

## IMPORTANT INFORMATION ABOUT ZONE SCHEDULES

This zone schedule is being made available pursuant to 15 CFR 400.44(e), which states: “The Board shall make copies of zone schedules available on its Web site.”

Availability of this zone schedule on the FTZ Board’s website does not imply that the FTZ Board has approved any rate/charge, policy or other content of this zone schedule. In particular, while the FTZ Board staff intends to conduct spot checks over time, zone schedules are not reviewed for compliance with the public utility requirement (19 U.S.C. 81n, 15 CFR 400.42) prior to making the zone schedules available via the Board’s website.

Pursuant to 15 CFR 400.44(b)(4), a grantee may not assess any specific rate or charge for which the amount – or formula for calculating the amount – does not appear in the zone schedule that the grantee has submitted to the FTZ Board.

Complaints about a grantee’s compliance with statutory and regulatory requirements related to public utility and uniform treatment – including rate or charge amounts/formulas, a grantee assessing a rate or charge amount/formula that does not appear in its zone schedule, and a grantee not affording uniform treatment under like conditions – may be presented to the FTZ Board under 15 CFR 400.45 (which also allows for complaints to be made on a confidential basis, if necessary).

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



**FOREIGN-TRADE ZONE NO. 149**

**ZONE SCHEDULE  
NO. 3**

**Issued by  
Port Freeport, Grantee  
Freeport, Texas, USA**

**TITLE PAGE**

PORT FREEPORT  
ZONE SCHEDULE NO. 3

(REPLACES ZONE SCHEDULE NO. 2)

ZONE POLICY, RULES, REGULATIONS,  
RATES AND CHARGES

APPLICABLE AT  
FOREIGN-TRADE ZONE NO. 149

FREEPORT, TEXAS

OPERATING UNDER GRANTED AUTHORITY  
OF THE UNITED STATES FOREIGN-TRADE ZONES BOARD

TO

PORT FREEPORT  
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PREPARED BY

**PORT FREEPORT, GRANTEE OF FTZ NO. 149**

**DATE ISSUED: DECEMBER 28, 2018**

**EFFECTIVE DATE: FEBRUARY 5, 2019**

**FOREIGN-TRADE ZONE NO. 149 ZONE SCHEDULE NO. 3**

First Revised Page No. 2

**CHECK SHEET FOR ZONE SCHEDULE CHANGES**

This Schedule is issued in loose-leaf form and all changes will be made by reprinting the entire page or by adding other pages. Revised pages will bear correction numbers at the top of the page. Therefore, upon receipt, the correction number should be checked and if omissions are found, request should be made at once for the missing numbers.

Correction No.	Page No.	Correction No.	Page No.	Correction No.	Page No.	Correction No.	Page No.
1 <sup>st</sup>	1-24						

**SYMBOLS USED TO INDICATE CHANGE IN ZONE SCHEDULE**

- @ Addition
- ↓ Reduction
- ↑ Increase
- © Change in wording which results in neither increase nor reduction in charges

**ABBREVIATIONS**

\$	Dollars (U.S.)
CBPF	Customs & Border Protection Forms
C.F.R.	Code of Federal Regulations
FTZ	Foreign-Trade Zone
No.	Number
U. S.	United States

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## FOREIGN-TRADE ZONE NO. 149 ZONE SCHEDULE NO. 3

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### DEFINITIONS

#### **ACT:**

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

#### **ACTIVATION:**

Approval by the Port Director of Customs and Border Protection (CBP) with the Grantee's concurrence for operations and for the admission and handling of merchandise in Zone status.

#### **ADMISSION:**

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

#### **ADMIT:**

To bring merchandise into a Zone with Zone status.

#### **ALTERNATIVE SITE FRAMEWORK (ASF):**

An optional approach to designation and management of zone sites allowing greater flexibility and responsiveness to serve single-Operator/User locations. 15 C.F.R. 400.2(c). FTZ No. 149 was reorganized under ASF through Board Order No. 1853 dated August 29, 2012.

#### **BOARD:**

Comprised of the Secretary of Commerce and the Secretary of Treasury. Each Board member designates an official of his Department, usually an Assistant Secretary, to serve as his alternate. These officials or their alternates are empowered to issue to appropriate applicants the grant of authority to establish, maintain and operate a Foreign-Trade Zone project. 19 U.S.C. 81a(b); 15 C.F.R. 400.2(d)

#### **BOARD STAFF:**

Officials in the Department of Commerce, International Trade Administration responsible for overseeing the administration of Foreign-Trade Zones. The Executive Secretary heads up this office. 15 C.F.R. 400.2(g)

#### **BONDS:**

The Foreign-Trade Zone Operators Bond is required for Operators of general-purpose zones, Usage Driven sites and Subzones. This bond guarantees compliance with regulations 19 C.F.R. Sec. 146 to protect the revenue of the United States. The Back-To-Back Indemnity Bond reimburses an FTZ Operator or Grantee for any Customs duties, taxes, liquidated damages, fines, penalties, interest or other lawful charges assessed against the Operator or Grantee as a result of the zone User's negligence.

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**DEFINITIONS (continued)**

**BULK:**

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

**CBPF 214:**

Document generally prepared on behalf of User, signed by Operator and approved by CBP, which authorizes the admission of merchandise into a zone and designates the status of the merchandise.

**CBPF 216:**

Document prepared by Operator and approved by CBP, which authorizes Operator and/or User to engage in certain activities within the zone such as manipulation, repair, destruction and manufacture.

**CBPF 3461:**

Document prepared on behalf of User, which must be approved by CBP and furnished to Operator prior to the physical removal of any merchandise from the zone into the Customs territory of the United States.

**CBPF 7512:**

Document prepared on behalf of User, which must be approved by CBP and furnished to Operator prior to the physical removal of any merchandise from the zone for exportation of merchandise from the United States.

**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:**

Merchandise produced in the United States or imported merchandise for which Customs duties have already been paid. 19 C.F.R. 146.43

**EXAMINER:**

A member of the Foreign-Trade Zones Board staff who conducts or participates in a review of (1) an application or request concerning the establishment or expansion of a General Purpose Zone Project, Usage Driven Site or Subzone; or (2) a request for production authorization; or (3) any other matter requiring a fact-finding determination and recommendation for Board action.

**FOREIGN MERCHANDISE:**

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



**FOREIGN-TRADE ZONE NO. 149 ZONE SCHEDULE NO. 3**

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**DEFINITIONS (continued)**

**FOREIGN-TRADE ZONE:**

A Foreign-Trade Zone is a restricted access site, in or adjacent to a Customs port of entry, operated under public utility principles under the sponsorship of a corporation granted authority by the Foreign-Trade Zones Board. Foreign-Trade Zones are under the supervision of CBP, in which, when activated, merchandise is treated for Customs and taxation purposes as if it is outside the Customs territory of the United States. Foreign-Trade Zones are the U. S. version of what are generally known internationally as Customs free trade zones; however, Foreign-Trade Zones are different in several important respects from other types of free trade zones. The term "Foreign-Trade Zone" refers to different types of Zone environments. The General-Purpose Zone (also known as a Magnet Site) is established to accommodate various Zone activities carried on by multiple Users. Usage Driven Sites and Subzones are established to accommodate the needs of an individual Company. Storage, distribution, testing, repair, and repackaging are typical activities that are conducted in a General-Purpose Zone (Magnet Site), Usage Driven Site or Subzone. Production activity within any of these Zone environments requires prior approval by the Foreign-Trade Zones Board.

**GRANTEE:**

Corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted. 19 U.S.C. 81a(h); 15 C.F.R. 400.2(v). Port Freeport is the Grantee of FTZ No.149.

**HOLIDAYS:**

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

New Year's Day	January 1
Martin Luther King Jr.'s Birthday	3 <sup>rd</sup> Monday in January
President's Day	3 <sup>rd</sup> Monday in February
Good Friday	
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day	2 <sup>nd</sup> Monday in October
Veteran's Day	November 11
Thanksgiving Holidays	4 <sup>th</sup> Thursday and Friday in November
Christmas Holidays	December 24 & 25

\*If a holiday falls on Saturday, the previous Friday will be recognized as the holiday; and if a holiday falls on Sunday, the following Monday will be recognized as the holiday. The Zone office will close at 4 P.M. on election days.

**IMPORTER OF RECORD:**

The person, firm or corporation in whose name the application to admit merchandise into the Zone (CBPF 214) is made. Evidence of the right of the applicant for admission is the same as would be required to establish the right to apply for release of the merchandise from CBP custody.

**MANAGER:**

The General Manager of Foreign-Trade Zone No. 149 is appointed by the Grantee.

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**DEFINITIONS (continued)**

**MAGNET SITE:**

A site intended to serve or attract multiple operators or Users under the ASF. 15 C.F.R. 400.2(j)

**MANIPULATION:**

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

**MEASUREMENT TON:**

Ton based on a measurement of 40 cubic feet.

**NON-PRIVILEGED FOREIGN STATUS MERCHANDISE:**

Imported merchandise that has not cleared Customs and for which User does not wish said merchandise to retain its identity, from a Customs classification standpoint, so that if altered, it will become classifiable in its condition when it enters the Customs territory of the United States. All foreign merchandise properly in a zone which does not have status as privileged foreign or zone restricted is considered to be in non-privileged status. 19 C.F.R. 146.42

**OPEN YARD STORAGE:**

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

**OPERATOR:**

Corporation, partnership, or person that operates a Magnet Site, Usage Driven Site or Subzone under the terms of an Agreement with Grantee or third party on behalf of Grantee, with the concurrence of CBP. 15 C.F.R. 400.2(w). Port Freeport functions as an Operator within Magnet Sites 1 and 3.

**PORT DIRECTOR OF U.S. CUSTOMS & BORDER PROTECTION (CBP):**

CBP official with responsibility for overseeing the activation and operations of zone projects within his or her Customs port of entry.

**PORT FREEPORT:**

Port Freeport of Brazoria County, Texas owns and operates the marine terminal and port facilities of Port Freeport, Texas. As a member of the Gulf Seaports Marine Terminal Conference, Port Freeport operates its facilities and provides all its services for the benefit of the public. As part of its trade and economic development services, Port Freeport serves as the Grantee and as an Operator of U. S. Foreign-Trade Zone No. 149 in Freeport, Texas.

**DEFINITIONS (continued)**

**PORT OF ENTRY:**

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

**PRIVILEGED FOREIGN STATUS MERCHANDISE:**

Imported merchandise that has not cleared Customs and for which User wishes said merchandise to retain its identity, from a Customs classification standpoint, regardless of its condition when it ultimately enters the Customs territory of the United States. The privileged status must be affirmatively requested by User. 19 C.F.R. 146.41

**PRODUCTION:**

Activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use or activity involving a change in the condition of the Customs classification of the article or its eligibility for entry for consumption. 15 C.F.R. 400.2(o)

**QUANTITY:**

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

**SERVICE AREA:**

Jurisdiction(s) within which a Grantee proposes to be able to designate sites via minor boundary modifications under the ASF. 15 C.F.R. 400.2(q). The Service Area for FTZ No. 149 encompasses all of Brazoria and Fort Bend Counties.

**STORAGE:**

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

**SUBZONES:**

A site (or group of sites) established for a specific use. 15 C.F.R. 400.2(s)

**TENANT:**

A person or firm utilizing Zone facilities pursuant to a lease agreement with the Grantee.

**TON:**

Weight ton of 2,000 pounds, unless otherwise indicated.

**TRANSACTION:**

The movement or manipulation of any merchandise requiring a Tally-In Form; Tally-Out Form or any other required CBP form.

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**DEFINITIONS (continued)**

**UNIT OF QUANTITY:**

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

**UNITED STATES:**

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

**USAGE DRIVEN SITE:**

A site tied to a single Operator or User under the ASF. 15 C.F.R. 400.2(t)

**USER:**

A person or firm using a Zone or Subzone. The User usually deals directly with the Operator of the Zone. 15 C.F.R. 400.2(aa). A User that is the sole occupant of a noncontiguous site or a Subzone may be designated by the Grantee as an Operator.

**USER AGREEMENT:**

The document of agreement entered into between the Port, in its capacity as the FTZ Operator, and User for assignment of space within the Zone.

**WAREHOUSE:**

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

**WEIGHT:**

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

**ZONE:**

The term "Zone" refers to a Foreign-Trade Zone and/or Foreign-Trade Zone No. 149.

**ZONE PROJECT:**

All of the Zone sites (General Purpose, Magnet, Usage Driven and Subzone) established by the Board under a single Grantee.

**ZONE RESTRICTED MERCHANDISE:**

Merchandise taken into the zone for the sole purpose of exportation, destruction or storage and which cannot re-enter the U.S. Customs territory unless the Board determines the return would be in the public interest. Zone-restricted status must be affirmatively requested by User. 19 C.F.R. 146.44

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**DESCRIPTION OF FOREIGN-TRADE ZONE NO. 149**

Foreign-Trade Zone No. 149 was established by Board Order No. 385 on July 11, 1988. It was reorganized under the ASF by Board Order No. 1853 on August 29, 2012. The Grantee is Port Freeport. The Port established the Zone project as part of its continuing efforts to promote trade and economic development in Brazoria and Fort Bend Counties and the Texas Gulf Coast.

FTZ No. 149 presently consists of three Magnet Sites, one Usage-Driven Site and four Subzones. As new Usage-Driven Sites, Subzones and Magnet Sites are added, this Schedule will be updated. The sites are as follows:

- Site 1: 320 acres located on FM Route 1495 at Freeport Harbor on the east side of the Brazos River Channel. The site has several buildings suitable for Zone activity. (Permanent Magnet Site)
- Site 3: 1,063 acres located at the intersection of State Highway 288 and FM Route 1495. (Magnet Site)
- Site 10: 8 acres located on Avenue I in Alvin, Texas. (Magnet Site)
- Site 14: 5.6982 acres located at 13645 N. Promenade Blvd. Stafford, Fort Bend County. (Usage-Driven Site)
  
- Subzone 149A BASF Corporation (deactivated)
- Subzone 149B DSM Nutritional Products, Inc. (activated)
- Subzone 149C Phillips 66 Company (activated)
- Subzone 149G The Dow Chemical Company (activated)

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## **FOREIGN-TRADE ZONE NO. 149 ZONE SCHEDULE NO. 3**

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### **ZONE POLICY**

#### **SCHEDULE AUTHORITY**

This schedule is published in accordance with 15 C.F.R. 400.44. The Zone policy, rules, regulations, rates and charges of this schedule shall apply at Foreign-Trade Zone No. 149 unless otherwise provided for.

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

Pursuant to 15 C.F.R. 400.42 and 400.43, the rates and charges for space, facilities and services within the Zone shall be fair and reasonable, and the Grantee shall afford uniform treatment under like conditions to all Users. The Board shall determine whether the rates and charges are fair and reasonable.

#### **BOARD REGULATIONS**

Foreign-Trade Zone No. 149 is regulated by the Foreign-Trade Zones Board, Washington, D. C. under U. S. Code of Federal Regulations; Title 15, Chapter IV, Part 400. Copies of these regulations are maintained at the Foreign-Trade Zone No. 149 office for reference.

#### **U. S. CUSTOMS REGULATIONS**

Foreign-Trade Zone No. 149 is subject to special Customs Regulations as defined in U. S. Code of Federal Regulations, Title 19, Chapter I, Part 146 and the "U. S. Customs and Border Protection Foreign-Trade Zones Operations Manual." Copies of these publications are maintained at the Foreign-Trade Zone No. 149 office for reference.

#### **INTERPRETATION OF SCHEDULE**

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

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

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

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

The Grantee may inspect any leased or assigned area at any and all reasonable times to ascertain whether or not the conditions related to its proper use are being observed.

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**OPERATIONS IN ZONES**

**MERCHANDISE PERMITTED IN A ZONE**

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

- (1) Merchandise which is specifically and absolutely prohibited by law shall not be admitted into a Zone. Any merchandise so prohibited by law which is found within a Zone shall be disposed of in the manner provided for in laws and regulations applicable to such merchandise. A distinction is made between (a) Merchandise which is specifically and absolutely prohibited by law on the grounds of policy and morals, such as immoral or subversive literature, obscene articles or lottery matter and (b) Merchandise which is subject to conditional prohibition only, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal agencies. Port Directors of Customs and Border Protection are required to exclude the first class of articles and may not permit them to be transferred to a Zone if they are aware of their prohibited status, except that the Port Director may permit the temporary deposit of any such merchandise in the Zone pending final determination of its status. The transfer of articles of the second class to a Zone is subject to any requirements of the Federal agency concerned. There is no prohibition against placing over quota merchandise in a Zone pending its rights to transfer to Customs territory pursuant to the applicable quotas provisions.
- (2) The application for the admission of merchandise into a Zone shall be approved or disapproved by the Port Director, as the representative of the Board, where the merchandise is not excluded by any other Federal agency having jurisdiction over the merchandise.
- (3) Zone procedures may not be used to circumvent the laws and regulations. Upon order of the Secretary of the Commerce, or his designee, the Commissioner of Customs and Border Protection, or his designee, shall direct that an importer place goods in a specific status for this purpose, subject to appeal to the Board.

**DISPOSITION OF MERCHANDISE IN A ZONE**

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

**OPERATIONS IN ZONES (continued)**

**MANIPULATION, PRODUCTION AND EXHIBITION OF MERCHANDISE**

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

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

**STATUS OF MERCHANDISE IN A ZONE**

- (1) For the purpose of the Act and the regulations of this section, all merchandise within a Zone, except merchandise in transit through a Zone, as provided in 19 C.F.R. 146.14 and 146.13 and except merchandise temporarily transferred to a Zone for manipulation, as provided in Paragraph (2) of this section, shall be given a Zone status as (a) Privileged Foreign Merchandise, (b) Non-Privileged Foreign Merchandise, (c) Domestic Merchandise or (d) Zone Restricted Merchandise.
- (2) Imported Merchandise which has been entered and which has remained in continuous Customs custody may be temporarily transferred to a Zone for manipulation under Customs supervision pursuant to Section 562, Tariff Act of 1930, as amended, and for return to Customs territory. Any such merchandise shall not be considered within the purview of the Foreign-Trade Zones Act, but shall be treated in all respects as though remaining in Customs territory. Therefore, no Zone form or procedure shall be considered applicable, but the merchandise shall remain subject in the Zone to such requirements as are necessary for the enforcement of Section 562 and other pertinent Customs laws.



**OPERATIONS IN ZONES (Continued)**

**USE OF ZONE BY CARRIER**

The cargo facilities and service of a Zone area are intended primarily for the use of vessels, vehicles or aircraft lading or unlading Zone merchandise and their use for other purposes may be terminated by the Commissioner of CBP if found to endanger the revenue, or by the Board if found to interfere with the primary use of the Zone.

**SUBSEQUENT IMPORTATION OF ZONE MERCHANDISE**

Articles produced or manufactured in a Zone and exported there from shall, on subsequent importation into the Customs territory of the United States, be subject to the import laws applicable to like articles manufactured in a foreign country, except those articles produced or manufactured in a Zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the Second Proviso of Section 3 of the Act, as amended, may, on such importation, be entered as American goods returned.

**PUBLIC INTEREST PROVISION**

Pursuant to Sec 81o(c) of the Act, the Board has authority to restrict or prohibit any Zone operation "That in its judgment is detrimental to the public interest, health or safety".

- (1) Adversely affected parties may submit complaints to the Board under this section, requesting the prohibition or restriction of a Zone activity; or the Board may conduct investigations on its own initiative. A complaint must contain information as to how the Zone activity in question is or would be detrimental to the public interest, health or safety. When good cause is found by the Board or the Executive Secretary, the matter shall be investigated pursuant to these regulations. In deciding whether good cause exists, special consideration shall be given to conducting investigations when the Zone activity in question involves an "import sensitive" industry. In determining whether an industry is import sensitive, the Board and the Executive Secretary shall be guided by references to such industries in trade laws and regulations, land decisions of federal courts and agencies.
- (2) In investigations under this section, either self-initiated or in response to complaints, the factors considered by the Board shall include:
  - a. Whether the adverse effect is significant in relation to actual and potential public benefits.
  - b. Whether additional exports from the U. S. will be created.
  - c. Whether Zone procedures will encourage activity related to import displacement or substitution.
  - d. Whether employment and investment will be generated or sustained in the U. S.

**OPERATIONS IN ZONES (Continued)**

- e. Whether Zone activity will undermine a remedial action or program in effect because an unfair trade practice, or materially or substantially harm an existing domestic industry.
- (3) Zone activity may be approved for limited periods, subject to extension after a review as to whether the anticipated public benefits have materialized.
- (4) Zone activity, which is exclusively for export, shall be presumed to be in the public interest.
- (5) Interested parties shall have an opportunity to submit comments or participate in any public hearings or proceedings held on such investigations.

**RETAIL TRADE WITHIN A ZONE**

Pursuant to Sec 81o(d) of the Act, no retail trade shall be conducted within activated Zone space except under permits issued by the Grantee and approved by the Board. Only domestic, duty-paid and duty-free goods may be sold in such cases. In considering whether to approve requests under this section, the Board shall consider the economic impact on the retail trade outside the Zone in the port of entry area. No approval is required for sales involving domestic or duty-paid food products sold within the Zone or Subzone to be consumed on the premises by persons working therein. Grantees shall revoke permits when there is a violation of this restriction. The Executive Secretary shall determine which sales are to be classified as retail sales under this section when a question arises. 15 C.F.R. 400.47.

**RESIDENCE WITHIN A ZONE**

Pursuant to Sec 81o(a) of the Act, no person shall be allowed to reside within a Zone except Federal, State or Municipal officers or agents whose resident presence is deemed necessary by the Board or Customs and Border Protection.

**CONTROLLED ACCESS TO ZONES**

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

**CONSTRUCTION OF BUILDINGS AND FACILITIES**

Zone Grantee, Operators, and Users may construct buildings and facilities necessary to implement a Zone plan approved by the Board. Any building construction within FTZ No. 149 shall be subject to approval by the Grantee. Such approval shall not constitute a vested right against the United States and the consideration for the sale of any such buildings or facilities shall not be affected by Zone status. The commencement of operations conducted under zone procedures in any building or facility shall be subject to approval by the Port Director of CBP.

**OPERATIONS IN ZONES (Continued)**

**HOURS OF BUSINESS AND SERVICE**

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

**SUBJECT TO CBP SUPERVISION**

Zone operations are subject to the control of CBP, exercised mainly through the Port Director who shall be in charge of the Zones sites within FTZ No. 149 for purposes of enforcement of the requirements of the Act and Regulations, the Board and CBP. Requirements for such matters as Zone forms, inventory control systems, cargo security standards and physical security shall be determined by the U. S. Customs Regulations. 19 C.F.R. Part 146.

**GENERAL REGULATIONS**

**APPLICATION OF REGULATIONS**

All persons and merchandise of every description entering or leaving the Zone for any purpose whatsoever shall be bound by the lawful regulations of the Board, CBP and the Grantee.

**CONFIDENTIAL RELATIONSHIPS**

The Manager will take precaution to avoid the divulging of information regarding merchandise and services thereon performed in the Zone. Any Zone employee violating this confidential relationship will be suitably disciplined or discharged.

**GOVERNMENT AGENCIES**

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

**REPORTS TO GOVERNMENT AGENCIES**

The Grantee is required to submit periodic reports to the Board and CBP or may be required to perform other acts as the Grantee or Operator of the Zone in compliance with governmental regulations. Users are required to and shall cooperate with the Grantee in the creation and maintenance of procedures, systems, regulations or programs and provide information and statistics, which the Grantee considers necessary to ensure compliance with governmental requirements.

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

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

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**GENERAL REGULATIONS (Continued)**

**GOVERNMENTAL LICENSES**

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

**USER AGREEMENTS**

The Port requires that a Zone User Agreement be executed between and among the User and the Port, when it functions as the FTZ Operator, prior to any person or firm conducting Zone business in Foreign-Trade Zone No. 149.

**PUBLIC INTEREST, HEALTH AND SAFETY**

Pursuant to Sec 81o(c) of the Act, no merchandise, operation or process of treatment will be permitted in the Zone that is detrimental to the public interest, health and safety.

**PUBLIC WAREHOUSE AND TERMINAL OPERATIONS**

While the Grantee, as Operator, operates a public warehouse and terminal wherein merchandise may be received, stored, weighed, inspected, shipped, etc., these services may be performed in the Zone by private firms under a User Agreement with the Grantee.

**INDEMNITY BOND**

Users shall be required upon notice by the Grantee to post an indemnity bond executed on a form and by a U. S. Surety acceptable to the Grantee or other security payable to the Grantee as a guarantee of payment of Customs duty or taxes or other obligations of or to the Grantee under the following circumstances:

- (1) User does not have a sufficient beneficial interest in inventoried merchandise to pay the estimated duty/taxes.
- (2) User accepts delivery of a shipment of unusually high duty/tax liability.
- (3) Value of User inventory is insufficient to compensate CBP for possible duty/tax obligations payable on merchandise inventory shortages and/or financial obligations to the Operator.
- (4) A significant increase in duty/tax liability due to changes in the Customs Regulations, foreign currency valuations, etc.
- (5) Other situations which require appropriate security to protect past, present or future obligations or liabilities of the Grantee or Operator.

**GENERAL REGULATIONS (Continued)**

**INSURANCE**

Insurance is carried by the Grantee on its own property only and does not include insurance on the contents stored therein. Users shall not do or permit anything to be done in or about the Zone nor bring or keep anything in the Zone which will in any way increase the existing rate of or effect any fire or other insurance upon the building or any of its contents, or cause cancellation of any insurance policy covering any Zone building or any part thereof or any of its contents. Insurance on commodities or other property stored on the leased premises, if desired, must be carried by and at the expense of the User or owner of the commodities or other properties. Merchandise stored, manipulated or transferred within the Zone is not insured by the Grantee or the Operator. The Zone Schedule rates do not include insurance on merchandise. At all times that the User and/or Operator is using an activated area of FTZ No. 149, the requisite entity or its contractors and subcontractors must keep in full force and effect the followings policies:

- (i) Casualty and property damage insurance;
- (ii) Comprehensive commercial general liability insurance;
- (iii) Wharfingers' legal liability insurance. This requirement shall only apply to a stevedore company;
- (iv) Vehicle liability insurance;
- (v) Umbrella liability insurance and
- (vi) Workers' compensation insurance with limits required by the Workers' Compensation Laws of the State of Texas.

User and/or Operator will comply with all applicable Worker's Compensation laws, including the Longshore and Harbor Workers Compensation Act, 33 U.S.C. § 901, *et seq*

Grantee Insurance. Grantee will, at Grantee's own expense, keep and maintain, or cause to be kept and maintained, such casualty insurance policies covering Grantee's property as Grantee deems reasonably necessary from time to time. Such insurance will be solely for Grantee's benefit, and User and/or Operator will have no claim to any proceeds paid under such policies.

**ESTABLISHMENT OF USAGE DRIVEN, SUBZONE AND MAGNET SITES**

Pursuant to 15 C.F.R. 400.38, Usage Driven Sites can be established within 30 days of the filing of a minor boundary modification request by the Grantee. Pursuant to 15 C.F.R. 400.25, Subzones can generally be established, if there is no objection encountered, within 5 months of the filing of the Subzone request by the Grantee. All persons and entities who request the Grantee to apply for authority to establish a Usage Driven or Subzone site must first enter into an agreement with the Grantee governing the proposed operations at the site. This agreement will contain provisions including, but not limited to, those relating to costs incident to the preparation of the applications and any subsequent amendments or modification thereof; charges for sponsoring the application and annual fees for operating at the site; insurance and indemnification provisions; and liabilities and responsibilities of the parties including the operational requirements of the entity that will be operating the site. All requests for Usage Driven and/or Subzone designation will be reviewed by

## **FOREIGN-TRADE ZONE NO. 149 ZONE SCHEDULE NO. 3**

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### **GENERAL REGULATIONS (Continued)**

the Grantee and all entities will be afforded uniform treatment with respect to the handling of the request by the Grantee. Should the Grantee determine to sponsor the Usage Driven or Subzone site application, it will be the obligation of the applicant for the new site to prepare the application and bear all costs associated with the preparation and filing of the application, including any filing fees assessed by the Board.

Pursuant to 15 C.F.R, 400.24(b) Magnet Sites can be established provided that certain criteria are satisfied. All requests for the establishment of a new Magnet Site will be reviewed by the Grantee and all entities will be afforded uniform treatment with respect to the handling of the request by the Grantee. Should the Grantee determine to sponsor the expansion application, it will be the obligation of the applicant for the new Magnet Site to prepare the expansion application and bear all costs associated with the preparation and filing of the application, including any filing fees assessed by the Board.

### **REGULATIONS PERTAINING TO MERCHANDISE**

#### **TRANSPORTATION**

Transfer of foreign status merchandise into or from FTZ No. 149 must be made by Customs bonded trucks or other Customs bonded carriers in accordance with the Customs Regulations.

#### **INVENTORY PROCEDURES**

Zone Operators are responsible for establishing and maintaining an Inventory Control System acceptable to CBP for all merchandise in their care, custody and control.

#### **MARKING**

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

#### **PROHIBITED MERCHANDISE**

A list of merchandise specifically prohibited from admission to the Zone is available upon request to the Manager.

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**RATES AND CHARGES BY PORT WHEN FUNCTIONING AS FTZ OPERATOR**

**RESPONSIBILITY FOR DUTY AND TAXES**

Users of the Zone where the Port acts as the FTZ Operator are responsible and liable for payment of any duties, taxes, fines, penalties, or liquidated damages due any agency of the federal, state or local government arising from their use of the Zone, including liabilities on merchandise which is not accounted for to the satisfaction of CBP. In the event the Port, in its capacity as the Operator, is required to pay any duty or tax to CBP under conditions of the Customs Bond maintained by the Port as the Operator, the person responsible for payment of the duty or tax will immediately reimburse the Port for such payments. Such person shall be liable to the Port for all costs, expenses and attorney fees which may be incurred or sustained by Port by reason of collection of such duty or taxes. Any sums due to the Port under the provisions of this paragraph shall constitute a lien against the interest of the User in the Zone and all its property situated in the Zone to the same extent and the same condition as delinquent rent would constitute a lien on such premises and property.

**CUSTOMS FEES**

The User shall reimburse the Port for any CBP fees connected with its conducting business within the Zone. Such CBP Fees may include, but are not limited to, activation and deactivation fees, alteration fees, transaction fees and annual fees. Whenever the Port pays fees to CBP which result from activities of a specific User for whom the Port functions as the FTZ Operator, said User will reimburse the Port for such fees.

**CUSTOMS BOND FEE**

The Port, in its capacity as an FTZ Operator, provides a FTZ Operator's Bond to CBP which is applicable to all merchandise in the Zone for which it functions as the Operator. The amount of the bond required is established by CBP.

**TEMPORARY STORAGE RATES**

Zone Users may temporarily rent warehouse space and/or land for a term of ninety (90) days or less. Warehouse rental rates include use of common areas, electricity for normal lighting, normal air conditioning and/or heating, and maintenance of lighting fixtures provided by the Grantee unless otherwise provided in a User Agreement. Unusual use of the utilities will be billed as an additional charge. Rates for Zone warehouse space shall be the greater of \$0.45 per square foot per month subject to a minimum monthly charge of \$500.00. Land rental rates will be \$3,200.00 per acre. For long-term storage, a User Agreement between the Grantee and the User will apply. Land rental rates will be negotiated considering the term of the agreement and the location, configuration, condition, facilities and intended use of the property, and other factors including reimbursement of Grantee costs for staff administration and U. S. Customs and Border Protection supervision of operations conducted on the leased land.

**USER FEES**

Each User of Foreign-Trade Zone No. 149 that uses the Port as its FTZ Operator shall pay, to the Port, User Fees as set forth in the User Agreement with the Port. All User Fees shall be fair and reasonable, affording uniform treatment under like conditions. All User Fees shall be based upon the costs of maintaining the Zone operation; services to be provided to the User, including the

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**RATES AND CHARGES BY PORT WHEN FUNCTIONING AS FTZ OPERATOR  
(Continued)**

number of transactions involved; anticipated use of the Zone; i.e. warehousing, manipulation, manufacture; and the potential liability associated with each particular Zone use. Each User shall pay a transaction fee as set forth below and in its User Agreement with the Port and any additional services shall be paid for as set forth in the Zone Schedule.

**TRANSACTION FEES**

Transaction fees for General Purpose Zone Users shall be one hundred and fifty (\$150.00) dollars per the movement or manipulation of any merchandise requiring a Tally-In Form; Tally-Out Form or any other required CBP form. A complete listing of merchandise handling services and amenities and the related rates and charges is set forth in Port Freeport's Tariff No. 005.

**CHARGES AND SPECIAL OPERATOR SERVICES**

The cost of Operator staff services rendered during holidays, Saturdays, Sundays or during overtime hours, at the specific request of a User of the Zone facilities, will be charged to such User. Charges are determined by the time required to perform services multiplied by the rate of fifty (\$50.00) dollars per hour, subject to a minimum total charge of two hundred (\$200.00) dollars.

**CHARGES BY OTHER GOVERNMENT AGENCIES**

Charges made by government agencies that are not included in this Schedule should be arranged for and paid by the User.

**WHEN CHARGES ARE PAYABLE**

Zone charges are due and payable as they accrue.

**MERCHANDISE HELD FOR CHARGES**

The Grantee reserves the right to withhold permission to transfer merchandise from the Zone for Users with unpaid charges for Zone use or unpaid duty and taxes due U. S. Customs and Border Protection.

**ENFORCEMENT OF CHARGES**

For the purpose of enforcing the payment of charges provided for in this Schedule, the Grantee and the Operator may take possession of the merchandise, and may remove and store same at the charge, risk and expense of the owner or consignee thereof and may sell the goods by public auction, and may avail itself of such other remedies as may be provided by law.

**SPECIAL SERVICES**

Users of Zone facilities requiring special or additional services not being regularly furnished to all Users may request same in writing to the Grantee, who shall determine the possibility of furnishing such services and consider cost thereof. If service is established, it will be made available under similar circumstances to all Users on the same basis.

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**RATES AND CHARGES BY GRANTEE TO FTZ OPERATORS**

**A. FOR OPERATORS OF SITES ENGAGED IN PRODUCTION OF MERCHANDISE:**

**I. START-UP FEE:**

Amount: \$5,000

Payable: Prior to Presentation of Foreign-Trade Zone Operator Agreement to the Port Commission

**II. MONTHLY OPERATOR FEE:**

Amount: \$2,250.00 per month

Payable: Fixed monthly Operator fee is due and payable in advance on the first day of each month. Operator fees commence upon activation by U.S. Customs and Border Protection.

**B. FOR OPERATORS OF SITES ENGAGED IN NON-PRODUCTION OF MERCHANDISE:**

**I. START-UP FEE:**

Amount: \$5,000

Payable: Prior to Presentation of Foreign-Trade Zone Operator Agreement to the Port Commission

**II. MONTHLY OPERATOR FEE**

Amount<sup>1</sup>:

Option A: \$350.00 Minimum Annual Fee due by January 1 of each calendar year which entitles Operator to 10 transactions with each additional transaction subject to a fee of \$35.00 per transaction, payable on a monthly basis; or

Option B: \$833.33 per month, which includes 40 transactions per month. An additional fee shall be charged for each transaction over 40 transactions as follows:

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<sup>1</sup> Each payment option is at the discretion of the Operator. Operator must notify Grantee prior to changing its Operator fee option.

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Transactions 41 through 60	\$20.00 each
Transactions 61 through 100	\$15.00 each
Transactions 101 and over	\$10.00 each

or;

Option C: \$2000.00 per month, which includes an unlimited number of transactions.

**Payable:** Fixed monthly Operator fee is due and payable in advance on the first day of each month. Transactions fees are due and payable thirty (30) days from the date of invoice. Operator fees commence upon activation by U.S. Customs and Border Protection.

**Note:** The term "transaction" means the movement or manipulation of any merchandise requiring a CBPF 214, CBPF 216, CBPF 7512, local transfer document, local control or authorization number, or CBPF 3461. Multiple shipments made by individual zone Operators operating under Option "B" or utilizing a single Customs or transfer document, and made on the same day, are considered as a single transaction.

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