the cost thereof, and the existing facilities and appurtenances which it is proposed to utilize;

(3) The time within which the applicant proposes to commence and complete the construction of the zone and facilities and appurtenances;

(4) The methods proposed to finance the undertaking;

(5) Such other information as the Board may require.

(b) Amendment of application; expansion of zone

The Board may upon its own initiative or upon request permit the amendment of the application. Any expansion of the area of an established zone shall be made and approved in the same manner as an original application.

19 U.S.C. § 81g Granting of application

If the Board finds that the proposed plans and location are suitable for the accomplishment of the purpose of a foreign trade zone under this chapter, and that the facilities and appurtenances which it is proposed to provide are sufficient it shall make the grant.

19 U.S.C. § 81h Rules and regulations

The Board shall prescribe such rules and regulations not inconsistent with the provisions of this chapter or the rules and regulations of the Secretary of the Treasury made hereunder and as may be necessary to carry out this chapter.

19 U.S.C. § 81i Cooperation of Board with other agencies

The Board shall cooperate with the State, subdivision, and municipality in which the zone is located in the exercise of their police, sanitary, and other powers in and in connection with the free zone. It shall also cooperate with the United States Customs Service, the United States Postal Service, the Public Health Service, the Immigration and Naturalization Service, and such other Federal agencies as have jurisdiction in ports of entry described in section 81b of this title.

19 U.S.C. § 81j Cooperation of other agencies with Board

For the purpose of facilitating the investigations of the Board and its work in the granting of the privilege, in the establishment, operation, and maintenance of a zone, the President may direct the executive departments and other establishments of the Government to cooperate with the Board, and for such purpose each of the several departments and establishments is authorized, upon direction of the President, to furnish to the Board such records, papers, and information in their possession as may be required by him, and temporarily to detail to the service of the Board such officers, experts, or engineers as may be necessary.

19 U.S.C. § 81k Agreements as to use of property

If the title to or right of user of any of the property to be included in a zone is in the United States, an agreement to use

such property for zone purposes may be entered into between the grantee and the department or officer of the United States having control of the same, under such conditions, approved by the Board and such department or officer, as may be agreed upon.

19 U.S.C. § 81i Facilities to be provided and maintained

Each grantee shall provide and maintain in connection with the zone--

(a) Adequate slips, docks, wharves, warehouses, loading and unloading and mooring facilities where the zone is adjacent to water; or, in the case of an inland zone, adequate loading, unloading, and warehouse facilities;

(b) Adequate transportation connections with the surrounding territory and with all parts of the United States, so arranged as to permit of proper guarding and inspection for the protection of the revenue;

(c) Adequate facilities for coal or other fuel and for light and power;

(d) Adequate water and sewer mains;

(e) Adequate quarters and facilities for the officers and employees of the United States, State, and municipality whose duties may require their presence within the zone;

(f) Adequate enclosures to segregate the zone from customs territory for protection of the revenue, together with suitable provisions for ingress and egress of persons, conveyances, vessels, and merchandise;

(g) Such other facilities as may be required by the Board.

19 U.S.C. § 81m Permission to others to use zone

The grantee may, with the approval of the Board, and under reasonable and uniform regulations 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 their particular requirements: *Provided*, That such permission shall not constitute a vested right as against the United States, nor interfere with the regulation of the grantee or the permittee by the United States, nor interfere with or complicate the revocation of the grant by the United States: *And provided further*, 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 provided further*, That such permits shall not be granted on terms that conflict with the public use of the zone as set forth in this chapter.

19 U.S.C. § 81n Operation of zone as public utility; cost of customs service

Each zone shall be operated as a public utility, and all rates and charges for all services or 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 and the cost of maintaining the additional customs service required under this chapter shall be paid by the operator of the zone.

19 U.S.C. § 81o Residents of zone

(a) Persons allowed to reside in 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.

(b) Rules and regulations for employees entering and leaving zone

The Board shall prescribe rules and regulations regarding employees and other persons entering and leaving the zone. All rules and regulations concerning the protection of the revenue shall be approved by the Secretary of the Treasury.

(c) Exclusion from zone of goods or process of treatment

The Board may at any time order the exclusion from the zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety.

(d) 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.

(e) Exemption from State and local ad valorem taxation of tangible personal property Tangible personal property imported from outside the United States and held in a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, shall be exempt from State and local ad valorem taxation.

19 U.S.C. § 81p Accounts and recordkeeping

(a) Manner of keeping accounts

The form and manner of keeping the accounts of each zone shall be prescribed by the Board.

(b) Annual report by grantee

Each grantee shall make to the Board annually, and at such other times as it may prescribe, reports on zone operations.

(c) Report to Congress

The Board shall make a report to Congress annually containing a summary of zone operations.

19 U.S.C. § 81q Transfer of grant

The grant shall not be sold, conveyed, transferred, set over, or assigned.

19 U.S.C. § 81r Revocation of grants

(a) Procedure for revocation

In the event of repeated willful violations of any of the provisions of this chapter by the grantee, the Board may revoke the grant after four months' notice to the grantee and affording it an opportunity to be heard. The testimony taken before the Board shall be reduced to writing and filed in the records of the Board together with the decision reached thereon.

(b) Attendance of witnesses and production of evidence

In the conduct of any proceeding under this section for the revocation of a grant the Board may compel the attendance of witnesses and the giving of testimony and the production of

Documentary evidence, and for such purpose may invoke the aid of the district courts of the United States.

(c) Nature of order of revocation; appeal

An order under the provisions of this section revoking the grant issued by the Board shall be final and conclusive, unless within ninety days after its service the grantee appeals to the court of appeals for the circuit in which the zone is located by filing with the clerk of said court a written petition praying that the order of the Board be set aside. Such order shall be stayed pending the disposition of appellate proceedings by the court. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Board and it shall thereupon file in the court the record in the proceedings held before it under this section, as provided in section 2112 of title 28. The testimony and evidence taken or submitted before the Board, duly certified and filed as a part of the record, shall be considered by the court as the evidence in the case.

19 U.S.C. § 81s Offenses

In case of a violation of this chapter, or any regulation

under this chapter, by the grantee, any officer, agent or employee thereof responsible for or permitting any such violation shall be subject to a fine of not more than \$1,000. Each day during which a violation continues shall constitute a separate offense.

19 U.S.C. § 81t Separability

If any provision of this chapter or the application of such provision to certain circumstances be held invalid, the remainder of this chapter and the application of such provisions to circumstances other than those as to which it is held invalid shall not be affected thereby.

19 U.S.C. § 81u Right to alter, amend, or repeal chapter

The right to alter, amend, or repeal this chapter is reserved.

Taken from <http://www.customs.ustreas.gov/imp-exp/rulings/t19custm/usc16.html> on October 21, 1997
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**FOREIGN TRADE-ZONES BOARD REGULATIONS
15 C.F.R. PART 400**

FOREIGN-TRADE ZONES BOARD REGULATIONS

PART 400--REGULATIONS OF THE FOREIGN-TRADE ZONES BOARD

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AUTHORITY: Foreign-Trade Zones Act of June 18, 1934, (Pub. L. 397, 73rd Congress; 48 Stat. 998-1003; 19 U.S.C. 81a-81u), as amended.

Subpart A--Scope and Definitions

§ 400.1 Scope.

(a) This part sets forth the regulations, including the rules of practice and procedure, of the Foreign-Trade Zones Board with regard to foreign-trade zones in the United States pursuant to the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u). It includes the substantive and procedural rules for the authorization of zones and the regulation of zone activity. The purpose of zones as stated in the Act is to "expedite and encourage foreign commerce, and other purposes." The regulations provide the legal framework for accomplishing this purpose in the context of evolving U.S. economic and trade policy, and economic factors relating to international competition.

(b) Part 146 of the regulations of the United States Customs Service (19 CFR part 146) governs zone operations, including the admission of merchandise into zones, zone activity involving such merchandise, and the transfer of merchandise from zones.

(c) To the extent "activated" under Customs procedures in 19 CFR part 146, and only for the purposes specified in the Act (19 U.S.C. 81c), zones are treated for purposes of the tariff laws and Customs entry procedures as being outside the Customs territory of the United States. Under zone procedures, foreign and domestic merchandise may be admitted into zones for operations such as storage, exhibition, assembly, manufacture and processing, without being subject to formal Customs entry procedures and payment of duties, unless and until the foreign merchandise enters Customs territory for domestic consumption. At that time, the importer ordinarily has a choice of paying duties either at the rate applicable to the foreign material in its condition as admitted into a zone, or if used in manufacturing or processing, to the emerging product. Quota restrictions do not normally apply to foreign goods in zones. The Board can deny or limit the use of zone procedures in specific cases on public interest grounds. Merchandise moved into zones for export (zone-restricted status) may be considered exported for purposes such as federal excise tax rebates and Customs drawback. Foreign merchandise (tangible personal property) admitted to a zone and domestic merchandise held in a zone for exportation are exempt from certain state and local *ad valorem* taxes (19 U.S.C. 81o(e)). Articles admitted into zones for purposes not specified in the Act shall be subject to the tariff laws and regular entry procedures, including the payment of applicable duties, taxes, and fees.

§ 400.2 Definitions.

(a) *Act* means the Foreign-Trade Zones Act of 1934, as amended.

(b) *Board* means the Foreign-Trade Zones Board, which consists of the Secretary of the Department of Commerce

(chairman), the Secretary of the Treasury, and the Secretary of the Army, or their designated alternates.

(c) *Customs Service* means the United States Customs Service of the Department of the Treasury.

(d) *District Director* is the director of Customs for the Customs district in which a zone or proposed zone is located.

(e) *District Engineer* is the engineer of the Department of the Army in whose district a zone or proposed zone is located.

(f) *Executive Secretary* is the Executive Secretary of the Foreign-Trade Zones Board.

(g) *Foreign-trade zone* is a restricted-access site, in or adjacent to a Customs port of entry, operated pursuant to public utility principles under the sponsorship of a corporation granted authority by the Board and under supervision of the Customs Service.

(h) *Grant of authority* is a document issued by the Board which authorizes a zone grantee to establish, operate and maintain a zone project or a subzone, subject to limitations and conditions specified in this part and in 19 CFR part 146. The authority to establish a zone includes the authority to operate and the responsibility to maintain it.

(i) *Manufacturing*, as used in this part, means activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use.

(j) *Port of entry* means a port of entry in the United States, as defined by part 101 of the regulations of the Customs Service (19 CFR part 101), or a user fee airport authorized under 19 U.S.C. 58b and listed in part 122 of the regulations of the Customs Service (19 CFR part 122).

(k) *Private corporation* means any corporation, other than a public corporation, which is organized for the purpose of establishing a zone project and which is chartered for this purpose under a law of the state in which the zone is located.

(l) *Processing*, when referring to zone activity, means any activity involving a change in condition of merchandise, other than manufacturing, which results in a change in the Customs classification of an article or in its eligibility for entry for consumption.

(m) *Public corporation* means a state, a political subdivision (including a municipality) or public agency thereof, or a corporate municipal instrumentality of one or more states.

(n) *Regional Commissioner* is the Regional Commissioner of Customs for the Customs region in which the zone is located.

(o) *State* includes any state of the United States, the District of Columbia, and Puerto Rico.

(p) *Subzone* means a special-purpose zone established as an adjunct to a zone project for a limited purpose.

(q) *Zone* means a foreign-trade zone established under the provisions of the Act and these regulations. Where used in this part, the term also includes subzones, unless the context indicates otherwise.

(r) *Zone grantee* is the corporate recipient of a grant of authority for a zone project. Where used in this part, the term "grantee" means "zone grantee" unless otherwise indicated.

(s) *Zone operator* is a corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee or an intermediary entity, with the concurrence of the District Director.

(t) *Zone project* means the zone plan, including all of the zone and subzone sites that the Board authorizes a single

grantee to establish.

(u) *Zone site* means the physical location of a zone or subzone.

(v) *Zone user* is a party using a zone under agreement with the zone grantee or operator.

Subpart B--Foreign-Trade Zones Board

§ 400.11 Authority of the Board.

(a) *In general.* In accordance with the Act and procedures of this part, the Board has authority to:

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

(b) *Authority of the Chairman of the Board.* The Chairman of the Board (Secretary of the Department of Commerce) has the authority to:

- (1) Appoint the Executive Secretary of the Board;
- (2) Call meetings of the Board, with reasonable notice given to each member; and,
- (3) Submit to the Congress the Board's annual report as prepared by the Executive Secretary.

(c) *Alternates.* Each member of the Board will designate an alternate with authority to act in an official capacity for that member.

(d) *Determinations of the Board.* (1) The determinations of the Board will be based on the majority vote of the members (or alternate members) of the Board, provided that a quorum, composed of the Secretaries of the Departments of Commerce and Treasury (or their alternates), is voting.

- (2) All votes will be recorded.
- (3) The Board will issue its determination in proceedings under the regulations in the form of a Board order.

§ 400.12 Responsibilities and authority of the Executive Secretary.

The Executive Secretary has the following responsibilities and authority:

- (a) Represent the Board in administrative, regulatory, operational, and public affairs matters;
- (b) Serve as director of the Commerce Department's Foreign-Trade Zones staff;
- (c) Execute and implement orders of the Board;
- (d) Arrange meetings and direct circulation of action

documents for the Board;

(e) Arrange with other sections of the Department of Commerce, Board agencies and other governmental agencies for studies and comments on zone issues and proposals;

(f) Maintain custody of the seal, records, files and correspondence of the Board, with disposition subject to the regulations of the Department of Commerce;

(g) Issue notices on zone matters for publication in the FEDERAL REGISTER;

(h) Determine subzone sponsorship questions as provided in § 400.22(d);

(i) Determine whether additional information is needed for evaluation of applications and other requests for decisions under this part, as provided for in various sections of this part, including §§ 400.24, 400.25, and 400.26;

(j) Issue guidelines on information required for subzone applications under § 400.25(a)(6);

(k) Determine whether proposed modifications involve major changes under § 400.26(a)(2);

(l) Determine whether applications meet prefiling requirements under § 400.27(b);

(m) Direct processing of applications, including designation of examiners and scheduling of hearings under §§ 400.27 and 400.32;

(n) Authorize minor modifications to zone projects under § 400.27(f);

(o) Review changes in sourcing under § 400.28(a)(3);

(p) Direct monitoring of zone activity under § 400.31(d);

(q) Direct reviews and make recommendations on requests for manufacturing/processing approvals under § 400.32(b);

(r) Determine questions of scope under § 400.32(c);

(s) Accept rate schedules and determine their sufficiency under § 400.42(b)(3);

(t) Review and decide zone rate complaints cases under § 400.42(b)(5);

(u) Make recommendations in cases involving questions as to whether zone activity should be prohibited or restricted for public interest reasons, including reviews under § 400.43;

(v) Authorize under certain circumstances the return of "zone-restricted merchandise" for entry into Customs territory under § 400.44;

(w) Authorize certain duty-paid retail trade under § 400.45;

(x) Determine the format for the annual reports of zone grantees to the Board and direct preparation of an annual report to Congress from the Board under § 400.46(d); and,

(y) Designate an acting Executive Secretary.

§ 400.13 Board headquarters.

The headquarters of the Board is located within the U.S. Department of Commerce (Herbert C. Hoover Building), Pennsylvania Avenue and 14th Street, NW, Washington, DC 20230, as part of the office of the Foreign-Trade Zones staff.

Subpart C--Establishment and Modification of Zone Projects

§ 400.21 Number and location of zones and subzones.

(a) *Number of zone projects--port of entry entitlement.* (1) Provided that the other requirements of this subpart are met:

(i) Each port of entry is entitled to at least one zone project;

(ii) If a port of entry is located in more than one state, each of the states in which the port of entry is located is entitled to

a zone project; and,

(iii) If a port of entry is defined to include more than one city separated by a navigable waterway, each of the cities is entitled to a zone project.

(2) Zone projects in addition to those approved under the entitlement provision of paragraph (a)(1) of this section may be authorized by the Board if it determines that existing project(s) will not adequately serve the public interest (convenience of commerce).

(b) *Location of zones and subzones--port of entry adjacency requirements.* (1) The Act provides that the Board may approve "zones in or adjacent to ports of entry" (19 U.S.C. 81b).

(2) The "adjacency" requirement is satisfied if:

(i) A general-purpose zone is located within 60 statute miles or 90 minutes' driving time from the outer limits of a port of entry.

(ii) A subzone meets the following requirements relating to Customs supervision:

(A) Proper Customs oversight can be accomplished with physical and electronic means; and,

(B) All electronically produced records are maintained in a format compatible with the requirements of the U.S. Customs Service for the duration of the record period; and,

(C) The grantee/operator agrees to present merchandise for examination at a Customs site selected by Customs when requested, and further agrees to present all necessary documents directly to the Customs oversight office.

§ 400.22 Eligible applicants.

(a) *In general.* Subject to the other provisions of this section, public or private corporations may apply for a grant of authority to establish a zone project. The Board will give preference to public corporations.

(b) *Public and non-profit corporations.* The eligibility of public and non-profit corporations to apply for a grant of authority shall be supported by enabling legislation of the legislature of the state in which the zone is to be located, indicating that the corporation, individually or as part of a class, is authorized to so apply.

(c) *Private for-profit corporations.* The eligibility of private for-profit corporations to apply for a grant of authority shall be supported by a special act of the state legislature naming the applicant corporation and by evidence indicating that the corporation is chartered for the purpose of establishing a zone.

(d) *Applicants for subzones.* (1) *Eligibility.* The following entities are eligible to apply for a grant of authority to establish a subzone:

(i) The zone grantee of the closest zone project in the same state;

(ii) The zone grantee of another zone in the same state, which is a public corporation, if the Board, or the Executive Secretary, finds that such sponsorship better serves the public interest; or,

(iii) A state agency specifically authorized to submit such an application by an act of the state legislature.

(2) *Complaints.* If an application is submitted under paragraph (d)(1)(ii) or (iii) of this section, the Executive Secretary will:

(i) Notify, in writing, the grantee specified in paragraph (d)(1)(i) of this section, who may, within 30 days, object to such sponsorship, in writing, with supporting information as

to why the public interest would be better served by its acting as sponsor.

(ii) Review such objections prior to filing the application to determine whether the proposed sponsorship is in the public interest, taking into account:

- (A) The complaining zone's structure and operation;
- (B) The views of state and local public agencies; and,
- (C) The views of the proposed subzone operator.

(iii) Notify the applicant and complainants in writing of the Executive Secretary's determination.

(iv) The application will be filed if the Executive Secretary determines that the proposed sponsorship is in the public interest (see, § 400.47 regarding appeals to decisions of the Executive Secretary).

§ 400.23 Criteria for grants of authority for zones and subzones.

(a) *Zones.* The Board will consider the following factors in determining whether to issue a grant of authority for a zone project:

(1) The need for zone services in the port of entry area, taking into account existing as well as projected international trade related activities and employment impact;

(2) The adequacy of the operational and financial plans and the suitability of the proposed sites and facilities, with justification for duplicative sites;

(3) The extent of state and local government support, as indicated by the compatibility of the zone project with the community's master plan or stated goals for economic development and the views of state and local public officials involved in economic development. Such officials shall avoid commitments that anticipate outcome of Board decisions;

(4) The views of persons and firms likely to be affected by proposed zone activity; and,

(5) If the proposal involves manufacturing or processing activity, the criteria in § 400.31.

(b) *Subzones.* In reviewing proposals for subzones the Board will also consider:

(1) Whether the operation could be located in or otherwise accommodated by the multi-purpose facilities of the zone project serving the area;

(2) The specific zone benefits sought and the significant public benefit(s) involved supported by evidence to meet the requirement in § 400.31(c); and,

(3) Whether the proposed activity is in the public interest, taking into account the criteria in § 400.31.

§ 400.24 Application for zone.

(a) *In general.* An application for a grant of authority to establish a zone project shall consist of a transmittal letter, an executive summary and five exhibits.

(b) *Letter of transmittal.* The transmittal letter shall be currently dated and signed by an authorized officer of the corporation and bear the corporate seal.

(c) *Executive summary.* The executive summary shall describe:

- (1) The corporation's legal authority to apply;
- (2) The type of authority requested from the Board;
- (3) The proposed zone site and facilities and the larger project of which the zone is a part;
- (4) The project background, including surveys and studies;
- (5) The relationship of the project to the community's and

state's overall economic development plans and objectives;

(6) The plans for operating and financing the project; and,

(7) Any additional pertinent information needed for a complete summary description of the proposal.

(d) *Exhibits.* (1) Exhibit One (Legal Authority for the Application) shall consist of:

(i) A certified copy of the state enabling legislation described in § 400.22;

(ii) A copy of pertinent sections of the applicant's charter or organization papers; and,

(iii) A certified copy of the resolution of the governing body of the corporation authorizing the official signing the application.

(2) Exhibit Two (Site Description) shall consist of:

(i) A detailed description of the zone site, including size, location, address, and a legal description of the area proposed for approval; a table with site designations shall be included when more than one site is involved;

(ii) A summary description of the larger project of which the zone is a part, including type, size, location and address;

(iii) A statement as to whether the zone is within or adjacent to a customs port of entry;

(iv) A description of zone facilities and services, including dimensions and types of existing and proposed structures;

(v) A description of existing or proposed site qualifications including: land-use zoning, relationship to flood-plain, infrastructure, utilities, security, and access to transportation services;

(vi) A description of current activities carried on in or contiguous to the project;

(vii) If part of a port facility, a summary of port and transportation services and facilities; if not, a summary description of transportation systems indicating connections from local and regional points of arrival to the zone; and,

(viii) A statement as to the possibilities and plans for zone expansion.

(3) Exhibit Three (Operation and Financing) shall consist of:

(i) A statement as to site ownership (if not owned by the applicant or proposed operator, evidence as to their legal right to use the site);

(ii) A discussion of the operational plan (if the zone or a portion thereof is to be operated by other than the grantee, a summary of the selection process used or to be used, the type of operation agreement and, if available, the name and qualifications of the proposed operator);

(iii) A brief explanation of the plans for providing facilities, physical security, and for satisfying the requirements for Customs automated systems;

(iv) A summary of the plans for financing capital and operating costs, including a statement as to the source and use of funds; and,

(v) The estimated time schedule for construction and activation.

(4) Exhibit Four (Economic Justification) shall include:

(i) A statement of the community's overall economic goals and strategies in relation to those of the region and state;

(ii) A reference to the plan or plans on which the goals are based and how they relate to the zone project;

(iii) An economic profile of the community including identification and discussion of dominant sectors in terms of percentage of employment or income, area resources and problems, economic imbalances, unemployment rates, area foreign trade statistics, and area port facilities and

transportation networks:

(iv) A statement as to the role and objective of the zone project, and a justification for each of the proposed sites;

(v) A discussion of the anticipated economic impact, direct and indirect, of the zone project, including references to public costs and benefits, employment, U.S. international trade, and environmental impact;

(vi) A statement as to the need for zone services in the community, with information on surveys of business, and specific expressions of interest from proposed zone users, with letters of intent from those firms that are considered prime prospects; and,

(vii) A description of proposed manufacturing and processing operations, if applicable, with information covering the factors described in § 400.31(b), including the nature and scope of the operation and production process, materials and components used, items to be foreign sourced with relevant tariff information, zone benefits anticipated and how they will affect the firm's plans, and the economic impact of the operation on the community and on related domestic industries.

(5) Exhibit Five (Maps) shall consist of:

(i) State and county maps showing the general location of the zone in terms of the area's transportation network;

(ii) A U.S. Geodetic Survey map or the equivalent showing in red the location of the proposed zone; and,

(iii) A detailed blueprint of the zone or subzone area showing zone boundaries in red, with dimensions and metes and bounds, or other legal description, and showing existing and proposed structures.

(iv) Proposals involving existing zones shall include a drawing showing existing zone sites and the proposed changes.

(e) *Additional information.* The Board or the Executive Secretary may require additional information needed to adequately evaluate a proposal.

(f) *Amendment of application.* The Board or the Executive Secretary may allow amendment of the application.

(g) *Drafts.* Applicants may submit a draft application to the Executive Secretary for review.

(h) *Format and number of copies.* Unless the Executive Secretary alters the requirements of this paragraph, submit an original and 12 copies of the application on 8 1/2" x 11" (216 x 279 mm) paper. Exhibit Five of the original application shall contain full-sized maps, and copies shall contain letter-sized reductions.

(i) *Where to file.* Address and mail the application to the Secretary of Commerce, Attention: Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW, Washington, DC 20230.

(Approved by the Office of Management and Budget under control number 0625-0139)

§ 400.25 Application for subzone.

(a) *In general.* An application to establish a subzone as part of a proposed or existing zone shall be submitted in accordance with the format in § 400.24, except that the focus of the information provided in Exhibit Four shall be on the specific activity involved and its net economic effect. The information submitted in Exhibit Four shall include:

(1) A summary as to the reasons for the subzone and an

explanation of its anticipated economic effects;

(2) Identity of the subzone user and its corporate affiliation;

(3) Description of the proposed activity, including:

(i) Products;

(ii) Materials and Components;

(iii) Sourcing plans (domestic/foreign);

(iv) Tariff rates and other import requirements or restrictions;

(v) Information to assist the Board in making a determination under §§ 400.31(b)(1)(iii) and 400.31(b)(2);

(vi) Benefits to subzone user;

(vii) Information required in § 400.24(d)(4)(vii);

(viii) Information as to whether alternative procedures have been considered as a means of obtaining the benefits sought;

(ix) Information on the industry involved and extent of international competition; and,

(x) Economic impact of the operation on the area.

(4) Reason operation cannot be conducted within a general-purpose zone;

(5) Statement as to environmental impact; and,

(6) Any additional information requested by the Board or the Executive Secretary in order to conduct the review. The Executive Secretary may issue guidelines as to the kind of detailed information needed for various types of subzone cases.

(b) *Burden of proof.* An applicant for a subzone must demonstrate to the Board that the proposed operation meets the criteria in § 400.23(b).

(Approved by the Office of Management and Budget under control number 0625-0139)

§ 400.26 Application for expansion or other modification to zone project.

(a) *In general.* (1) A grantee may apply to the Board for authority to expand or otherwise modify its zone project.

(2) The Executive Secretary, in consultation with the District Director, will determine whether the proposed modification involves a major change in the zone plan and is thus subject to paragraph (b) of this section, or is minor and subject to paragraph (c) of this section. In making this determination the Executive Secretary will consider the extent to which the proposed modification would:

(i) Substantially modify the plan originally approved by the Board; or,

(ii) Expand the physical dimensions of the approved zone area as related to the scope of operations envisioned in the original plan.

(b) *Major modification to zone project.* An application for a major modification to an approved zone project shall be submitted in accordance with the format in § 400.24, except that:

(1) Reference may be made to current information in an application from the same applicant on file with the Board; and,

(2) The content of Exhibit Four shall relate specifically to the proposed change.

(c) *Minor modification to zone project.* Other applications or requests under this subpart, including those for minor revisions of zone boundaries, grant of authority transfers, or time extensions, shall be submitted in letter form with information and documentation necessary for analysis, as

determined by the Executive Secretary, who shall determine whether the proposed change is a minor one subject to this paragraph (c) instead of (b) of this part (see, § 400.27(f)).

(d) *Applications for other revisions to grants of authority.* Applications or requests for revisions to grants of authority, such as restriction modifications, shall be submitted in letter form with information and documentation necessary for analysis, as determined by the Executive Secretary. If the change involves removal or significant modification of a restriction included by the Board in a grant of authority, the review procedures of § 400.32 shall apply. If not, the procedure set forth in § 400.27(f) shall apply.

(Approved by the Office of Management and Budget under control number 0625-0139)

§ 400.27 Procedure for processing application.

(a) *In general.* This section outlines the procedure followed in processing applications submitted under §§ 400.24 - 400.26. In addition, it sets forth the time schedules which will normally be applied in processing applications. The schedules will provide guidance to applicants with respect to the time frames for each of the procedural steps involved in the Board's review. Under these schedules, applications involving manufacturing or processing activity would be processed within 1 year, and those not involving such activity, within 10 months. While the schedules set forth a standard time frame, the Board may determine that it requires additional time based on special circumstances, such as when the public comment period must be reopened pursuant to paragraphs (d)(2)(v)(B) and (d)(3)(vi)(B) of this section.

(b) *Prefiling review.* Applications subject to § 400.29 shall be accompanied with a check in accordance with that section, and will be dated upon receipt at the headquarters of the Board. The Executive Secretary will determine whether the application satisfies the requirements of §§ 400.22, 400.24, 400.25, 400.26, 400.32, and other applicable provisions of this part.

(1) If the application is deficient, the Executive Secretary will notify the applicant within 20 days of receipt of the application, specifying the deficiencies. The applicant shall correct the deficiencies and submit the corrected application within 30 days of notification. Otherwise, the application (original) will be returned.

(2) If the application is sufficient, the Executive Secretary will within 45 days of receipt of the application:

(i) Formally file the application, thereby initiating the proceeding or review;

(ii) Assign a case docket number in cases requiring a Board order; and,

(iii) Notify the applicant.

(c) *Procedure--Executive Secretary responsibilities.* After initiating a proceeding based on an application under §§ 400.24, 400.25, or 400.26(b), the Executive Secretary will:

(1) Designate an examiner to conduct a review and prepare a report with recommendations for the Board;

(2) Publish in the Federal Register a notice of the formal filing of the application and initiation of the review which includes the name of the applicant, a description of the zone project, information as to any hearing scheduled at the outset, and an invitation for public comment, including a time period during which the public may submit evidence, factual information, and written arguments. Normally, the comment

period will close 60 days after the date the notice appears, except that, if a hearing is held (see, § 400.51), the period will not close prior to 15 days after the date of the hearing. The closing date for general comment will ordinarily be followed by an additional 15-day period for rebuttal comments:

(3) Send copies of the filing and initiation notice and the application to:

(i) The Commissioner of Customs and the Regional Commissioner, or a designee; and,

(ii) The Resident Member, Board of Engineers for Rivers and Harbors, Department of the Army, and the District Engineer;

(4) Arrange for hearings, as appropriate;

(5) Transmit the reports and recommendations of the examiner and of the officials identified in paragraph (c)(3) of this section to the Board for appropriate action; and,

(6) Notify the applicant in writing and publish notice in the Federal Register of the Board's determination.

(d) *Case reviews-- procedure and time schedule.* (1) *Customs and army engineer review.* The Regional Commissioner (Customs), or a designee, and the District Engineer (Army), in accordance with the regulations and directives of their respective agencies, will submit their technical reports to the Executive Secretary within 45 days of the conclusion of the public comment period described in paragraph (c)(2) of this section.

(2) *Examiners reviews--non-manufacturing/processing.* Examiners assigned to cases not involving manufacturing or processing activity shall conduct a review taking into account the factors enumerated in § 400.23 and other appropriate sections of this part, which shall include:

(i) Conducting or participating in necessary hearings scheduled by the Executive Secretary;

(ii) Reviewing case records, including public comments;

(iii) Requesting information and evidence from parties of record;

(iv) Developing information and evidence necessary for evaluation and analysis of the application in accordance with the criteria of the Act and regulations;

(v) Preparing a report with recommendations to the Board and submitting it to the Executive Secretary within 120 days of the close of the period for public comment (see, paragraph (c)(2) of this section).

(A) If the report is unfavorable to the applicant, it shall be considered a preliminary report and the applicant shall be notified within 5 days (in writing or by phone) and given 30 days from the date of notification in which to respond to the report and submit additional evidence.

(B) If the response contains new evidence on which there has not been an opportunity for public comment, the Executive Secretary will publish notice in the FEDERAL REGISTER after completion of the review of the response. The new material will be made available for public inspection and the Federal Register notice will invite further public comment for 30 days, with an additional 15-day period for rebuttal comments.

(C) The Customs and District Engineer (Army) advisers shall be notified when necessary for their further comments, which shall be submitted within 45 days after their notification.

(D) The examiners report in a situation under paragraph (d)(2)(v)(A) of this subsection shall be completed and submitted to the Executive Secretary within 30 days after receipt of additional evidence or notice from the applicant

that there will be none; except that, if paragraph (d)(2)(v)(B) of this subsection applies, the report will be submitted within 30 days of the close of the period for public comment.

(3) *Examiners reviews--cases involving manufacturing or processing activity.* Examiners shall conduct a review taking into account the factors enumerated in §§ 400.23, 400.31, and other appropriate sections of this part, which shall include:

(i) Conducting or participating in hearings scheduled by the Executive Secretary;

(ii) Reviewing case records, including public comments;

(iii) Requesting information and evidence from parties of record;

(iv) Developing information and evidence necessary for analysis of the threshold factors and the economic factors enumerated in § 400.31;

(v) Conducting an analysis to include:

(A) An evaluation of policy considerations pursuant to §§ 400.31(b)(1)(i) and 400.31(b)(1)(ii);

(B) An evaluation of the economic factors enumerated in §§ 400.31(b)(1)(iii) and 400.31(b)(2), which shall include an evaluation of the economic impact on domestic industry, considering both producers of like products and producers of components/materials used in the manufacture/processing or assembly of the products. The evaluation will take into account such factors as market conditions, price sensitivity, degree and nature of foreign competition, effect on exports and imports, and the net effect on U.S. employment;

(vi) Conducting appropriate industry surveys when necessary; and.

(vii) Preparing a report with recommendations to the Board and submitting it to the Executive Secretary within 150 days of the close of the period for public comment:

(A) If the report is unfavorable to the applicant, it shall be considered a preliminary report and the applicant shall be notified (in writing or by phone) and given 45 days from the date of notification in which to respond to the report and submit additional evidence pertinent to the factors considered in the report.

(B) If the response contains new evidence on which there has not been an opportunity for public comment, the Executive Secretary will publish notice in the FEDERAL REGISTER after completion of the review of the response. The new material will be made available for public inspection and the Federal Register notice will invite further public comment for 30 days, with an additional 15-day period for rebuttal comments.

(e) *Procedure--Completion of review.* (1) The Executive Secretary will circulate the examiners report with recommendations to Board members for their review and votes (by resolution).

(2) The Treasury and Army Board members will return their votes to the Executive Secretary within 30 days, unless a formal meeting is requested (see, § 400.11(d)).

(3) The Commerce Department will complete the decision process within 15 days of receiving the votes of both other Board members, and the Executive Secretary will publish the Board decision.

(f) *Procedure--Application for minor modification of zone project.* (1) The Executive Secretary, with the concurrence of the District Director, will make a determination in cases under § 400.26(c) involving minor changes to zone projects that do not require a Board order, such as boundary modifications, including certain relocations, and will notify the applicant in writing of the decision within 30 days of the

determination that the application or request can be processed under § 400.26(c).

(2) The District Director shall provide the decision as to concurrence within 20 days after being notified of the request or application.

§ 400.28 Conditions, prohibitions and restrictions applicable to grants of authority.

(a) *In general.* Grants of authority issued by the Board for the establishment of zones or subzones, including those already issued, are subject to the Act and this part and the following general conditions or limitations:

(1) Approvals from the grantee and the District Director, pursuant to 19 CFR part 146, are required prior to the activation of any portion of an approved zone project; and.

(2) Approval of the Board or the Commerce Department's Assistant Secretary for Import Administration pursuant to subpart D of this part is required prior to the commencement of manufacturing beyond the scope of that approved as part of the application or pursuant to reviews under this part (e.g., new end products, significant expansions of plant production capacity), and of similar changes in processing activity which involves foreign articles subject to quantitative import controls (quotas) or results in articles subject to a lower (actual or effective) duty rate (inverted tariff) than any of their foreign components.

(3) *Sourcing Changes.* (i) *Notification Requirement.* The grantee or operator of a zone or subzone shall notify the Executive Secretary when there is a change in sourcing for authorized manufacturing or processing activity which involves the use of new foreign articles subject to quotas or inverted tariffs; unless,

(A) Entries for consumption are not to be made at the lower duty rate; or,

(B) The product in which the foreign articles are to be incorporated is being produced for exportation.

(ii) *Notification Procedure.* Notification shall be given prior to the commencement of the activity, when possible, otherwise at the time the new foreign articles arrive in the zone or are withdrawn from inventory for use in production. Requests may be made to the Executive Secretary for authority to submit notification of sourcing changes on a quarterly federal fiscal year basis covering changes in the previous quarter.

(iii) *Reviews.* (A) Upon notification of a sourcing change under paragraph (3)(i) of this subsection, within 30 days, the Executive Secretary will conduct a preliminary review of the changes in relation to the approved activity to determine whether they could have significant adverse effects, taking into account the factors enumerated in § 400.31(b), and will submit a report and recommendation to the Commerce Department's Assistant Secretary for Import Administration, who shall determine whether review is necessary. The procedures of § 400.32(b) shall be used in these situations when appropriate.

(B) The Board or the Commerce Department's Assistant Secretary for Import Administration may, based on public interest grounds, prohibit or restrict the use of zone procedures in regard to the change in sourcing, including requiring that items be placed in privileged foreign status (19 CFR 146.41) upon admission to a zone or subzone.

(C) The Executive Secretary shall direct reviews necessary to ensure that activity involved in these situations continues

to be in the public interest.

(4) Prior to activation of a zone, the zone grantee or operator shall obtain all necessary permits from federal, state and local authorities, and except as otherwise specified in the Act or this part, shall comply with the requirements of those authorities.

(5) A grant of authority for a zone or a subzone shall lapse unless the zone project (in case of subzones, the subzone facility) is activated, pursuant to 19 CFR part 146, and in operation not later than five years from:

(i) A Board order (authorizing the zone or subzone) issued after the effective date of this final rule; or,

(ii) The effective date of this final rule.

(6) A grant of authority approved under this subpart includes authority for the grantee to permit the erection of buildings necessary to carry out the approved zone project subject to concurrence of the District Director.

(7) Zone grantees, operators, and users shall permit federal government officials acting in an official capacity to have access to the zone project and records during normal business hours and under other reasonable circumstances.

(8) A grant of authority may not be sold, conveyed, transferred, set over, or assigned (FTZ Act, section 17; 19 U.S.C. 81q). Private ownership of zone land and facilities is permitted provided the zone grantee retains the control necessary to implement the approved zone project. Should title to land or facilities be transferred after a grant of authority is issued, the zone grantee must retain, by agreement with the new owner, a level of control which allows the grantee to carry out its responsibilities as grantee. The sale of a zone site or facility for more than its fair market value without zone status could, depending on the circumstances, be subject to 7 of the Act.

(9) A grant of authority will not be construed to make the zone grantee automatically liable for violations by operators, users, or other parties.

(b) *Additional conditions, prohibitions and restrictions.* Other requirements, conditions or restrictions under federal, state or local law may apply to the zone or subzone authorized by the grant of authority.

(c) *Revocation of grants of authority.*

(1) *In general.* As provided in this section, the Board can revoke in whole or in part a grant of authority for a zone or subzone whenever it determines that the zone grantee or, in the case of subzones, the subzone operator, has violated, repeatedly and willfully, the provisions of the Act.

(2) *Procedure.* When the Board has reason to believe that the conditions for revocation, as described in paragraph (a) of this section, are met, the Board will:

(i) Notify the zone or subzone grantee in writing stating the nature of the alleged violations, and provide the grantee an opportunity to request a hearing on the proposed revocation;

(ii) Conduct a hearing, if requested or otherwise if appropriate;

(iii) Make a determination on the record of the proceeding not earlier than 4 months after providing notice to the zone grantee under paragraph (b)(1) of this section; and,

(iv) If the Board's determination is affirmative, publish notice of revocation of the grant of authority in the FEDERAL REGISTER.

(3) As provided in section 18 of the Act (19 U.S.C. 81r(c)), the zone or subzone grantee may appeal an order of the Board revoking the grant of authority.

§ 400.29 Application fees.

(a) *In general.* This section sets forth a uniform system of charges in the form of fees to recover some costs incurred by the Foreign-Trade Zones staff of the Department of Commerce in processing the applications listed in paragraph (b). The legal authority for the fees is 31 U.S.C. 9701, which provides for the collection of user fees by agencies of the Federal Government.

(b) *Uniform system of user fee charges.* The following graduated fee schedule establishes fees for certain types of applications and requests for authority based on their average processing time. Applications combining requests for more than one type of approval are subject to the fee for each category.

(1) Additional general-purpose zones (§ 400.24; § 400.21(a)(2))	\$3,200
(2) Special-purpose subzones (§ 400.25):	
(i) Non-manufacturing/processing or less than three products	\$4,000
(ii) Manufacturing/processing--three or more products	\$6,500
(3) Expansions (§ 400.26(b))	\$1,600

(c) Applications submitted to the Board shall include a check drawn on a national or state bank or trust company of the United States or Puerto Rico in the amount called for in paragraph (b) of this section. Uncertified checks must be acceptable for deposit by a Federal Reserve bank or branch.

(d) Applicants shall make their checks payable to the U.S. Department of Commerce ITA. The checks will be deposited by ITA into the Treasury receipts account. If applications are found deficient under § 400.27(b)(1), or withdrawn by applicants prior to formal filing, refunds will be made.

Subpart D--Manufacturing and Processing Activity--Reviews

§ 400.31 Manufacturing and processing activity; criteria.

(a) *In general.* Pursuant to section 15(c) of the Act (19 U.S.C. 81o(c)), the Board has authority to restrict or prohibit zone activity "that in its judgment is detrimental to the public interest." When evaluating zone and subzone manufacturing and processing activity, either as proposed in an application, in a request for manufacturing/processing approval, or as part of a review of an ongoing operation, the Board shall determine whether the activity is in the public interest by reviewing it in relation to the evaluation criteria contained in paragraph (b) of this section. With regard to processing activity, this section shall apply only when the activity involves foreign articles subject to quantitative import controls (quotas) or results in articles subject to a lower duty rate (inverted tariff) than any of their foreign components. Such a review involves consideration of whether the activity is consistent with trade policy and programs, and whether its net economic effect is positive.

(b) *Evaluation criteria.* (1) *Threshold factors.* It is the policy of the Board to authorize zone activity only when it is consistent with public policy and, in regard to activity involving foreign merchandise subject to quotas or inverted tariffs, when zone procedures are not the sole determining

cause of imports. Thus, without undertaking a review of the economic factors enumerated in § 400.31(b)(2), the Board shall deny or restrict authority for proposed or ongoing activity if it determines that:

(i) The activity is inconsistent with U.S. trade and tariff law, or policy which has been formally adopted by the Executive branch;

(ii) Board approval of the activity under review would seriously prejudice U.S. tariff and trade negotiations or other initiatives; or,

(iii) The activity involves items subject to quantitative import controls or inverted tariffs, and the use of zone procedures would be the direct and sole cause of imports that, but for such procedures, would not likely otherwise have occurred, taking into account imports both as individual items and as components of imported products.

(2) *Economic factors.* After its review of threshold factors, if there is a basis for further consideration, the Board shall consider the following factors in determining the net economic effect of the activity or proposed activity:

(i) Overall employment impact;

(ii) Exports and reexports;

(iii) Retention or creation of manufacturing or processing activity;

(iv) Extent of value-added activity;

(v) Overall effect on import levels of relevant products, including import displacement;

(vi) Extent and nature of foreign competition in relevant products;

(vii) Impact on related domestic industry, taking into account market conditions; and,

(viii) Other relevant information relating to public interest and net economic impact considerations, including technology transfers and investment effects.

(c) *Methodology and evidence.* (1)(i) The first phase (§ 400.31(b)) involves consideration of threshold factors. If an examiner or reviewer makes a negative finding on any of the factors in paragraph (b)(1) in the course of a review, the applicant shall be informed pursuant to § 400.27(d)(3)(vii)(A). When threshold factors are the basis for a negative recommendation in a review of ongoing activity, the zone grantee and directly affected party shall be notified and given an opportunity to submit evidence pursuant to § 400.27(d)(3)(vii)(A). If the Board determines any of the paragraph (b)(1) factors in the negative, it shall deny or restrict authority for the proposed or ongoing activity.

(ii) The process for paragraph (b)(2) involves consideration of the enumerated economic factors, taking into account their relative weight and significance under the circumstances. Previous evaluations in similar cases are considered. The net effect is arrived at by balancing the positive and negative factors and arriving at a net economic effect.

(2) *Contributory effect.* In assessing the significance of the economic effect of zone activity as part of the consideration of economic factors, and in consideration of whether there is a significant public benefit, the Board may consider the contributory effect zone savings have as an incremental part of cost effectiveness programs adopted by companies to improve their international competitiveness.

(3) *Burden of proof.* Applicants for subzones shall have the burden of submitting evidence establishing that the activity does or would result in a significant public benefit, taking into account the factors in paragraph (b). Applicants for approval of manufacturing or processing in general-purpose

zones shall submit evidence regarding the positive economic effects that would result from activity within the zone and may submit evidence and comments as to policy considerations. Both types of applicants are expected to submit information in response to evidence of adverse economic effects during the public comment period. Parties should submit evidence that is probative and substantial in addressing the matter in issue.

(d) *Monitoring and post-approval reviews.* (1) Ongoing zone activity may be reviewed at anytime to determine whether it is in compliance with the Act and regulations, as well as the authority granted by the Board. Reviews may also be conducted to determine whether there are changed circumstances that raise questions as to whether the activity is detrimental to the public interest, taking into account the factors enumerated in § 400.31. The Board may prescribe special monitoring requirements in its decisions when appropriate.

(2) Reviews may be initiated by the Board, the Commerce Department's Assistant Secretary for Import Administration, or the Executive Secretary; or, they may be undertaken in response to requests from parties directly affected by the activity in question and showing good cause.

(3) Upon review, if the Board finds that zone activity is no longer in the public interest, taking into account the provisions of § 400.31, it may restrict the activity in question. The appropriateness of a delayed effective date will be considered in such cases.

§ 400.32 Procedure for review of request for approval of manufacturing or processing.

(a) *Request as part of application for grant of authority.* A request for approval of proposed manufacturing or processing activity may be submitted as part of an application under §§ 400.24 - 400.26(a). The Board will review the request taking into account the criteria in § 400.31(b).

(b) *Request for manufacturing/processing in approved zone or subzone.* Prior to the commencement of manufacturing in a zone or subzone involving activity beyond the scope of that which has been previously authorized at the facility (i.e., new end products, significant expansions of plant production capacity), and of similar changes in processing activity that involves foreign articles subject to quotas or inverted tariffs, zone grantees or operators shall request the determination referred to in § 400.31(a) by submitting a request in writing to the Executive Secretary (§ 400.28(a)(2)). Such requests shall include the information required by §§ 400.24(d)(4)(vii) and 400.25.

(1) The Commerce Department's Assistant Secretary for Import Administration may make determinations in these cases based upon a review by the FTZ staff and the recommendation of the Executive Secretary, when:

(i) The proposed activity is the same, in terms of products involved, to activity recently approved by the Board and similar in circumstances; or,

(ii) The activity is for export only; or,

(iii) The zone benefits sought do not involve the election of non-privileged foreign status (19 CFR 146.42) on items involving inverted tariffs; or,

(iv) The District Director determines that the activity could otherwise be conducted under Customs bonded procedures.

(2) When the informal procedure in paragraph (b)(1) of this section is not appropriate,

(i) The Executive Secretary will:

(A) Assign a case docket number and give notice in the FEDERAL REGISTER inviting public comment;

(B) Arrange a public hearing, if appropriate;

(C) Appoint an examiner, if appropriate, to conduct a review and prepare a report with recommendations for the Board; and,

(D) Prepare and transmit a report with recommendations, or transmit the examiners report, to the Board for appropriate action; and,

(ii) The Board will make a determination on the requests, and the Executive Secretary will notify the grantee in writing of the Board's determination, and will publish notice of the determination in the FEDERAL REGISTER.

(c) *Scope Determinations.* Determinations shall be made by the Executive Secretary as to whether changes in activity are within the scope of related activity already approved for the facility involved under this part. When warranted, the procedures of paragraph (b)(2) will be followed.

§ 400.33 Restrictions on manufacturing and processing activity.

(a) *In general.* In approving manufacturing or processing activity for a zone or subzone the Board may adopt restrictions to protect the public interest, health, or safety. The Commerce Department's Assistant Secretary for Import Administration may similarly adopt restrictions in exercising authority under § 400.32(b)(1).

(b) *Restrictions on items subject to antidumping and countervailing duty actions.* (1) *Board policy.* Zone procedures shall not be used to circumvent antidumping (AD) and countervailing duty (CVD) actions under 19 CFR parts 353 and 355.

(2) *Admission of items subject to AD/CVD actions.* Items subject to AD/CVD orders or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures, if they entered U.S. Customs territory, shall be placed in privileged foreign status (19 CFR 146.41) upon admission to a zone or subzone. Upon entry for consumption, such items shall be subject to duties under AD/CVD orders or to suspension of liquidation, as appropriate, under 19 CFR parts 353 and 355.

Subpart E--Zone Operations and Administrative Requirements

§ 400.41 Zone operations; general.

Zones shall be operated by or under the contractual oversight of zone grantees, subject to the requirements of the Act and this part, as well as those of other federal, state and local agencies having jurisdiction over the site and operation. Zone grantees shall ensure that the reasonable zone needs of the business community are served by their zone projects. The District Director represents the Board with regard to the zone projects in the district and is responsible for enforcement, including physical security and access requirements, as provided in 19 CFR part 146.

§ 400.42 Requirements for commencement of operations in a zone project.

(a) *In general.* The following actions are required before

operations in a zone may commence:

(1) Approval by the District Director of an application for activation is required as provided in 19 CFR part 146; and,

(2) The Executive Secretary will review proposed manufacturing or processing, pursuant to § 400.32, and a zone schedule as provided in this section.

(b) *Zone schedule.* (1) The zone grantee shall submit to the Executive Secretary and to the District Director a zone schedule which sets forth:

(i) Internal rules and regulations for the zone; and,

(ii) A statement of the rates and charges (fees) applicable to zone users.

(2) A zone schedule shall consist of typed, loose-leaf, numbered, letter-sized pages, enclosed in covers, and shall contain:

(i) A title page, with information to include:

(A) The name of the zone grantee and operator(s);

(B) Schedule identification;

(C) Site description;

(D) Date of original schedule; and,

(E) Name of the preparer;

(ii) A table of contents;

(iii) Administrative information;

(iv) A statement of zone operating policy, rules and regulations, including uniform procedures regarding the construction of buildings and facilities; and,

(v) A section listing rates and charges for zones and subzones with information sufficient for the Board or the Executive Secretary to determine whether the rates and charges are reasonable based on other like operations in the port of entry area, and whether there is uniform treatment under like circumstances among zone users.

(3) The Executive Secretary will review the schedule to determine whether it contains sufficient information for users concerning the operation of the facility and a statement of rates and charges as provided in paragraph (b)(2) of this section. If the Executive Secretary determines that the schedule satisfies these requirements, the Executive Secretary will notify the zone grantee, unless there is a basis for review under paragraph (b)(5) of this section. A copy of the schedule shall be available for public inspection at the offices of the zone grantee and operator. The zone grantee shall send a copy to the District Director, who may submit comments to the Executive Secretary.

(4) Amendments to the schedule shall be prepared and submitted in the manner described in paragraphs (b)(1) through (b)(3) of this section, and listed in the concluding section of the schedule, with dates.

(5) A zone user or prospective user showing good cause may object to the zone or subzone fee on the basis that it is not reasonable, fair and uniform, by submitting to the Executive Secretary a complaint in writing with supporting information. The Executive Secretary will review the complaint and issue a report and decision, which will be final unless appealed to the Board within 30 days. The Board or the Executive Secretary may otherwise initiate a review for cause. The factors considered in reviewing reasonableness and fairness, will include:

(i) The going-rates and charges for like operations in the area and the extra costs of operating a zone, including return on investment; and,

(ii) In the case of subzones, the value of actual services rendered by the zone grantee or operator, and reasonable out-of-pocket expenses.

§ 400.43 Restriction and prohibition of certain zone operations.

(a) *In general.* After review, the Board may restrict or prohibit any admission of merchandise into a zone project or operation in a zone project when it determines that such activity is detrimental to the public interest, health or safety.

(b) *Initiation of review.* The Board may conduct a proceeding, or the Executive Secretary a review, to consider a restriction or prohibition under paragraph (a) of this section either self-initiated, or in response to a complaint made to the Board by a party directly affected by the activity in question and showing good cause.

§ 400.44 Zone-restricted merchandise.

(a) *In general.* Merchandise which has been given export status by Customs officials ("zone-restricted merchandise" -- 19 CFR 146.44) may be returned to the Customs Territory of the United States only when the Board determines that the return would be in the public interest. Such returns are subject to the Customs laws and the payment of applicable duties and excise taxes (19 U.S.C. 81c, 4th proviso).

(b) *Criteria.* In making the determination described in paragraph (a) of this section, the Board will consider:

- (1) The intent of the parties;
- (2) Why the goods cannot be exported;
- (3) The public benefit involved in allowing their return; and,

(4) The recommendation of the District Director.

(c) *Procedure.* (1) A request for authority to return "zone-restricted" merchandise into Customs territory shall be made to the Executive Secretary in letter form by the zone grantee or operator of the zone in which the merchandise is located, with supporting information and documentation.

(2) The Executive Secretary will investigate the request and prepare a report for the Board.

(3) The Executive Secretary may act for the Board under this section in cases involving merchandise valued at 500,000 dollars or less, provided requests are accompanied with a letter of concurrence from the District Director.

§ 400.45 Retail trade.

(a) *In general.* Retail trade is prohibited in zones, except that sales or other commercial activity involving domestic, duty-paid, and duty-free goods may be conducted within an activated zone project under permits issued by the zone grantee and approved by the Board, with the further exception that no permits shall be necessary for sales involving domestic, duty-paid or duty-free food and non-alcoholic beverage products sold within the zone or subzone for consumption on premises by persons working therein. The District Director will determine whether an activity is retail trade, subject to review by the Board when the zone grantee requests such a review with a good cause.

(b) *Procedure.* Requests for Board approval under this section shall be submitted in letter form, with supporting documentation, to the District Director, who is authorized to act for the Board in these cases, subject to the concurrence of the Executive Secretary.

(c) *Criteria.* In evaluating requests under this section, the District Director and the Executive Secretary will consider:

- (1) Whether any public benefits would result from

approval; and,

(2) The economic effect such activity would have on the retail trade outside the zone in the port of entry area.

§ 400.46 Accounts, records and reports.

(a) *Zone accounts.* Zone accounts shall be maintained in accordance with generally accepted accounting principles, and in compliance with the requirements of federal, state or local agencies having jurisdiction over the site or operation.

(b) *Records and forms.* Zone records and forms shall be prepared and maintained in accordance with the requirements of the Customs Service and the Board, and the zone grantee shall retain copies of applications it submits to the Board.

(c) *Maps and drawings.* Zone grantees or operators, and District Directors, shall keep current layout drawings of approved sites as described in § 400.24(d)(5), showing activated portions, and a file showing required approvals. The zone grantee shall furnish necessary maps to the District Director.

(d) *Annual reports.* (1) Zone grantees shall submit annual reports to the Board at the time and in the format prescribed by the Executive Secretary, for use by the Executive Secretary in the preparation of the Board's annual report to the Congress.

(2) The Board shall submit an annual report to the Congress. (Approved by the Office of Management and Budget under control number 0625-0109)

§ 400.47 Appeals to the Board from decisions of the Assistant Secretary for Import Administration and the Executive Secretary.

(a) *In general.* Decisions of the Assistant Secretary for Import Administration and the Executive Secretary made pursuant to §§ 400.22(d)(2)(ii), 400.32(b)(1), 400.44(c)(3), and 400.45(b)(2) may be appealed to the Board by adversely affected parties showing good cause.

(b) *Procedure.* Parties appealing a decision under paragraph (a) of this section shall submit a request for review to the Board in writing, stating the basis for the request, and attaching a copy of the decision in question, as well as supporting information and documentation. After a review, the Board will notify the complaining party of its decision in writing.

Subpart F--Notice, Hearings, Record and Information

§ 400.51 Notice and hearings.

(a) *In general.* The Executive Secretary will publish notice in the Federal Register inviting public comment on applications docketed for Board action (see, § 400.27(c)), and with regard to other reviews or matters considered under this part when public comment is necessary. Applicants shall give appropriate notice of their proposals in local newspapers. The Board, the Secretary, the Commerce Department's Assistant Secretary for Import Administration, or the Executive Secretary, as appropriate, may schedule and/or hold hearings during any proceedings or reviews conducted under this part whenever necessary or appropriate.

(b) *Requests for hearings.* (1) A directly affected party showing good cause may request a hearing during a proceeding or review.

(2) The request must be made within 30 days of the beginning of the period for public comment (see, § 400.27) and must be accompanied by information establishing the need for the hearing and the basis for the requesting party's interest in the matter.

(3) A determination as to the need for the hearing will be made by the Commerce Department's Assistant Secretary for Import Administration within 15 days after the receipt of such a request.

(c) *Procedure for public hearings.* The Board will publish notice in the Federal Register of the date, time and location of a hearing. All participants shall have the opportunity to make a presentation. Applicants and their witnesses shall ordinarily appear first. The presiding officer may adopt time limits for individual presentations.

§ 400.52 Official record; public access.

(a) *Content.* The Executive Secretary will maintain at the location stated in § 400.53(d) an official record of each proceeding within the Board's jurisdiction. The Executive Secretary will include in the official record all factual information, written argument, and other material developed by, presented to, or obtained by the Board in connection with the proceeding. The official record will contain material that is public, business proprietary, privileged, and classified. While there is no requirement that a verbatim record shall be kept of public hearings, the proceedings of such hearings shall ordinarily be recorded and transcribed when significant opposition is involved.

(b) *Opening and closing of official record.* The official record opens on the date the Executive Secretary files an application or receives a request that satisfies the applicable requirements of this part and closes on the date of the final

determination in the proceeding or review, as applicable.

(c) *Protection of the official record.* Unless otherwise ordered in a particular case by the Executive Secretary, the official record will not be removed from the Department of Commerce. A certified copy of the record will be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of proprietary or privileged information.

§ 400.53 Information.

(a) *Request for information.* The Board may request submission of any information, including business proprietary information, and written argument necessary or appropriate to the proceeding.

(b) *Public information.* Except as provided in paragraph (c) of this section, the Board will consider all information submitted in a proceeding to be public information. If the person submitting the information does not agree to its public disclosure, the Board will return the information and not consider it in the proceeding.

(c) *Business proprietary information.* Persons submitting business proprietary information and requesting protection from public disclosure shall mark the cover page "business proprietary," as well as the top of each page on which such information appears.

(d) *Disclosure of information.* Disclosure of public information will be governed by 15 CFR part 4. Public information in the official record will be available for inspection and copying at the Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce Building, Pennsylvania Avenue and 14th Street, N.W., Washington, DC 20230.

Technical amendments to Regulations of the Foreign-Trade Zones Board were published in the FEDERAL REGISTER on October 15, 1997, Board Order No. 929, dated October 6, 1997. A copy is attached.

Taken from http://www.ita.doc.gov/import_admin/records/ftzpage/ftzregs.txt on October 16, 1997.
CG:DOCU81733.1 (9900)

Note 3: The subject of this AD is addressed in British airworthiness directive 005-05-95.

(g) This amendment becomes effective on November 19, 1997.

Issued in Renton, Washington, on October 7, 1997.

James V. Devany,

Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.

[FR Doc. 97-27089 Filed 10-14-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

15 CFR Part 400

[Docket No. 97092934-7234-01]; Order No. 929

RIN 0625-AA49

Technical Amendments to Regulations of the Foreign-Trade Zones Board

AGENCY: Foreign-Trade Zones Board, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Foreign-Trade Zones (FTZ) Board adopts the following technical amendments to its regulations to reflect recent changes both to the Foreign-Trade Zones Act of 1934 ("FTZ Act") and in the organizational structure of the United States Customs Service.

EFFECTIVE DATE: October 15, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Da Ponte, Jr., Executive Secretary, Foreign-Trade Zones Board, room 3716, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW, Washington, DC 20230 (202/482-2862).

SUPPLEMENTARY INFORMATION:

Background

The regulations of the Foreign-Trade Zones Board are amended to conform with the following changes: (1) An amendment to the FTZ Act, pursuant to section 910 of the National Defense Authorization Act of 1996, Pub. L. 104-201, 110 Stat. 2422, 2620 (1996), which removed the Secretary of the Army from membership on the Foreign-Trade Zones Board; and 2) recent revisions by the U.S. Customs Service to its organizational structure, which eliminated Regional Commissioner and District Director positions, broadening the role of Port Directors.

Classification

This rulemaking action was determined to be not significant for purposes of Executive Order 12866. The

Administrative Procedure Act requirements of notice and comment and delayed effective date are unnecessary for these technical amendments because the FTZ Board has no discretion in making these amendments which are required by Pub. L. 104-201 and reorganization within the U.S. Customs Service. Because notice and comment are not required by 5 U.S.C. 553(b)(B) or any other statute for these technical amendments and procedures, a regulatory flexibility analysis is not required and was not prepared for purposes of the Regulatory Flexibility Act. This rulemaking involves information collection requirements which are cleared under OMB Control No. 0625-0139 for purposes of the Paperwork Reduction Act. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number

List of Subjects in 15 CFR Part 400

Administrative practice and procedure, Confidential business information, Customs duties and inspection, Foreign-trade zones, Harbors, Imports, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 15 CFR part 400 is amended as set forth below:

PART 400—REGULATIONS OF THE FOREIGN-TRADE ZONES BOARD

1. The authority for 15 CFR part 400 continues to read as follows:

Authority: Foreign-Trade Zones Act of June 18, 1934, as amended (Pub. L. 397, 73rd Congress, 48 Stat. 998-1003 (19 U.S.C. 81a-81u)).

2. Section 400.2 is revised to read as follows:

§ 400.2 Definitions.

- (a) *Act* means the Foreign-Trade Zones Act of 1934, as amended.
- (b) *Board* means the Foreign-Trade Zones Board, which consists of the Secretary of the Department of Commerce (chairman) and the Secretary of the Treasury, or their designated alternates.
- (c) *Customs Service* means the United States Customs Service of the Department of the Treasury.
- (d) *Executive Secretary* is the Executive Secretary of the Foreign-Trade Zones Board.

(e) *Foreign-trade zone* is a restricted-access site, in or adjacent to a Customs port of entry, operated pursuant to public utility principles under the sponsorship of a corporation granted authority by the Board and under supervision of the Customs Service.

(f) *Grant of authority* is a document issued by the Board which authorizes a zone grantee to establish, operate and maintain a zone project or a subzone, subject to limitations and conditions specified in this part and in 19 CFR part 146. The authority to establish a zone includes the authority to operate and the responsibility to maintain it.

(g) *Manufacturing*, as used in this part, means activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use.

(h) *Port Director* is normally the director of Customs for the Customs jurisdictional area in which the zone is located.

(i) *Port of entry* means a port of entry in the United States, as defined by part 101 of the regulations of the Customs Service (19 CFR part 101), or a user fee airport authorized under 19 U.S.C. 58b and listed in part 122 of the regulations of the Customs Service (19 CFR part 122).

(j) *Private corporation* means any corporation, other than a public corporation, which is organized for the purpose of establishing a zone project and which is chartered for this purpose under a law of the state in which the zone is located.

(k) *Processing*, when referring to zone activity, means any activity involving a change in condition of merchandise, other than manufacturing, which results in a change in the Customs classification of an article or in its eligibility for entry for consumption.

(l) *Public corporation* means a state, a political subdivision (including a municipality) or public agency thereof, or a corporate municipal instrumentality of one or more states.

(m) *State* includes any state of the United States, the District of Columbia, and Puerto Rico.

(n) *Subzone* means a special-purpose zone established as an adjunct to a zone project for a limited purpose.

(o) *Zone* means a foreign-trade zone established under the provisions of the Act and these regulations. Where used in this part, the term also includes subzones, unless the context indicates otherwise.

(p) *Zone grantee* is the corporate recipient of a grant of authority for a zone project. Where used in this part,

the term "grantee" means "zone grantee" unless otherwise indicated.

(q) *Zone operator* is a corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee or an intermediary entity, with the concurrence of the Port Director.

(r) *Zone project* means the zone plan, including all of the zone and subzone sites that the Board authorizes a single grantee to establish.

(s) *Zone site* means the physical location of a zone or subzone.

(t) *Zone user* is a party using a zone under agreement with the zone grantee or operator.

3. Section 400.11 is amended by revising paragraph (d)(1) to read as follows:

§ 400.11 Authority of the Board.

* * * * *

(d) *Determinations of the Board.* (1) The determination of the Board will be based on the unanimous vote of the members (or alternate members) of the Board.

* * * * *

4. Section 400.24 is amended by revising paragraph (d)(5)(i)(B) to read as follows:

§ 400.24 Application for zone.

* * * * *

(d) *Exhibits.* * * *
(5) Exhibit Five (Maps) shall consist of:

(i) The following maps and drawings:

* * * * *

(B) A local community map showing in red the location of the proposed zone; and

* * * * *

5. Section 400.24 is further amended by revising paragraph (h) to read as follows:

§ 400.24 Application for zone.

* * * * *

(h) *Format and number of copies.* Unless the Executive Secretary alters the requirements of this paragraph, submit an original and 8 copies of the application on 8½" x 11" (216 x 279 mm) paper. Exhibit Five of the original application shall contain full-sized maps, and copies shall contain letter-sized reductions.

* * * * *

6. Section 400.26 is amended by revising paragraph (a)(2) to read as follows:

§ 400.26 Application for expansion or other modification to zone project.

(a) *In general.* * * *

(2) The Executive Secretary, in consultation with the Port Director, will

determine whether the proposed modification involves a major change in the zone plan and is thus subject to paragraph (b) of this section, or is minor and subject to paragraph (c) of this section. In making this determination the Executive Secretary will consider the extent to which the proposed modification would:

(i) Substantially modify the plan originally approved by the Board; or

(ii) Expand the physical dimensions of the approved zone area as related to the scope of operations envisioned in the original plan.

* * * * *

7. Section 400.27 is amended by revising paragraph (c)(3) to read as follows:

§ 400.27 Procedure for processing application.

* * * * *

(c) *Procedure—Executive Secretary responsibilities.* * * *

(3) Send copies of the filing and initiation notice and the application to the Commissioner of Customs and the Port Director, or a designee.

* * * * *

8. Section 400.27 is further amended by revising paragraph (d)(1) to read as follows:

§ 400.27 Procedure for processing application.

* * * * *

(d) *Case reviews—procedure and time schedule—(1) Customs review.* The Port Director, or a designee, in accordance with agency regulations and directives, will submit a technical report to the Executive Secretary within 45 days of the conclusion of the public comment period described in paragraph (c)(2) of this section.

* * * * *

9. Section 400.27 is further amended by revising paragraph (d)(2)(v)(C) to read as follows:

§ 400.27 Procedure for processing application.

* * * * *

(d) *Case reviews—procedure and time schedule—** * *

(2) *Examiners reviews—non-manufacturing/processing.* * * *

(v) * * *

(C) The Customs adviser shall be notified when necessary for further comments, which shall be submitted within 45 days after notification.

* * * * *

§ 400.27 [Amended]

10. In § 400.27, paragraph (f)(1) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

11. In § 400.27, paragraph (f)(2) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

§ 400.28 [Amended]

12. In § 400.28, paragraph (a)(1) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

13. In § 400.28, paragraph (a)(6) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

§ 400.32 [Amended]

14. In § 400.32, paragraph (b)(1)(iv) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

§ 400.41 [Amended]

15. In § 400.41, the third sentence is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

§ 400.42 [Amended]

16. In § 400.42, paragraph (a)(1) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

17. In § 400.42, paragraph (b)(1) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

18. In § 400.42, paragraph (b)(3) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

§ 400.44 [Amended]

19. In § 400.44, paragraph (b)(4) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

20. In § 400.44, paragraph (c)(3) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

§ 400.45 [Amended]

21. In § 400.45, paragraph (a) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

22. In § 400.45, paragraph (b) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

23. In § 400.45, paragraph (c) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

§ 400.46 [Amended]

24. In § 400.46, paragraph (c) is amended by removing "District Director" where appearing therein, and adding in its place, "Port Director".

By order of the Foreign-Trade Zones Board, Washington, DC, this 6th day of October 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration Alternate Chairman, Foreign-Trade Zones Board.

(FR Doc. 97-27145 Filed 10-14-97; 8:45 am)

BILLING CODE 3510-DS-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 600, 601, and 606

[Docket No. 96N-0395]

RIN 0910-AA93

Revision of the Requirements for a Responsible Head for Biological Establishments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations by deleting the requirements for a biologics establishment to name a "responsible head" or "designated qualified person" to exercise control of the establishment in all matters relating to compliance with regulatory requirements and to represent the establishment in its dealings with FDA. Because many manufacturers of biological products are firms that have more than one manufacturing location and complex corporate structures, it may no longer be practical for one individual to represent a manufacturer or possess expertise in all matters. This change will provide manufacturers with more flexibility in assigning control and oversight responsibility within a company. This final rule is part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiative, and it is intended to reduce the burden of unnecessary regulations on industry without diminishing public health protection.

EFFECTIVE DATE: October 15, 1997.

FOR FURTHER INFORMATION CONTACT: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM-17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-594-3074.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the Federal Register of January 29, 1997 (62 FR 4221), FDA published a

proposed rule to amend the biologics regulations by deleting the requirements for a biologics establishment to name a responsible head or designated qualified person to represent the establishment in its dealings with FDA.

Under § 600.10(a) (21 CFR 600.10(a)), a manufacturer of biological products currently is required to name a responsible head who is to exercise control of the establishment in all matters relating to compliance with regulations in parts 600 through 680 (21 CFR parts 600 through 680) and who is to represent the manufacturer in all pertinent matters with the Center for Biologics Evaluation and Research (CBER). This individual must also have an understanding of the scientific principles and techniques involved in the manufacture of biological products. When FDA announced in the Federal Register of June 3, 1994 (59 FR 28821 and 28822), the review by CBER of certain biologics regulations to identify those regulations that are outdated, burdensome, inefficient, duplicative, or otherwise unsuitable or unnecessary, § 600.10(a) was included. FDA also held a public meeting on January 26, 1995, to discuss the retrospective review effort and to provide a forum for the public to voice its comments on the retrospective review.

Many of the comments submitted requested revision or elimination of the requirements for a responsible head in § 600.10(a). The comments stated that the requirement for a responsible head to be an expert in multiple functions and to be responsible for a number of facility locations is incompatible with current industry practice. The comments added that the list of activities in § 600.10(a) is extremely broad and this regulation could be interpreted to require the responsible head to have an intimate understanding of a wide variety of extremely complex activities. All of these activities require specific expertise, and it may not be practical to expect one person to be an expert in all of those areas. Some comments addressed the requirement that the responsible head be responsible for training and have the authority to enforce discipline, stating that direct line supervision and management personnel are better qualified and in a better position to enforce or direct the enforcement of discipline and the performance of assigned functions by employees engaged in the manufacture of products. Many comments requested the designation of an alternate responsible head, especially in the situation of multiple locations.

As part of the President's "Reinventing Government" initiative, a

report entitled "Reinventing the Regulation of Drugs Made From Biotechnology" was issued in November 1995. The report announced several initiatives to reduce the burden of FDA regulations on the biologics industry without reducing public health protection, including a proposal to remove the requirements in § 600.10(a) for a responsible head. The commitment to remove requirements for a responsible head was based on FDA's determination that, with the many changes that have occurred in science, technology, and corporate structure, it no longer may be practical for most biologics manufacturers to rely on one individual to meet the requirements in § 600.10(a). In addition, the responsible corporate officer doctrine, e.g., *United States v. Park*, 421 U.S. 658 (1975); *United States v. Dotterweich*, 320 U.S. 277 (1943), places the burden of ensuring compliance with the statutes and regulations applicable to biological products on corporate officials "standing in responsible relation to a public danger." (*Dotterweich*, 320 U.S. at 281.) Thus, it is not necessary to require manufacturers to designate a responsible head in order to enforce the duty responsible corporate officials have to implement measures to ensure that violations do not occur. (*Park*, 421 U.S. at 672.)

In accordance with a revision to the definition of "manufacturer" in § 600.3 (see 61 FR 24227, May 14, 1996), an applicant may apply for and obtain a license for a biological product to be manufactured at more than one manufacturing site that may or may not be owned by the applicant. Therefore, applicants may want to designate more than one person with primary responsibility to maintain adequate oversight of multiple manufacturing sites and ensure that each is conforming to FDA's requirements for current good manufacturing practices and the applicable biologics standards. Many biologics manufacturers also manufacture drugs that are regulated by the Center for Drug Evaluation and Research (CDER) under the Federal Food, Drug, and Cosmetic Act. CDER's regulations do not contain an analogous requirement for a responsible head. FDA's proposal to revise the requirements with respect to a responsible head is an effort to harmonize CBER's and CDER's policies and requirements and to keep pace with changes in science, technology, and corporate structure.

II. Highlights of the Final Rule

Under the final rule, an authorized official may be chosen by the applicant