



Central Pines Regional Council
Special Executive Committee
Meeting Agenda
Wednesday, January 22, 2025
4:00 – 5:30 pm | Hybrid
Chair Brett Gantt, Presiding

- 1. Call to Order** 4:00 pm
 - a. Call to Order and Welcome
Official: Brett Gantt, Chair

 - b. Roll Call
Beth Davis, Member Engagement Coordinator, Clerk to the Board

 - c. Declaration of Quorum
Official: Brett Gantt, Chair

- 2. Review of Agenda** 4:10 pm
 - a. Review of Agenda
Official: Brett Gantt, Chair
Potential Action: Chair Gantt will approve

- 3. Business** 4:15 pm
 - a. Foreign Trade Zone Sponsorship Request – US Flue Cured Tobacco Growers
Presenters: Lee Worsley, Executive Director
Potential Action: Consideration of Executive Director Recommendations:
 - 1) The Executive Director recommends that the Executive Committee approve Resolution 2025 01-01, approving the FTZ Sponsorship application of US Flue Cured Tobacco Growers based on the Uniform Treatment requirements stated in the US Code, Code of Federal Regulations and the Foreign Trade Zone #93 Zone Schedule.
 - 2) The Executive Director recommends that the Executive Committee give direction to staff on whether changes should be drafted for the Executive Committee’s review of the Foreign Trade Zone #93 Zone Schedule to prohibit any future applications for companies that warehouse tobacco-based products.
 - 3) The Executive Director recommends that the Executive Committee direct the Foreign Trade Zone Board to review the Foreign Trade Zone #93 Zone Schedule once a year. This review would be for the purpose of making recommendations to the Executive Committee around changes to target and prohibited industry clusters for FTZ Sponsorship. The Executive Director recommends that the Executive Committee direct staff to develop recommendations to review the process of Foreign Trade Zone sponsorship considerations within Foreign Trade Zone #93. The review should clearly outline FTZ Sponsorship approval

steps and review any changes to the approval process since Central Pines Regional Council boundaries differ from the Foreign Trade Zone #93 boundary

4. Consent

5:15 pm

Items on the Consent Agenda are considered routine and will be enacted by a single motion unless a member of the Executive Committee requests an item be removed. Any item that is removed from the Consent Agenda will be considered individually after the Consent Agenda.

- a. Budget Amendment 3, Resolution #2025-01-02
- b. Deputy Finance Officer Resolution #2025-01-03

5. Items Removed from Consent Agenda

6. Adjournment

5:20 pm

- a. Adjourn the Meeting
Potential Action: Motion to Adjourn

Meeting Date:

January 22, 2025

Agenda Location:

Business

Item Title:

Foreign Trade Zone Sponsorship Request – US Flue-Cured Tobacco Growers

Presenter(s):

Lee Worsley, Executive Director

Background:

History

The Central Pines Regional Council administers Foreign Trade Zone #93 on behalf of the US Foreign Trade Zone Board. In total, there are 259 Foreign Trade Zones located throughout the United States, and the Foreign Trade Zone Designation was granted to the then Triangle J Council of Governments in November 1983 as Foreign Trade Zone #93.

Foreign Trade Zone #93 operates in 15 counties, including Chatham, Durham, Franklin, Granville, Harnett, Johnston, Lee, Moore, Orange, Person, Sampson, Vance, Wake, Warren, and Wilson counties. Seven counties are part of the Central Pines Regional Council, while eight are outside of it. Expansions outside of the Central Pines region were made after careful consideration and in line with the allowable service boundaries designated for our zone, with the permission of the counties and regional councils impacted.

Currently, nine Foreign Trade Zone-sponsored locations operate within FTZ #93. These include:

- Site 6 - GlaxoSmithKline (Wake County) (Pharmaceutical Products)
- Site 8 - Tobacco Rag Processors, Inc. (Wilson County) (Storage and distribution of imported and domestic finished tobacco products)
- Site 11 - Liebel-Flarsheim Company, LLC (Wake County) (Pharmaceutical Products)
- Site 12 - Storr Office Environments, Inc. (Wake County) (Consumer Goods)
- Site 14 - BrightView Technologies, Inc. (Durham County) (Optical film manufacturing)
- Subzone 93C - Merck Sharp and Dohme Corporation (Wilson County)
- Subzone 93G - Revlon Consumer Products (Granville County) (Cosmetic products)
- Subzone 93H - Merck Sharp and Dohme Corporation (Durham County) (Pharmaceutical Products)
- Subzone 93J - MAS ACME USA (Chatham County) (Apparel)

Two businesses have recently requested sponsorship in addition to US Flue-Cured Tobacco Growers and are undergoing the application process now:

- Medical Moving Solutions (Durham County) (Warehousing for Biotechnology products)
- Alcami (Wake County) (Pharmaceutical Storage)

Foreign Trade Zone #93 is advised by the Foreign Trade Zone #93 Board. This board is comprised of a mix of elected officials and professionals from across the jurisdiction of the Foreign Trade Zone. Current members of the Board include:

Officers:

- Chairman: Vacant
- Vice-Chairman: Rebecca Wyhof Salmon – City of Sanford Mayor and delegate to Central Pines Regional Council.

Members:

- Lori Bush – Town of Cary Council Member and alternate delegate to Central Pines Regional Council.
- Tammie Hall-Roberts – Assistant County Manager, Durham County.
- Robert Handfield - Professor of Supply Chain Management, NC State University.
- Chris Johnson – Johnston County Economic Development Director.
- Shirreef Loza – Director, U.S. Commercial Service – Raleigh.
- Jennifer Lantz – Wilson Economic Development Council Director.
- McKinley Perkinson – Director, Henderson-Vance County Economic Development.
- Angie Stewart – Harnett County Economic Developer.
- Michael L. Weisel – Managing Member of Capital Law Group.

What is a Foreign Trade Zone

Foreign-Trade Zones (FTZ) are secured, designated locations around the United States in or near a U.S. Customs Port of Entry where foreign and domestic merchandise is generally considered to be in international commerce and outside of US Customs territory. As a result, activated businesses in an FTZ can reduce or eliminate duty on imports and take advantage of other benefits to encourage foreign commerce within the United States.

Created by Congress in the Foreign Trade Zones Act of 1934, Foreign-Trade Zones continue to thrive to better meet the needs of American companies in the global economy. Foreign-Trade Zones continue to be a vital resource for trade in the United States. According to its 2023 Annual Report to Congress, the Foreign-Trade Zones Board notes that there were 197 active FTZ programs across the United States, employing approximately 550,000 people at approximately 1,300 active operations, businesses, and exporting \$149 billion in merchandise.

Certain types of merchandise can be imported into a Zone without going through formal Customs entry procedures or paying import duties. Customs duties and excise taxes are due only at the time of transfer from the FTZ for U.S. consumption. If the merchandise never enters the U.S. commerce, then no duties or taxes are paid on those items.

From naftz.org - [basic benefits](#)

Governing Documents

United States Law

The United States Congress established Foreign Trade Zones on June 18, 1934, and you may find the current US law establishing Foreign Trade Zone in the United States Code at 19 USC 81a. [US Foreign Trade Zone Act](#)

Code of Federal Regulations Guidelines

The US Foreign Trade Zone Board has been established as the federal administrative entity that manages and enforces the US FTZ Act. The role of Foreign Trade Zones is further defined in US Federal Code under 15 CFR 400 and may be found at the following link [Code of Federal Regulation - Foreign Trade Zones](#)

Local Zone Rules

Locally, Foreign Trade Zones are governed by their Zone Schedule. Considering the US FTZ Act and 15 CFR 400, the local zone schedule further defines the roles and responsibilities of Foreign Trade Zone #93. A copy of Foreign Trade Zone 93's Zone schedule may be found attached to the agenda and is Attachment 4. The Zone schedule is ultimately recommended by the Foreign Trade Zone #93 Board and approved by the CPRC Board of Delegates/Executive Committee. The last update to the Foreign Trade Zone #93 Zone Schedule was in August 2016.

These three documents comprise the guidelines that Foreign Trade Zone #93 must operate under.

Request from US Flue-Cured Tobacco Growers

Located in Person County, US Flue-Cured Tobacco Growers, Inc. (USFCTG) processes tobacco and manufactures billions of cigarettes each year. USFCTG has requested sponsorship of their application to the U.S. Foreign Trade Zone Board. If approval is given, the request will go to the US Foreign Trade Zone Board for final approval.

According to USFCTG, the reasons for requesting an FTZ designation are the following:

- 1st Foreign Trade zone in Person County, which will be used to store locally manufactured tobacco products, cigarettes, and pipe for global export distribution utilizing North Carolina, South Carolina, and Virginia ports.
- Locally owned and operated FTZ would replace the current 3rd Party owned logistics provider in Georgia.
- Proposed FTZ reduces supply chain delivery- travel time from 3 days to 2 hours (finished goods moved directly to the FTZ).

- Locally owned and operated facility provides economic growth through increased employment in North Carolina.
- Locally owned and operated facility reduces company costs, providing increased benefits to USFCTG's farm owners.

USFCTG PowerPoint regarding the request is attached as Attachment 1 for the Executive Committee's information.

USFCTG Request History

On November 6, 2024, USFCTG presented its request for Zone Sponsorship to the Central Pines Foreign Trade Zone Board. The Foreign Trade Zone Board unanimously approved the request and forwarded it to the Central Pines Executive Committee for consideration.

On November 20, 2024, the Central Pines Executive Committee considered the request and discussed the item. The discussion during the Executive Committee meeting may be found on the Central Pines YouTube Channel at this link: [CPRC Executive Committee Recording](#). (Go to the 9th minute of the meeting)

After the discussion, the Executive Committee voted to table the item for a future Executive Committee meeting and asked staff to do additional research for the Executive Committee's consideration. The specific content of the motion was the following:

Action/Motion: Table this item to provide time for additional research and bring it back up at the next meeting. It is requested that staff look at our policy related to FTZ. Staff would come back and answer the issues raised by EC including what the Charter states, what the responsibility of the Executive Committee is in this process, how it affects decisions made in the past, and whether they take a position that has to do with the cultural aspects of this.

Amendment: Delegate O'Donnell added that staff need to look at the economic burden and access data on health burden and costs associated with it

The motion to table passed with six votes in the affirmative and three in the negative.

Chair Gantt has called a Special Executive Committee meeting for January 22, 2025, to continue considering the FTZ request from USFCTG. The following is additional information requested by the Executive Committee and the Executive Director's recommendation for action during the January 22, 2025, meeting.

Staff Responses to Items Requested during November 20, 2024, Executive Committee Motion

Question from Motion - what the Charter states

Staff Response – The Central Pines Regional Council Charter does not address the Foreign Trade Zone.

All four documents that guide Central Pines Foreign Trade Zone are attached for the Executive Committee's information

- Attachment 2 The Foreign Trade Zone Act of 1934 (19 USC 81a)
- Attachment 3 The Code of Federal Regulations addressing Foreign Trade Zones, and the US Foreign Trade Zone Board (15 CFR 400)
- Attachment 4 The Foreign Trade Zone #93 Zone Schedule
- Attachment 5 The Foreign Trade Zone #93 Board Bylaws.

Following the November 20, 2024 Executive Committee meeting, the Vice President of Operations of USFCTG emailed the following information that was requested to be passed on to the Executive Committee.

I just wanted to emphasize that USFCTG is a subsidiary of the US Tobacco Cooperative. The profits our company makes are given back to our growers in the form of patronage (similar to a dividend). We are a leader in grower support prices and provide incentives, etc. to help support our farmer member owners. Farmers are struggling greatly with inflation and costs. Our mission statement has nothing to do with tobacco but rather supporting our farmer members. Our growers also produce soybeans, peanuts, blueberries, strawberries, sweet potatoes, etc.

Question from Motion - what the responsibility of the Executive Committee is in this process

Staff Response - Within the Foreign Trade Zone #93 Zone Schedule, no specific provision requires the Executive Committee or the Board of Delegates to approve new FTZ applications. However, the bylaws of the Foreign Trade Zone Board mention that, as part of the FTZ Board's duties, "The (FTZ) Board shall consider applications for Zone status as part of the Research Triangle Area FTZ and may recommend sponsorship of application to the TJCOG Board of Delegates."

Central Pines has always taken new applications to the Central Pines Regional Council's Foreign Trade Zone #93 Board for endorsement and then to the Central Pines Regional Council Board of Delegates/Executive Committee for approval. The application for USFCTG follows the same process as other applicants have done since the FTZ inception.

Question from Motion - how it affects decisions made in the past

Staff Response – The US Foreign Trade Zone Act (19 USC 81n) includes the following regarding uniform treatment (emphasis added).

*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.*

Further, in the US Code of Federal Regulation (15 CFR 400.43), uniform treatment is also addressed.

Pursuant to Section 14 of the FTZ Act (19 U.S.C. 81n), a grantee shall afford to all who may apply to make use of or participate in the zone uniform treatment under like conditions.

Section 3.01 (Uniform Treatment) of the Foreign Trade Zone #93 Zone Schedule also addresses uniform treatment:

The Grantee shall have the responsibility of ensuring that the needs of the business community located within the Service Area are reasonably served and that the Zone is being operated in the public interest affording uniform treatment to all Operators, Users, and Participants operating under like circumstances. The Grantee will ensure that rates and charges imposed according to this Schedule will be fair and reasonable taking into account the costs and expenses of the Grantee.

In late 2017, the then Triangle J COG Board of Delegates approved the FTZ Zone Sponsorship Request of Site 8 - Tobacco Rag Processors, Inc. (Wilson County) (Storage and distribution of imported and domestic finished tobacco products). Site 8 remains an active Foreign Trade Zone site and is similar to USFCTG.

This is an essential piece for the Executive Committee to consider. In late 2017, a similar business (tobacco) to the current applicant requested and received approval from Central Pines for FTZ Sponsorship.

Question from Motion - and whether they take a position that has to do with the cultural aspects of this.

Staff Response – Staff has reviewed 77 of the 259 Zone Schedules for FTZs around the United States and found no Zones that explicitly prohibit the storage of tobacco products. However, there are provisions within the US FTZ rules that can allow the prohibition of tobacco manufacturing, which is tied to US internal revenue regulations.

Question from Motion – Staff need to look at the economic burden and access data on health burden and costs associated with it

Adverse Health and Economic Impact

There is significant data available regarding the health risks of tobacco and cigarette products. A sampling (certainly not exhaustive) of studies that show the personal and economic risks of tobacco products.

- **Leading Cause of Preventable Death:** Cigarette smoking is the foremost cause of preventable disease and death in the U.S., responsible for more than 480,000 deaths annually. Link - [CDC](#)
- **Economic Impact:** In 2018, smoking-related costs exceeded \$600 billion, encompassing over \$240 billion in healthcare expenditures and nearly \$372 billion in lost productivity. Link - [CDC](#)

- **Productivity Losses:** A 2021 study estimated that morbidity-related productivity losses due to cigarette smoking amounted to \$184.9 billion in 2018. This includes costs from absenteeism, presenteeism (reduced productivity while at work), decreased household productivity, and inability to work. Link - [CDC Stacks](#)

Tobacco remains a high-yield crop for farmers

Another consideration is tobacco's continued high yields for farmers, especially in rural areas with limited other economic opportunities. Farmers can use the following spreadsheet from NC State University to calculate returns based on acreage and costs.

A link to the spreadsheet is here [NC State Ag. Data](#)

According to the spreadsheet, only sweet potatoes, soybeans, and cotton (prior to ginning) have the potential for a higher return per acre than tobacco.

Crop	NC State Projected Net Return Per Acre
Sweet Potatoes	\$922.13
Cotton (ginning not included)	\$390.39
Soybean	\$373.92
Tobacco	\$344.69
Corn	\$289.50
Peanut	\$175.80
Wheat	\$78.83
Sorghum	\$16.55

Economic Benefits to Person County

The new facility's property value is about \$2.7 million. This will equate to about \$20,000 in additional tax revenue for Person County. The facility is not in a municipality, so no municipal taxes will be collected.

Additionally, the project will establish an estimated 10-12 full-time jobs with an increase of 27-30 supplier and support jobs.

Recommendation:

The Executive Director recommends the following:

- 1) The Executive Director recommends that the Executive Committee approve Resolution 2025 01-01, approving the FTZ Sponsorship application of US Flue-Cured Tobacco Growers based on the Uniform Treatment requirements stated in the US Code, Code of Federal Regulations, and the Foreign Trade Zone #93 Zone Schedule.
- 2) The Executive Director recommends that the Executive Committee give direction to staff on whether changes should be drafted, for the Executive Committee's review, of the Foreign Trade Zone #93 Zone Schedule to prohibit any future

- applications for companies that warehouse tobacco-based products. If direction is given to change the Zone Schedule, those recommendations can be presented at the Executive Committee's February 26, 2025, meeting.
- 3) The Executive Director recommends that the Executive Committee direct the Foreign Trade Zone Board to review the Foreign Trade Zone #93 Zone Schedule once a year. This review would be for the purpose of making recommendations to the Executive Committee around changes to target and prohibited industry clusters for FTZ Sponsorship.
 - 4) The Executive Director recommends that the Executive Committee direct staff to develop recommendations to review the process of Foreign Trade Zone sponsorship considerations within Foreign Trade Zone #93. The review should clearly outline FTZ Sponsorship approval steps and review any changes to the approval process since Central Pines Regional Council boundaries differ from the Foreign Trade Zone #93 boundary.

Focus Area:

Community & Economic Development

Will Documentation Be Included for Agenda Packet:

Yes No

If yes, please include documentation in the appropriate meeting folder [HERE](#).

Is Any Additional Action/Communication Required:

- Public Hearing
- Newspaper Notice Required
- Website
- Press Release
- Social Media
- Other:

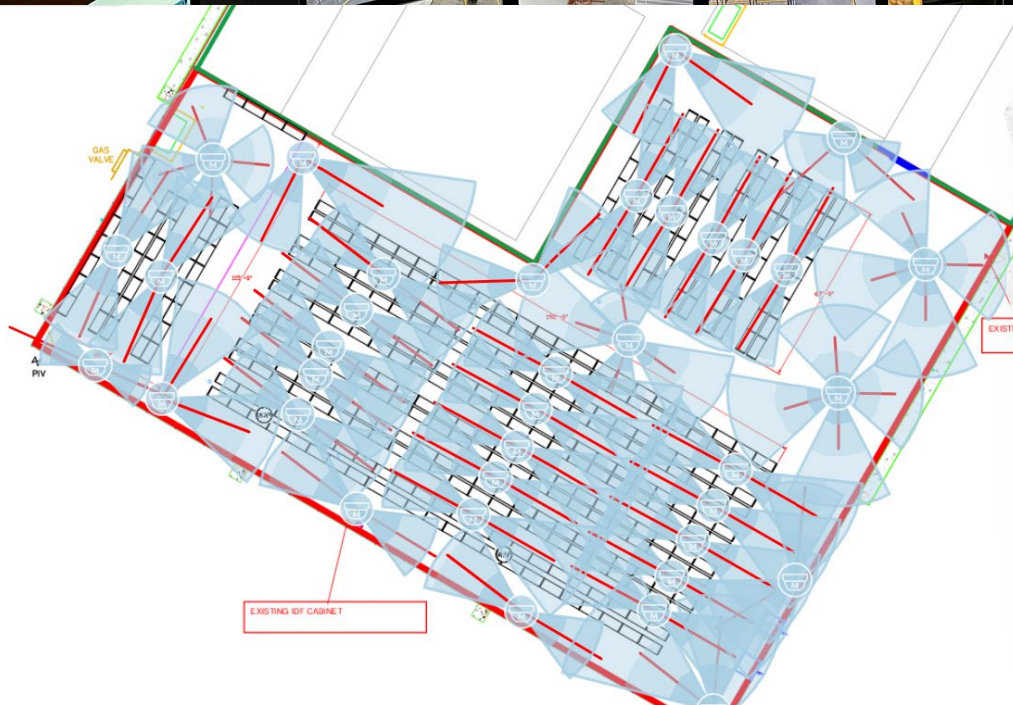
FTZ Warehouse Project
Application for USAGE
Driven Designation
Under Alternative Site
Framework.
Timberlake, NC





State of the Art Security System

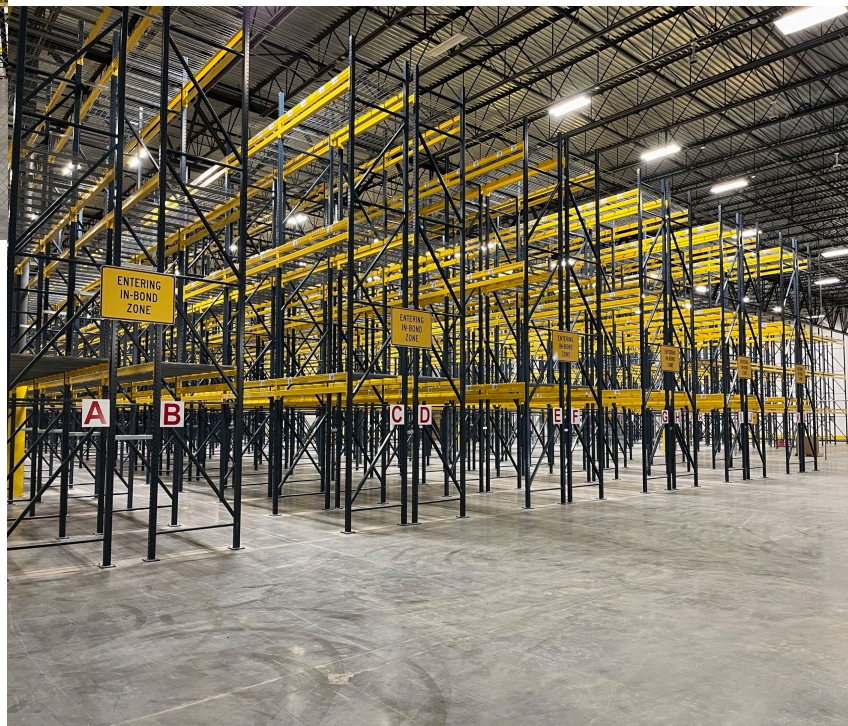
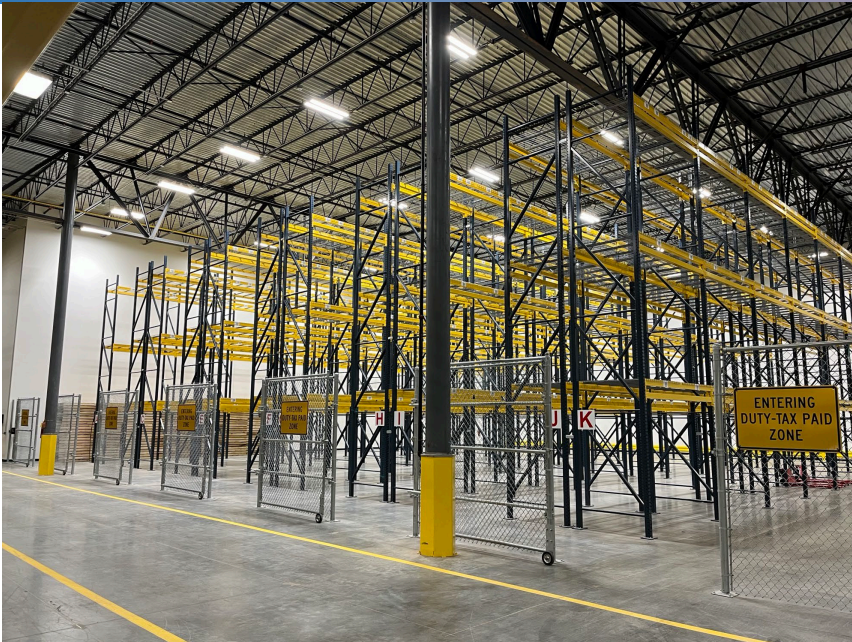
- CBP Required security coverage 24/7
- This includes electronic surveillance by 38 cameras with history of no less than 45 days.
- FBI Background Check for Key employees to manage inventory while In-Bond or Free Trade status in place.
- Security Guards on site 24/7



In Bond- Tax Paid-FTZ interior Build

In-Bond Tax Paid- FTZ
Completed 08/15/2024

Area Signs installed
Ready 9/16/2024



FTZ- In-Bond Exterior Dock Area Build



1st Key Initiative

- Customs and Border Patrol Approval Letter for the Bonded Warehouse effective date:
- 9-30-2024

U.S. Department of Homeland Security
U.S. Customs and Border Protection
2400 John Brantley Blvd.
Morrisville, NC 27560



U.S. Customs and
Border Protection

September 30, 2024

Gentleman,

This letter is in reference to your application to operate a Class 3 Public Bonded Warehouse, US Flue-Cured Tobacco Growers, Inc..

On September 17, 2024, an inspection of your bonded warehouse facility located at 250 Crown Blvd., Timberlake, NC 27583, was completed to determine if your building was in compliance with guidelines as described in Treasury Directive 72-56, Minimum Standards of Security for International Cargo. It was determined that your facility does meet the requirements for cargo security.

Your Warehouse Manual has been received. As a reminder, Customs and Border Protection (CBP) does not approve your manual. It is the operator's responsibility to comply with 19 CFR Part 19, CBP regulations for Bonded Facilities. Please advise our office if any changes occur to your current manual.

Your current bond, 24C001A6E, in the amount of \$400,000, is sufficient at his time to accommodate this facility.

The FIRMS code designated for this facility is L0B6.

You have been approved as a Class 3 Public Bonded Warehouse.

If you have any questions, please contact me at (919)674-3409.

Sincerely,

A handwritten signature in black ink that reads "John O'Mara".

John F. O'Mara
CBP Officer



2nd Key Initiative

Newly hired employees training to fill positions in the Bonded and Tax Paid distribution areas

1st USFC Imports received
9/27 Duty Paid-Tax Paid
1st USFC Export to file DDB
shipped 10/22

SHIPPER'S LETTER OF INSTRUCTIONS (SLI)		Password: SLI	
1. USFPI Name:		5. Forwarding Agent:	
2. USFPI Address (including Zip Code):		3. Freight Location Company Name:	
3. USFPI Address (including Zip Code):		4. Freight Location Address (if not box #2):	
4. USFPI EIN (IRS No.): 20-1259823		7. Related Party Indicator (select one): <input type="checkbox"/> Related <input type="checkbox"/> Non-Related	
5. USFPI Reference:		8. Related Party Transportation (select one): <input type="checkbox"/> Yes <input type="checkbox"/> No	
6. USFPI Reference:		9. Related Party Transportation (select one): <input type="checkbox"/> Yes <input type="checkbox"/> No	
10. Ultimate Consignee Name & Address:		11. Ultimate Consignee Type (select one): <input type="checkbox"/> Agent/Commissioner <input type="checkbox"/> Recipient <input type="checkbox"/> Other/Unknown	
12. State of Origin: North Carolina		13. In-Bond Code:	
14. Country of Ultimate Destination: Aruba		15. TIR / Carnet? <input type="checkbox"/> Yes <input type="checkbox"/> No	
16. In-Bond Code:		17. Entry Number:	
18. In-Bond Code:		19. TIR Identification:	
INSTRUCTIONS TO FORWARDER: BOOKING: NAM7231312 THIS BOOKING CONSISTS OF ONE CONTAINER			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
20. Gross Weight (kg):			
21. USFC Confirmation: By checking the Box 21 certification, I am certifying that the total statement weight shown is less than the Certified Gross Weight which may be added to the container tare weight and used as the verified gross mass (VGM) under the Method 2 of the SOLAS VGM regulation which becomes effective July 1, 2016.			
22. Schedule B / HTS Number and Commercial Description: <input type="checkbox"/> Schedule B / HTS Number and Description for vehicle, motor, motor and vehicle title number are required			
23. Country of Origin: <input type="checkbox"/> DOTC <input type="checkbox"/> DOTC (in file)			
24. Shipping Weight (in lbs):			
25. SECN, SARRN or USFC Category No. (if N):			
26. Export License No., License Exemption No., DOTC Exemption No., or NLR:			
27. Value at the Port of Export (US Dollars):			
28. License Value by Item (if applicable) (US Dollars):			
29. D: 2022 20 8000			
30. Q: 1000			
31. C: 24,800			
32. S: SARRN			
33. N: N			
34. CONFIRMED COMMISSIONER: 24848 04/17/20			
35. DOTC Applicant Registration Number:			
36. Eligible Party Certification:			
37. Check here if there are any remaining non-issuable Schedule B / HTS Numbers that are valued \$2000.00 or less and that do not otherwise require HTS filing:			
38. Check here if the USFPI authorizes the above named forwarder to act as its true and lawful agent for purposes of preparing and filing the Electronic Export Information (EEI) in accordance with the laws and regulations of the United States:			
39. I certify that the statements made and all information contained herein are true and correct. I understand that civil and criminal penalties, including forfeiture and sale, may be imposed for making false and fraudulent statements herein. Failing to provide the requested information or for violation of U.S. laws on importation (19 U.S.C. Sec. 265, 22 U.S.C. Sec. 2651, 28 U.S.C. Sec. 2461, 50 U.S.C. Sec. 2416).			
40. USFPI E-mail Address: usfc@usflc.com			
41. USFPI Telephone No.: 155-510-8300			
42. Printed Name of Duty authorized officer or employee: <input type="checkbox"/> Contract Signer <input type="checkbox"/> Other: 30/22/0305			
43. Signature: <input type="checkbox"/> Contract Signer <input type="checkbox"/> Other: 30/22/0305			
44. Check here to validate Electronic Signatures. Electronic signatures must be typed in all capital letters to Box 44 in order to be valid.			

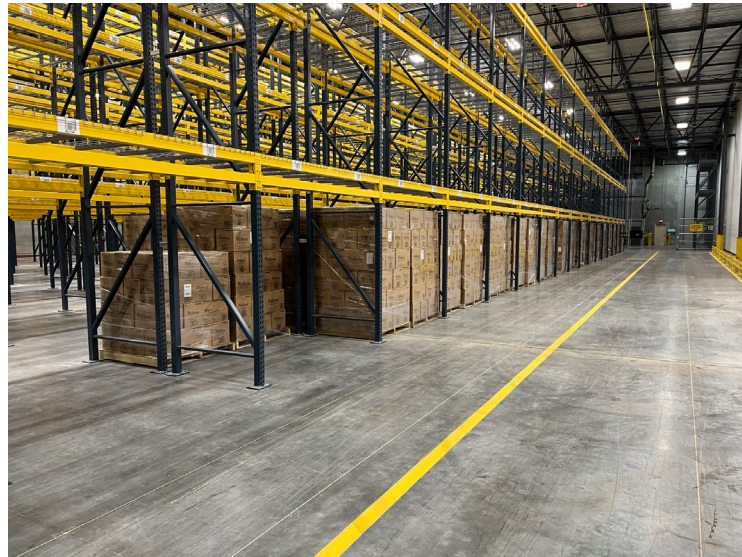


3rd Key Initiative

1st USFC In-Bond shipments received in Timberlake 10-28-2024



- SAP reports captured storage of product placed in Bin locations.
- Orders to move product to Tax Paid, then to end users “in process”.



- Environmental investment to ensure Storm Water is handled environmentally friendly to the surrounding area due to the area footprint increase by the build.



US Flue-Cured Tobacco Growers (“USFC”) About Us!

USFC is a Wholly- Owned
Subsidiary of US Tobacco
Cooperative Inc. (“USTC”)

USTC is a Farmer-Owned
Tobacco Cooperative Owned
by Flue-Cured Tobacco
Farmers in NC, SC, GA, FL and
Va.

USFC is a leader in
Manufacturing, Distributing
and Exporting a variety of
Tobacco Products.

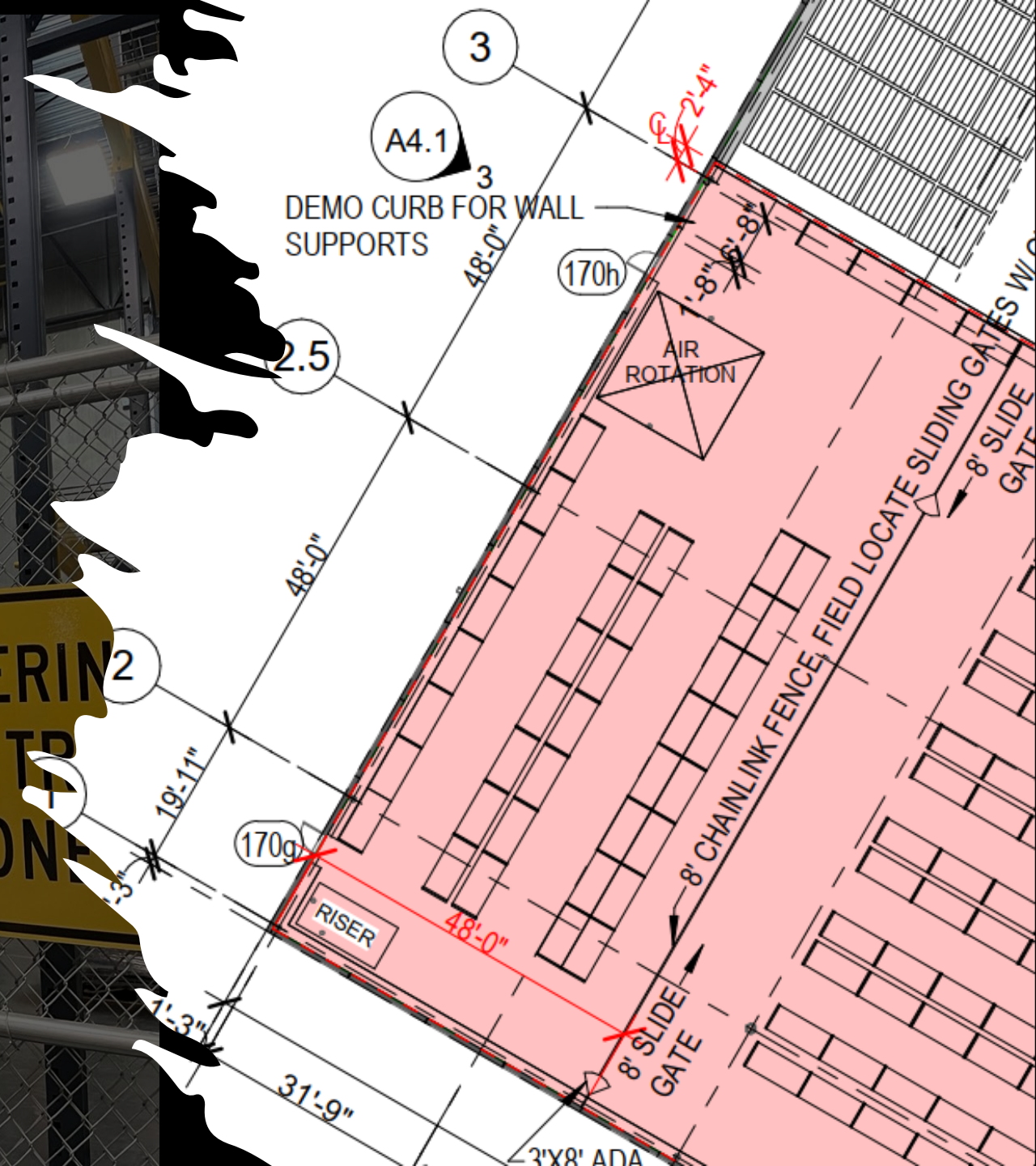
USFC Products contain
approximately 60% US
Grown Flue Cured Tobacco
produced by 500+ member
growers across NC, SC, VA,
GA and FL.

USFC is a leader in contract
manufacturing of High-
quality Tobacco Products for
Domestic and Global
Markets.

USFC Employs 125 full time
employees and 300 seasonal
employees - Aug to Feb
annually.

Free Trade Zone Project Scope

- 5635 Sq Ft Conditioned Racked storage facility.
- State of the art design to handle 12 export loads.
- Reduce handling and transit damage to product.
- Reduce transit time from Production to end user.
- Hire locally to invest revenues in our NC communities.
- Increase operational efficiencies utilization of Company assets.
- Reduce Cost related to handling, Storage and transportation to 3rd party out of state FTZ.



Free Trade Zone Purpose and Use

- 1st Free Trade zone in Person county will be used for Storage of Locally Manufactured Tobacco Products, both Cigarette and Pipe, for Global Export distribution utilizing our NC , SC and Va ports.
- Locally owned and operated FTZ would replace the current 3rd Party owned logistics provider in Ga.
- Proposed FTZ reduces supply chain delivery- travel time from 3 day to 2 hours (finished Goods moved directly to the FTZ).
- Locally Owned and Operated Facility provides economic growth thru increased employment in NC.
- Locally Owned and Operated Facility reduces Company Cost providing increased benefits to Our Farmer Owners.



Economic impact to Person County and the surrounding areas

- **Direct and Recurring Impact – Hiring**

- Full-Time Headcount – Increase 10-12
- NC Salary and Benefit Cost associated \$ 780,000

- **Indirect and Recurring Impact**

- Supplier Support / Transportation employment 27-30
- NC Salary and Benefit Cost – Private Sector \$ 218,000
- NC Salary and Benefit Cost – Public Sector \$ 87,000

- One Time Construction and Equipment Cost Paid to NC Vendors \$ 3,100,000
- Total Direct Cost Benefits – USFA and NC Companies \$ 4,065,000
- Total Supply Chain Cost Savings Transportation and GA Warehouse **\$ 400,000**



THANK YOU!

We look forward to hearing from you and will answer any questions you may have.

19 USC Ch. 1A: FOREIGN TRADE ZONES**From Title 19—CUSTOMS DUTIES****Attachment 2****CHAPTER 1A—FOREIGN TRADE ZONES**

Sec.	
81a.	Definitions.
81b.	Establishment of zones.
81c.	Exemption from customs laws of merchandise brought into foreign trade zone.
81d.	Customs officers and guards.
81e.	Vessels entering or leaving zone; coastwise trade.
81f.	Application for establishment and expansion of zone.
81g.	Granting of application.
81h.	Rules and regulations.
81i.	Cooperation of Board with other agencies.
81j.	Cooperation of other agencies with Board.
81k.	Agreements as to use of property.
81l.	Facilities to be provided and maintained.
81m.	Permission to others to use zone.
81n.	Operation of zone as public utility; cost of customs service.
81o.	Residents of zone.
81p.	Accounts and recordkeeping.
81q.	Transfer of grant.
81r.	Revocation of grants.
81s.	Offenses.
81t.	Separability.
81u.	Right to alter, amend, or repeal chapter.

§81a. Definitions

When used in this chapter—

- (a) The term "Secretary" means the Secretary of Commerce;
- (b) The term "Board" means the Board which is established to carry out the provisions of this chapter. 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 chapter;
- (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 a 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 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 chapter.

(June 18, 1934, ch. 590, §1, 48 Stat. 998; Pub. L. 104–201, div. A, title IX, §910, Sept. 23, 1996, 110 Stat. 2621.)

EDITORIAL NOTES**AMENDMENTS**

1996—Subsec. (b). Pub. L. 104–201, §910(1), substituted "and the Secretary of the Treasury" for "the Secretary of the Treasury, and the Secretary of War".

Subsec. (c). Pub. L. 104–201, §910(2), struck out "Alaska, Hawaii," after "Columbia,".

STATUTORY NOTES AND RELATED SUBSIDIARIES**SHORT TITLE**

This chapter is popularly known as the "Foreign Trade Zones Act".

FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES

Notwithstanding this chapter, articles located in a foreign trade zone on the effective date of increases in tax under specific amendments by Pub. L. 101–508 subject to floor stocks taxes under certain circumstances, see section 11218 of Pub. L. 101–508, set out as a note under section 5001 of Title 26, Internal Revenue Code.

§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).

(June 18, 1934, ch. 590, §2, 48 Stat. 999.)

§81c. Exemption from customs laws of merchandise brought into foreign trade zone**(a) Handling of merchandise in zone; shipment of foreign merchandise into customs territory; appraisal; reshipment to zone**

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 chapter, 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 chapter, 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 reenter 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 section 1201 of this title: *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 paragraphs 367 or 368 of section 1001 of this title, 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 chapter 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 USMCA drawback, as defined in section 4534(a) of this title, that is manufactured or otherwise changed in condition shall be exported to a USMCA country, as defined in section 4502 of this title, 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 USMCA country on the article, the customs duty may be waived or reduced (subject to section 4534(e) of this title) 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 USMCA country: *Provided, further*, That, if Canada ceases to be a USMCA 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, 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: *Provided further*, That no merchandise that consists of goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, that is manufactured or otherwise changed in condition shall be exported to Chile 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 the customs duty may be waived or reduced by (1) 100 percent during the 8-year period beginning on January 1, 2004; (2) 75 percent during the 1-year period beginning on January 1, 2012; (3) 50 percent during the 1-year period beginning on January 1, 2013; and (4) 25 percent during the 1-year period beginning on January 1, 2014.

(b) Applicability to bicycle component parts

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) Articles manufactured or produced from denatured distilled spirits withdrawn free of tax from distilled spirits plant; products unfit for beverage purposes

(1) Notwithstanding the provisions of the fifth proviso of subsection (a), any article (within the meaning of section 5002(a)(14) of title 26) 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 title 26), 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 title 26) 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) Foreign trade zones

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.

(June 18, 1934, ch. 590, §3, 48 Stat. 999; June 17, 1950, ch. 296, §1, 64 Stat. 246; Pub. L. 91–271, title III, §309, June 2, 1970, 84 Stat. 292; Pub. L. 98–573, title II, §231(a)(2), Oct. 30, 1984, 98 Stat. 2990; Pub. L. 99–514, title XVIII, §1894, Oct. 22, 1986, 100 Stat. 2931; Pub. L. 100–418, title I, §1783(f), Aug. 23, 1988, 102 Stat. 1300; Pub. L. 100–449, title II, §204(c)(5), Sept. 28, 1988, 102 Stat. 1863; Pub. L. 100–647, title IX, §9002, Nov. 10, 1988, 102 Stat. 3808; Pub. L. 101–382, title III, §§481, 484F, Aug. 20, 1990, 104 Stat. 706, 710; Pub. L. 103–182, title II, §203(b)(5), Dec. 8, 1993, 107 Stat. 2091; Pub. L. 104–295, §31(a), Oct. 11, 1996, 110 Stat. 3536; Pub. L. 106–36, title I, §1001(b)(2), June 25, 1999, 113 Stat. 131; Pub. L. 108–77, title II, §203(b)(5), Sept. 3, 2003, 117 Stat. 929; Pub. L. 116–113, title V, §501(e)(5), Jan. 29, 2020, 134 Stat. 69; Pub. L. 116–260, div. O, title VI, §601(c)(2)(B), Dec. 27, 2020, 134 Stat. 2150.)

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 108–77, see Effective and Termination Dates of 2003 Amendment note below.

For termination of amendment by section 501(c) of Pub. L. 100–449, see Effective and Termination Dates of 1988 Amendment note below.

EDITORIAL NOTES

REFERENCES IN TEXT

The Tariff Act of 1930, referred to in subsec. (a)(1), is act [June 17, 1930, ch. 497](#), 46 Stat. 590, which is classified generally to chapter 4 (§1202 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Sections 1001 and 1201 of this title, referred to in subsec. (a), which comprised the dutiable and free lists for articles imported into the United States, were repealed by Pub. L. 87–456, title I, §101(a), May 24, 1962, 76 Stat. 72, which act also revised the Tariff Schedules of the United States. The Tariff Schedules of the United States were replaced by the Harmonized Tariff Schedule of the United States which is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

References in subsec. (a) to section and chapters of the Internal Revenue Code are references to section and chapters of the Internal Revenue Code, 1939, which was repealed by section 7851 of Title 26, I.R.C. 1954. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095. Corresponding sections of I.R.C. 1986 to section and chapters of I.R.C. 1939 referred to in the text are set out below. For provision deeming a reference in other laws to a provision of I.R.C. 1939, also as a reference to corresponding provision of I.R.C. 1986, see section 7852(b) of Title 26, I.R.C. 1986.

Section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsec. (a), is section 203(a) of Pub. L. 108–77, which is set out in a note under section 3805 of this title.

<i>I.R.C. 1939</i>	<i>I.R.C. 1986</i>
§1807	Omitted
Chapter 15	§5701 et seq.
Chapter 16	§4591 et seq., §4811 et seq.
Chapter 17	§4831 et seq.
Chapter 21	Omitted
Chapter 23	§4701 et seq.
Chapter 24	§4801 et seq.
Chapter 25	§§4181, 4182, and 5811 et seq.
Chapter 26	§5001 et seq.
Chapter 32	§4501 et seq.

Section 204 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsec. (a), is section 204 of Pub. L. 100–449, which is set out in a note under section 2112 of this title.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–260 substituted "(subject to section 4534(e) of this title)" for "(subject to section 508(b)(2)(B) of the Tariff Act of 1930)" in seventh proviso.

Pub. L. 116–113, which directed amendment of the flush text of subsec. "(a)(2)" by substituting "goods subject to USMCA drawback, as defined in section 4534(a) of this title" for "goods subject to NAFTA drawback, as defined in section 3333(a) of this title", "a USMCA country, as defined in section 4502 of this title" for "a NAFTA country, as defined in section 3301(4) of this title", and "USMCA" for "NAFTA" wherever appearing, was executed by making the substitutions in concluding provisions of subsec. (a), to reflect the probable intent of Congress.

2003—Subsec. (a). Pub. L. 108–77, §§107(c), 203(b)(5), temporarily inserted before period at end "*Provided further*, That no merchandise that consists of goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, that is manufactured or otherwise changed in condition shall be exported to Chile 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 the customs duty may be waived or reduced by (1) 100 percent during the 8-year period beginning on January 1, 2004; (2) 75 percent during the 1-year period beginning on January 1, 2012; (3) 50 percent during the 1-year period beginning on January 1, 2013; and (4) 25 percent during the 1-year period beginning on January 1, 2014". See Effective and Termination Dates of 2003 Amendment note below.

1999—Subsec. (a). Pub. L. 106–36 struck out second period at end of last sentence.

1996—Subsec. (e). Pub. L. 104–295 added subsec. (e).

1993—Subsec. (a). Pub. L. 103–182, in provisions following par. (2), inserted second proviso relating to goods subject to NAFTA drawback, and in last proviso inserted ", if Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates," after "That" and substituted "during the period such Agreement is in operation" for

"on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988,".

1990—Subsec. (b). Pub. L. 101–382, §481, substituted "on or before December 31, 1992" for "before January 1, 1991".

Subsec. (c). Pub. L. 101–382, §484F, designated existing provisions as par. (1), struck out "domestic" before "denatured distilled", inserted provisions relating to withdrawal free of tax from a distilled spirits plant, and added par. (2).

1988—Subsec. (a). Pub. L. 100–449 temporarily inserted provision directing that, "with the exception of drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, no article manufactured or otherwise changed in condition (except a change by cleaning, testing or repacking) shall be exported to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988, 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." See Effective and Termination Dates of 1988 Amendment note below.

Subsec. (b). Pub. L. 100–418 substituted "January 1, 1991" for "June 30, 1986".

Subsec. (d). Pub. L. 100–647 added subsec. (d).

1986—Subsec. (c). Pub. L. 99–514 added subsec. (c).

1984—Subsec. (a). Pub. L. 98–573 designated existing provisions as subsec. (a), redesignated former pars. (a) and (b) as pars. (1) and (2), respectively, of subsec. (a), and added subsec. (b).

1970—Pub. L. 91–271 substituted references to the appropriate customs officers for references to the collector of customs wherever appearing.

1950—Act June 17, 1950, amended section generally to remove the prohibition against, and to authorize specifically, manufacture and exhibition within a zone.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–260, div. O, title VI, §601(h), Dec. 27, 2020, 134 Stat. 2152, provided that: "This section [amending this section, sections 1311 to 1313, 1508, 1520, 1562, 1677f, 3472, 3473, 4531, and 4534 of this title, and sections 290m to 290m–5 and 290m–7 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as a note under section 3472 of this title] and the amendments made by this section shall take effect on July 1, 2020."

Pub. L. 116–113, title V, §501(g), Jan. 29, 2020, 134 Stat. 69, provided that:

"(1) IN GENERAL.—Each transfer, redesignation, and amendment made by subsections (b) through (e) [amending this section and sections 1311 to 1313, 1562, 3333, and 4534 of this title] shall—

"(A) take effect on the date on which the USMCA enters into force [July 1, 2020]; and

"(B) apply with respect to a good entered, or withdrawn from warehouse for consumption, on or after that date.

"(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

"(A) the amendments made by subsections (b) through (e) shall not apply with respect to the good; and

"(B) the provisions of law amended by such subsections, as such provisions were in effect on the day before that date, shall continue to apply on and after that date with respect to the good."

[For definition of "USMCA" as used in section 501(g) of Pub. L. 116–113, set out above, see section 4502 of this title.]

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108–77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108–77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–295, §31(b), Oct. 11, 1996, 110 Stat. 3537, provided that: "The amendment made by this section [amending this section] shall apply with respect to merchandise admitted into a foreign trade zone after the date that is 15 days after the date of the enactment of this Act [Oct. 11, 1996]."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA country, see section 213(c) of Pub. L. 103–182, formerly set out as an Effective Date note under former section 3331 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–382, [title III, §485\(a\)](#), [Aug. 20, 1990](#), 104 Stat. 712, provided that: "Except as otherwise provided in this title, the amendments made by this title [amending this section and sections 1309, 1313, 1466, and 1553 of this title and enacting provisions set out as notes under sections 1309, 1466, and 1553 of this title], shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990."

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date the United States–Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of this title.

Amendment by section 1783(f) of Pub. L. 100–418 applicable with respect to articles entered or withdrawn from warehouse for consumption, after Sept. 30, 1988, pursuant to section 1831(a) of Pub. L. 100–418.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–573, [title II, §231\(a\)\(3\)](#), [Oct. 30, 1984](#), 98 Stat. 2990, provided that: "The amendments made by paragraph (2) [amending this section] shall take effect on the fifteenth day after the date of the enactment of this Act [Oct. 30, 1984]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–271 effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after Oct. 1, 1970, and such other articles entered or withdrawn from warehouse for consumption prior to such date, or with respect to which a protest has not been disallowed in whole or in part before Oct. 1, 1970, see section 203 of Pub. L. 91–271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES

Notwithstanding this chapter, articles located in a foreign trade zone on the effective date of increases in tax under specific amendments by Pub. L. 101–508 subject to floor stocks taxes under certain circumstances, see section 11218 of Pub. L. 101–508, set out as a note under section 5001 of Title 26, Internal Revenue Code.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] or title XVIII [§§1801–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out as a note under section 1 of this title. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

§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.

(June 18, 1934, ch. 590, §4, 48 Stat. 1000.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

§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.

(June 18, 1934, ch. 590, §5, 48 Stat. 1000.)

§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.

(June 18, 1934, ch. 590, §6, 48 Stat. 1000.)

§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.

(June 18, 1934, ch. 590, §7, 48 Stat. 1000.)

§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.

(June 18, 1934, ch. 590, §8, 48 Stat. 1000.)

§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.

(June 18, 1934, ch. 590, §9, 48 Stat. 1000; Pub. L. 106–36, title I, §1001(b)(3), June 25, 1999, 113 Stat. 131.)

EDITORIAL NOTES

AMENDMENTS

1999—Pub. L. 106–36 substituted "United States Postal Service, the Public Health Service, the Immigration and Naturalization Service" for "Post Office Department, the Public Health Service, the Bureau of Immigration".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and of all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88, title V, Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508(b) of Title 20, Education.

Functions of officers of Department of Justice and functions of all agencies and employees of such Department transferred, with a few exceptions, to Attorney General, with power vested in him to authorize

their performance or performance of any of his functions by any of such officers, agencies, and employees, by former sections 1 and 2 of Reorg. Plan No. 2 of 1950, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5. The Immigration and Naturalization Service, referred to in this section, was in Department of Justice.

Functions of officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. Customs Service was under Department of the Treasury.

§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.

(June 18, 1934, ch. 590, §10, 48 Stat. 1001.)

§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.

(June 18, 1934, ch. 590, §11, 48 Stat. 1001.)

§81l. 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.

(June 18, 1934, ch. 590, §12, 48 Stat. 1001.)

§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.

(June 18, 1934, ch. 590, §13, 48 Stat. 1001.)

§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.

(June 18, 1934, ch. 590, §14, 48 Stat. 1001.)

§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.

(June 18, 1934, ch. 590, §15, 48 Stat. 1002; Pub. L. 98-573, title II, §231(b)(1), Oct. 30, 1984, 98 Stat. 2991.)

EDITORIAL NOTES

AMENDMENTS

1984—Subsec. (e). Pub. L. 98-573 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-573, title II, §231(b)(2), Oct. 30, 1984, 98 Stat. 2991, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on January 1, 1983."

§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.

(June 18, 1934, ch. 590, §16, 48 Stat. 1002; Pub. L. 96-609, title II, §204, Dec. 28, 1980, 94 Stat. 3561; Pub. L. 99-386, title II, §203(b), Aug. 22, 1986, 100 Stat. 823.)

EDITORIAL NOTES

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–386, §203(b)(1), substituted "reports on zone operations" for "reports containing a full statement of all the operations, receipts, and expenditures, and such other information as the Board may require".

Subsec. (c). Pub. L. 99–386, §203(b)(2), added subsec. (c) and struck out former subsec. (c) which required the Board to make an annual report to Congress containing a summary of the operation and fiscal condition of each zone, and transmit copies of the annual report of each grantee.

1980—Subsec. (c). Pub. L. 96–609 substituted "by April 1 of each year" for "on the first day of each regular session".

§81q. Transfer of grant

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

(June 18, 1934, ch. 590, §17, 48 Stat. 1002.)

§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.

(June 18, 1934, ch. 590, §18, 48 Stat. 1002; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Pub. L. 85–791, §11, Aug. 28, 1958, 72 Stat. 945.)

EDITORIAL NOTES

AMENDMENTS

1958—Subsec. (c). Pub. L. 85–791 substituted "thereupon file in the court" for "forthwith prepare, certify, and file in the court a full and accurate transcript of" and "as provided in section 2112 of title 28" for "the charges, the evidence, and the order revoking the grant" in third sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals".

§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.

(June 18, 1934, ch. 590, §19, 48 Stat. 1003.)

§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.

(June 18, 1934, ch. 590, §20, 48 Stat. 1003.)

§81u. Right to alter, amend, or repeal chapter

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

(June 18, 1934, ch. 590, §21, 48 Stat. 1003.)



Attachment 3

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U.S. Foreign-Trade Zones

Encouraging activity and investment in the U.S.

FOREIGN-TRADE ZONES 101

[Preamble to the 2024 Revisions to the Regulations](#)

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





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Subpart A-Scope, Definitions and Authority

§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 (FTZs or



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 customs regulations (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 zones are “activated” under U.S. Customs and Border Protection (CBP) 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 production activity, 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



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 (19 U.S.C. 81a-81u).

(b) Activation limit is the size of the physical area of a particular zone or subzone authorized by the Board to be simultaneously in activated status with CBP pursuant to 19 CFR 146.6. The activation limit for a particular zone/subzone is a figure explicitly specified by the Board in authorizing the zone (commonly 2,000 acres) or subzone or, in the absence of a specified figure, the total of the sizes of the approved sites of the zone/subzone.

(c) Alternative site framework (ASF) is an optional approach to designation and management of zone sites allowing greater flexibility and responsiveness to serve single-operator/user locations. The ASF was adopted by the Board as a matter of practice in December 2008 (74 FR 1170, January 12, 2009; correction 74 FR 3987, January 22, 2009) and modified by the Board in November 2010 (75 FR 71069, November 22, 2010).

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



published in the Federal Register after issuance.

(f) CBP means U.S. Customs and Border Protection.

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

(h) Foreign-trade zone (FTZ or zone) includes all sites/subzones designated under the sponsorship of a zone grantee, in or adjacent (as defined by Sec. 400.11(b)(2)) to a CBP port of entry, operated as a public utility (within the meaning of Sec. 400.42), with zone operations under the supervision of CBP.

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

(j) Magnet site means a site intended to serve or attract multiple operators or users under the ASF.

(k) Modification: A major modification is a proposed change to a zone that requires action by the FTZ Board; a minor modification is a proposed change to a zone that may be authorized by the Executive Secretary.

(l) Person includes any individual, corporation, or entity.

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

(n) Private corporation means any corporation, other than a public corporation, which is organized for the



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 article which results in a change in the customs classification of the article or in its eligibility for entry for consumption.

(p) 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.

(q) Service area means the jurisdiction(s) within which a grantee proposes to be able to designate sites via minor boundary modifications under the ASF.

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

(s) Subzone means a site (or group of sites) established for a specific use.

(t) Usage-driven site means a site established for a single operator or user under the ASF.

(u) Zone grantee is the corporate recipient of a grant of authority for a zone. Where used in this part, the term “grantee” means “zone grantee” unless otherwise indicated.

(v) Zone operator is a person that operates within a zone or subzone under the terms of an agreement with the zone grantee (or third party on behalf of the grantee), with the concurrence of CBP.

(w) Zone participant is a current or prospective zone operator, zone user, or property owner.

(x) Zone plan includes all the zone sites that a single grantee is authorized to establish.



or airport facility.

(z) Zone user is a party using a zone under agreement with a zone operator.

§400.3 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 approve subzones and modifications to the original zone;
- (3) Authorize production activity in zones and subzones as described in 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 Enforcement and Compliance or the Executive Secretary;
- (6) Inspect the premises, operations and accounts of zone grantees, operators and users (and persons undertaking zone-related functions on behalf of grantees, where applicable);
- (7) Require zone grantees and operators to report on zone operations;
- (8) Report annually to the Congress on zone operations;
- (9) Restrict or prohibit zone operations;
- (10) Terminate reviews of applications under certain circumstances pursuant to Sec. 400.36(g);



part;

(13) Instruct CBP to suspend activated status pursuant to Sec. 400.62(h);

(14) Revoke grants of authority for cause;

(15) Determine, as appropriate, whether zone activity is or would be in the public interest or detrimental to the public interest, health or safety; and

(16) Issue and discontinue waivers pursuant to Sec. 400.43(f).

(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 shall designate an alternate with authority to act in an official capacity for that member.

(d) Authority of the Assistant Secretary for Enforcement and Compliance (Alternate Chairman). The Commerce Department's Assistant Secretary for Enforcement and Compliance has the authority to:

(1) Terminate reviews of applications under certain circumstances pursuant to Sec. 400.36(g);

(2) Mitigate and assess fines pursuant to Sec. Sec. 400.62(e) and (f) and instruct CBP to suspend activated status pursuant to Sec. 400.62(h); and

(3) Restrict the use of zone procedures under certain circumstances pursuant to Sec. 400.49(c).



§400.4 Authority and responsibilities 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 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) Direct processing of applications and reviews, including designation of examiners and scheduling of hearings, under various sections of this part;
- (i) Make determinations on questions pertaining to grantees' applications for subzones as provided in Sec. 400.12(d);



- (k) Determine questions of scope under Sec. 400.14(d);
- (l) 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 Sec. Sec. 400.21-400.25;
- (m) Issue instructions, guidelines, forms and related documents specifying time, place, manner and formats for applications, notifications, application fees and zone schedules in various sections of this part, including Sec. Sec. 400.21(b), 400.29, 400.43(f), and 400.44;
- (n) Determine whether proposed modifications are major modifications or minor modifications under Sec. 400.24(a)(2);
- (o) Determine whether applications meet pre-docketing requirements under Sec. 400.31(b);
- (p) Terminate reviews of applications under certain circumstances pursuant to Sec. 400.36(g);
- (q) Authorize minor modifications to zones under Sec. 400.38, commencement of production activity under Sec. 400.37(d) and subzone designation under Sec. 400.36(f);
- (r) Review notifications for production authority under Sec. 400.37;
- (s) Direct monitoring and reviews of zone operations and activity under Sec. 400.49;
- (t) Review zone schedules and determine their sufficiency under Sec. 400.44(c);
- (u) Assess potential issues and make recommendations pertaining to uniform treatment under Sec. 400.43 and review and decide complaint cases under Sec. 400.45;



under Sec. 400.48;

(x) Determine the format and deadlines for the annual reports of zone grantees to the Board and direct preparation of an annual report from the Board to Congress under Sec. 400.51(c);

(y) Make recommendations and certain determinations regarding violations and fines, and undertake certain procedures related to the suspension of activated status, as provided in Sec. 400.62; and

(z) Designate an acting Executive Secretary.

§400.5 Authority to restrict or prohibit certain zone operations.

The Board may conduct a proceeding, or the Executive Secretary a review, to consider a restriction or prohibition on zone activity. Such proceeding or review may be either self-initiated or in response to a complaint made to the Board by a person directly affected by the activity in question and showing good cause. After a proceeding or review, the Board may restrict or prohibit any admission of merchandise or process of treatment in an activated FTZ site when it determines that such activity is detrimental to the public interest, health or safety.

§400.6 Board headquarters.



1401 Constitution Avenue NW., Washington, DC 20230,
within the office of the Foreign-Trade Zones staff.

§400.7 CBP officials as Board representatives.

CBP officials with oversight responsibilities for a port of entry represent the Board with regard to the zones adjacent to the port of entry in question and are responsible for enforcement, including physical security and access requirements, as provided in 19 CFR part 146.

Subpart B-Ability To Establish Zone; Limitations and Restrictions on Authority Granted

§400.11 Number and location of zones and subzones.

- (a) Number of zones — port of entry entitlement.
 - (1) Provided that the other requirements of this part are met:
 - (i) Each port of entry is entitled to at least one zone;
 - (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; 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.
 - (2) Applications pertaining to zones in addition to



(b) Location of zones and subzones — port of entry adjacency requirements.

(1) 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 zone site is located within 60 statute miles or 90 minutes’ driving time (as determined or concurred upon by CBP) from the outer limits of a port of entry boundary as defined in 19 CFR 101.3.

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

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

(B) All electronically produced records are maintained in a format compatible with the requirements of CBP for the duration of the record period; and

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

§400.12 Eligible applicants.

(a) In general. Subject to the other provisions of this section, public or private corporations may apply for grants of authority to establish zones. The Board shall give preference to public corporations.

(b) Public corporations and private non-profit corporations. The eligibility of public corporations and



class, is authorized to so apply. Any application must not be inconsistent with the charter or organizational papers of the applying entity.

(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 (except pursuant to Sec. 400.24(c)) — (1) Eligibility. The following entities are eligible to apply to establish a subzone:

- (i) The grantee of the closest zone in the same state;
- (ii) The grantee of another zone in the same state, which is a public corporation (or a non-public corporation if no such other public corporation exists), 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) Notification of closest grantee. If an application is submitted under paragraph (d)(1)(ii) or (iii) of this section, the Executive Secretary shall:

- (i) Notify, in writing, the grantee specified in paragraph (d)(1)(i) of this section, which 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 docketing the application to determine whether the proposed sponsorship is in the public interest, taking into account:



of the Executive Secretary's determination;

(iv) If the Executive Secretary determines that the proposed sponsorship is in the public interest, docket the application (see Sec. 400.63 regarding appeals of decisions of the Executive Secretary).

§400.13 General conditions, prohibitions and restrictions applicable to authorized zones.

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

(1) 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.

(2) A grant of authority approved under this part includes authority for the grantee to permit the erection of buildings necessary to carry out the approved zone (subject to concurrence of CBP for an activated area of a zone).

(3) Approvals from the grantee (or other party acting on behalf of the grantee, where applicable) and CBP, pursuant to 19 CFR part 146, are required prior to the activation of any portion of an approved zone.



zone or subzone, subject to the provisions of Board Order 849 (61 FR 53305, October 11, 1996).

(5) Zone grantees, operators, and users (and persons undertaking zone-related functions on behalf of grantees, where applicable) shall permit federal government officials acting in an official capacity to have access to the zone and records during normal business hours and under other reasonable circumstances.

(6) Activity involving production is subject to the specific provisions in Sec. 400.14.

(7) A grant of authority may not be sold, conveyed, transferred, set over, or assigned (FTZ Act, section 17; 19 U.S.C. 81q).

(8) Private ownership of zone land and facilities is permitted, provided the zone grantee retains the control necessary to implement the approved zone. Such permission shall not constitute a vested right to zone designation, nor interfere with the Board's regulation of the grantee or the permittee, nor interfere with or complicate the revocation of the grant by the Board. Grantees shall retain a level of control which allows the grantee to carry out its responsibilities as grantee. The sale of zone-designated land/facility for more than its fair market value without zone designation could, depending on the circumstances, be subject to the prohibitions set forth in section 17 of the Act (19 U.S.C. 81q).

(b) Board authority to restrict or prohibit activity. Pursuant to section 15(c) of the Act (19 U.S.C. 81o(c)), the Board has authority to "order the exclusion from [a] zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety." In



application or as part of a review of an operation, the Board shall determine whether the activity is in the public interest by reviewing it in relation to the evaluation criteria contained in Sec. 400.27.

(c) Restrictions on items subject to antidumping and countervailing duty actions – (1) Board policy. Zone procedures shall not be used to circumvent antidumping duty (AD) and countervailing duty (CVD) actions under 19 CFR part 351.

(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 part 351.

(d) Additional conditions, prohibitions and restrictions. Other conditions/requirements, prohibitions and restrictions under Federal, State or local law may apply to authorized zones and subzones.

§400.14 Production — requirement for prior authorization.



review of a notification under Sec. 400.37 results in a determination that further review is warranted for all or part of the notified activity, the application process pursuant to Sec. Sec. 400.23, 400.31 through 400.32, 400.34, and 400.36 shall apply to the activity.

Notifications and applications requesting production authority may be submitted by the zone's grantee or by the operator that proposes to undertake the activity (provided the operator at the same time furnishes a copy of the notification or application to the grantee and that submissions by the operator are consistent with the grantee's zone schedule)..

(b) Scope of authority. Production activity that may be conducted in a particular zone operation is limited to the specific foreign-status materials and components and specific finished products described in notifications and applications that have been authorized pursuant to paragraph (a) of this section, including any applicable prohibitions or restrictions. A determination may be requested pursuant to paragraph (d) of this section as to whether particular activity falls within the scope of authorized activity. Unauthorized activity could be subject to penalties pursuant to the customs regulations on foreign-trade zones (19 CFR part 146).

(c) Information about authorized production activity. The Board shall make available via its Web site information regarding the materials, components, and finished products associated with individual production operations authorized under these and previous regulations, as derived from applications and notifications submitted to the Board.



procedures of Sec. Sec. 400.32 and 400.34 shall be followed.

§400.15 Production equipment.

(a) In general. Pursuant to section 81c(e) of the FTZ Act, merchandise that 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. Payment of duty may be deferred until such equipment goes into use as production equipment as part of zone production activity, at which time the equipment shall be entered for consumption as completed equipment.

(b) Definition of production equipment. Eligibility for this section is limited to equipment and parts of equipment destined for use in zone production activity as defined in Sec. 400.2(o) of this part. Ineligible for treatment as production equipment under this section are general materials (that are used in the installation of production equipment or in the assembly of equipment) and materials used in the construction or modification of the plant that houses the production equipment.

(c) Equipment not destined for zone activity. Production equipment or parts that are not destined for use in zone production activity shall be treated as normal merchandise eligible for standard zone-related benefits



§400.16 Exemption from state and local ad valorem taxation of tangible personal property.

Foreign merchandise (tangible personal property) imported from outside the United States and held in the activated area of 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 the activated area of a zone for exportation, either in its original form or as altered by any of the processes set out in this section, shall be exempt from state and local ad valorem taxation.

Subpart C-Applications To Establish and Modify Authority

§400.21 Application to establish a zone.

(a) In general. An application for a grant of authority to establish a zone (including pursuant to the ASF procedures adopted by the Board (Sec. 400.2(c))) shall consist of an application letter and detailed contents to meet the requirements of this part.

(b) Application format. Applications pursuant to this



type of application in question. An application submitted that uses a superseded format shall be processed unless the format has not been current for a period in excess of one year.

(c) Application letter. The application letter shall be dated within six months prior to the submission of the application and signed by an officer of the corporation authorized in the resolution for the application (see Sec. 400.21(d)(1)(iii)). The application letter shall also describe:

- (1) The relationship of the proposal to the state enabling legislation and the applicant's charter;
- (2) The specific authority requested from the Board;
- (3) The proposed zone site(s) and facility(ies) and any larger project of which the zone is a part;
- (4) The project background;
- (5) The relationship of the project to the community's and state's international trade-related goals and objectives; and
- (6) Any additional pertinent information needed for a complete summary description of the proposal.

(d) Detailed contents.

(1) Legal authority for the application shall be documented with:

- (i) A current copy of the state enabling legislation described in Sec. Sec. 400.12(b) and (c);
- (ii) A copy of the relevant sections of the applicant's charter or organization papers; and
- (iii) A certified copy of a resolution of the applicant's governing body specific to the application authorizing the official signing the application letter. The resolution must be dated no more than six months prior to the submission



- (i) A detailed description of the zone site, including size, location, and address (and legal description or its equivalent in instances where the Executive Secretary determines it is needed to supplement the maps in the application), as well as dimensions and types of existing and proposed structures, master planning, and timelines for construction of roads, utilities and planned buildings;
 - (ii) Where applicable, a summary description of the larger project of which the site is a part, including type, size, location and address;
 - (iii) A statement as to whether the site is within or adjacent to a CBP port of entry (including distance from the limits of the port of entry and, if the distance exceeds 60 miles, driving time from the limits of the port of entry);
 - (iv) A description of existing or proposed site qualifications, including appropriate land-use zoning (with environmentally sensitive areas avoided) and physical security;
 - (v) A description of current and planned activities associated with the site;
 - (vi) A statement regarding the environmental aspects of the proposal;
 - (vii) The estimated time schedules for construction and activation; and
 - (viii) A statement as to the possibilities and plans for future expansion of the site.
- (3) Operation and financing shall be documented with:
- (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 plans for operations at the site;



(i) A statement of the community's overall economic and trade-related goals and strategies in relation to those of the region and state, including a reference to the plan or plans on which the goals are based and how they relate to the zone project;

(ii) An economic profile of the community including discussion of:

(A) Dominant sectors in terms of employment or income;

(B) Area strengths and weaknesses;

(C) Unemployment rates; and

(D) Area foreign trade statistics;

(iii) A statement as to the role and objective of the zone project and a discussion of the anticipated economic impact, direct and indirect, of the zone project, including references to public costs and benefits, employment, and U.S. international trade;

(iv) A separate justification for each proposed site, including a specific explanation addressing the degree to which the site may duplicate types of facilities at other proposed or existing sites in the zone;

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

(vi) For any production activity to be conducted at a proposed site, the separate requirements of Sec. 400.14(a) must also be met.

(5) Maps and site plans shall include the following documents:



of the zone area showing zone boundaries in red, with street name(s), and showing existing and proposed structures; and

(iii) For proposals involving a change in existing zones, one or more maps showing the relationship between existing zone sites and the proposed changes.

(e) ASF applications. In addition to the general application requirements of this section, applications under the ASF shall include the following, where applicable:

(1) Service area.

(2) Appropriate information regarding magnet sites.

(3) Appropriate information regarding usage-driven sites or ASF subzones.

(f) Additional information. The Board or the Executive Secretary may require additional information needed to evaluate proposals adequately.

(g) Amendment of application. The Board or the Executive Secretary may allow amendment of an application. Amendments which substantively expand the scope of an application shall be subject to comment period requirements such as those of Sec. 400.32(c)(2) with a minimum comment period of 30 days.

(h) Drafts. Applicants are encouraged to submit a draft application to the Executive Secretary for review. A draft application must be complete with the possible exception of the application letter and/or resolution from the applicant.

(i) Submission of completed application. The applicant shall submit the complete application, including all attachments, via email or by the method prescribed by



Notifications requesting production authority pursuant to Sec. 400.14(a) shall comply with any instructions, guidelines, and forms or related documents, published in the Federal Register and made available on the Board's Web site, as established by the Executive Secretary. Notifications shall contain the following information:

- (a) Identity of the user and its location;
- (b) Materials, components and finished products associated with the proposed activity, including the tariff schedule categories (6-digit HTSUS) and tariff rates; and
- (c) Information as to whether any material or component is subject to a trade-related measure or proceeding (e.g., AD/CVD order or proceeding, suspension of liquidation under AD/CVD procedures).

§400.23 Application for production authority.

In addition to any applicable requirements set forth in Sec. 400.21, an application requesting production authority pursuant to Sec. 400.37(c) shall include:

- (a) A summary as to the reasons for the application and an explanation of its anticipated economic effects;
- (b) Identity of the user and its corporate affiliation;
- (c) A description of the proposed activity, including:
 - (1) Finished products;
 - (2) Imported (foreign-status) materials and components;



AD/CVD order or proceeding, suspension of liquidation under AD/CVD procedures);

(4) Domestic inputs, foreign inputs, and plant value added as percentages of finished product value;

(5) Projected shipments to domestic market and export market (percentages);

(6) Estimated total or range of annual value of benefits to proposed user (broken down by category), including as a percent of finished product value;

(7) Annual production capacity (current and planned) for the proposed FTZ activity, in units;

(8) Information to assist the Board in making a determination under Sec. Sec. 400.27(a)(3) and 400.27(b);

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

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

(11) Economic impact of the operation on the area; and

(d) Any additional information requested by the Board or the Executive Secretary in order to conduct the review.

§400.24 Application for expansion or other modification to zone.

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



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 shall 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 they relate to the scope of operations envisioned in the original plan.

(b) Major modification to zone. An application for a major modification of an approved zone shall be submitted in accordance with the requirements of Sec. 400.21, except that the content submitted pursuant to Sec. 400.21(d)(4) (economic justification) shall relate specifically to the proposed change.

(c) Minor modification to zone. Other applications or requests under this subpart 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 paragraph (b) of this section (see Sec. 400.38). Such applications or requests include those for minor revisions of zone or subzone boundaries based on immediate need, as well as for designation as a subzone of all or part of an existing zone site(s) (or site(s) that qualifies for usage-driven status), where warranted by the circumstances and so long as the subzone remains subject to the activation limit (see Sec. 400.2(b)) for the zone in question.

(d) Applications for other revisions to authority.



voluntary termination shall be submitted in letter form with information and documentation necessary for analysis, as determined by the Executive Secretary. If the change involves the removal or significant modification of a restriction included by the Board in its approval of authority or the reissuance of a grant of authority, the review procedures of Sec. Sec. 400.31 through 400.34 and 400.36 shall be followed, where relevant. If not, the procedure set forth in Sec. 400.38 shall generally apply (although the Executive Secretary may elect to follow the procedures of Sec. Sec. 400.31 through 400.34 and 400.36 when warranted).

§400.25 Application for subzone designation.

In addition to the requirements of Sec. Sec. 400.21(d)(1)(i) and (ii) pertaining to legal authority, Sec. 400.21(d)(2)(vii) pertaining to environmental aspects of the proposal, and Sec. Sec. 400.21(d)(3)(i) and (iii) pertaining to operation, a grantee's application for subzone designation shall contain the following information:

- (a) The name of the operator/user for which subzone designation is sought;
- (b) The nature of the activity at the proposed subzone;
- (c) The address(es) and physical size (acreage or square feet) of the proposed subzone location(s); and
- (d) One or more maps conforming to the requirements of section Sec. 400.21(d)(5)(ii). For any production activity





§400.26 Criteria for evaluation of proposals, including for zones, expansions, subzones, or other modifications of zones.

The Board shall consider the following factors in determining whether to approve an application pertaining to a zone:

- (a) 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;
- (b) The suitability of each proposed site and its facilities based on the plans presented for the site, including existing and planned buildings, zone-related activities, and the timeframe for development of the site;
- (c) The specific need and justification for each proposed site, taking into account existing sites and/or other proposed sites;
- (d) 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 the outcome of Board decisions; and
- (e) The views of persons likely to be materially affected by proposed zone activity.



The Board shall apply the criteria set forth in this section in determining whether to approve an application for authority to conduct production activity pursuant to Sec. 400.23. The Board's evaluation shall take into account information such as pertains to market conditions, price sensitivity, degree and nature of foreign competition, intra-industry and intra-firm trade, effect on exports and imports, ability to conduct the proposed activity outside the United States with the same U.S. tariff impact, analyses conducted in connection with prior Board actions, and net effect on U.S. employment and the U.S. economy:

(a) 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 Sec. 400.27(b), the Board shall deny or restrict authority for proposed or ongoing activity if it determines that:

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

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

(3) 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



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

- (1) Overall employment impact;
- (2) Exports and re-exports;
- (3) Retention or creation of value-added activity;
- (4) Extent of value-added activity;
- (5) Overall effect on import levels of relevant products;
- (6) Extent and nature of foreign competition in relevant products;
- (7) Impact on related domestic industry, taking into account market conditions; and
- (8) Other relevant information relating to the public interest and net economic impact considerations, including technology transfers and investment effects.

(c) The significant public benefit(s) that would result from the production activity, taking into account the factors in paragraphs (a) and (b) of this section.

(d) Contributory effect. In assessing the significance of the economic effect of the proposed zone activity as part of the consideration of economic factors, and considering whether it would result in a significant public benefit(s), 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.

§400.28 Burden of proof.



these regulations. Applications for production-related authority shall contain evidence regarding the positive economic effect(s) and significant public benefit(s) that would result from the proposed activity and may submit evidence and comments concerning policy considerations.

(b) Comments on applications. Comments submitted regarding applications should provide information that is probative and substantial in addressing the matter at issue relative to the nature of the proceeding, including any evidence of the projected direct impact of the proposed authority.

(c) Requests for extensions of comment periods. Requests for extensions of comment periods shall include a description of the potential impact of the proposed authority and the specific actions or steps for which additional time is necessary.

(d) Responses to comments on applications. Submissions in response to comments received during the public comment period or pursuant to Sec. 400.33(e) (1) or Sec. 400.34(a)(5)(iv)(A) should contain evidence that is probative and substantial in addressing the matter at issue.

§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



Government.

(b) Uniform system of user fee charges. The following fee schedule establishes fees for certain types of applications and requests for authority on the basis of their estimated average processing time.

(1) Additional zones (Sec. 400.21; Sec. 400.11(a)(2)) — \$3,200.

(2) Subzones (Sec. 400.25):

(i) Not involving production activity or involving production activity with fewer than three products — \$4,000.

(ii) Production activity with three or more products — \$6,500.

(3) Expansions (Sec. 400.24(b)) — \$1,600.

(c) Timing and manner of payment. Application fees shall be paid prior to the FTZ Board docketing an application and in a manner specified by the Executive Secretary.

Subpart D-Procedures for Application Evaluation and Reviews

§400.31 General application provisions and pre-docketing review.

(a) In general. Sections 400.31-400.36 and 400.38 outline the procedures to be followed in docketing and processing applications submitted under Sec. Sec. 400.21, 400.23, 400.24(b), and 400.25. In addition, these sections set forth the time schedules which will ordinarily



will generally be processed within 5 months (3 months for applications subject to Sec. 400.36(f)) and applications to establish or expand zones will generally be processed within 10 months. The general timeframe to process applications for production authority is 12 months, but additional time is most likely to be required for applications requesting production authority when a complex or controversial issue is involved or when the applicant or other party has obtained a time extension for a particular procedural step. The timeframes specified apply from the time of docketing. Each applicant is responsible for submitting an application that meets the docketing requirements in a timeframe consistent with the applicant's need for action on its request.

(b) Pre-docketing review. The applicant shall submit a complete copy of an application for pre-docketing review. The Executive Secretary shall determine whether the application satisfies the requirements of Sec. Sec. 400.12, 400.21, and 400.23 through 400.25 and other applicable provisions of this part such that the application is sufficient for docketing. The applicant shall be notified within 30 days whether the pre-docketing copy of the application is sufficient. If the application is not sufficient, the applicant will be notified of the specific deficiencies. An affected zone participant may also be contacted regarding relevant application elements requiring additional information or clarification. If the applicant does not correct the deficiencies and submit a corrected pre-docketing application copy within 30 days of notification, the pre-docketing application shall be discarded. For applications subject to Sec. 400.29, the



§400.32 Procedures for docketing applications and commencement of case review.

(a) Once the pre-docketing copy of the application is determined to be sufficient and any fees under Sec. 400.29 have been paid, the Executive Secretary shall within 15 days:

- (1) Formally docket the application, thereby initiating the proceeding or review;
- (2) Assign a case-docket number; and
- (3) Notify the applicant of the formal docketing action.

(b) After initiating a proceeding based on an application under Sec. Sec. 400.21 and 400.23 through 400.25, the Executive Secretary shall:

- (1) Designate an examiner to conduct a review and prepare a report or memorandum with recommendations for the Board;
- (2) Publish in the Federal Register a notice of the formal docketing of the application and initiation of the review. The notice shall include the name of the applicant, a description of the proposal, and an invitation for public comment. If the application requests authority for production activity and indicates that a component to be used in the activity is subject to a trade-related measure or proceeding (e.g., AD/CVD order or proceeding, suspension of liquidation under AD/CVD procedures), the notice shall include that information. For applications to establish or expand a zone or for production authority, the comment period shall normally close 60 days after the



shall not close prior to 15 days after the date of the hearing. The closing date for general comments shall ordinarily be followed by an additional 15-day period for rebuttal comments. Requests for extensions of a comment period will be considered, subject to the standards of Sec. 400.28(c). Submissions must meet the requirements of Sec. 400.28(b). With the exception of submissions by the applicant, any new evidence or new factual information and any written arguments submitted after the deadlines for comments shall not be considered by the examiner or the Board. Submission by the applicant of new evidence or new factual information may result in the (re)opening of a comment period. A comment period may otherwise be opened or reopened for cause;

(3) Transmit or otherwise make available copies of the docketing notice and the application to CBP;

(4) Arrange for hearings, as appropriate;

(5) Transmit the report and recommendations of the examiner and any comments by CBP to the Board for appropriate action; and

(6) Notify the applicant in writing (via electronic means, where appropriate) and publish notice in the Federal Register of the Board's determination.

(c) Any comments by CBP pertaining to the application shall be submitted to the Executive Secretary by the conclusion of the public comment period described in paragraph (b)(2) of this section.



An examiner assigned to review an application to establish, reorganize or expand a zone shall conduct a review taking into account the factors enumerated in Sec. 400.26 and other appropriate sections of this part, which shall include:

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

(b) Reviewing case records, including public comments;

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

(d) Developing information and evidence necessary for evaluation and analysis of the application in accordance with the criteria of the Act and this part; and

(e) Developing recommendations to the Board and submitting a report to the Executive Secretary, generally within 150 days of the close of the period for public comment (75 days for reorganizations under the ASF) (see Sec. 400.32):

(1) If the recommendations are unfavorable to the applicant, they shall be considered preliminary and the applicant shall be notified in writing (via electronic means, where appropriate) of the preliminary recommendations and the factors considered in their development. The applicant shall be given 30 days from the date of notification, subject to extensions upon request by the applicant, which shall not be unreasonably withheld, in which to respond to the recommendations and submit additional evidence pertinent to the factors considered in the development of the preliminary



Executive Secretary shall publish a notice in the Federal Register after completion of the review of the response. The new material shall be made available for public inspection and the Federal Register notice shall invite further public comment for a period of not less than 30 days, with an additional 15-day period for rebuttal comments.

(3) If the factors considered for an examiner's recommendation(s) change as a result of new evidence, the applicable procedures of paragraphs (e)(1) and (2) of this section shall be followed.

(4) When necessary, a request may be made to CBP to provide further comments, which shall be submitted within 45 days after the request.

§400.34 Examiner's review — application for production authority.

(a) The examiner shall conduct a review taking into account the factors enumerated in this section, Sec. 400.27, and other appropriate sections of this part, which shall include:

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

(2) Reviewing case records, including public comments;

(3) Requesting information and evidence from parties of record and others, as warranted;



(i) An evaluation of policy considerations pursuant to Sec. Sec. 400.27(a)(1) and (2);

(ii) An evaluation of the economic factors enumerated in Sec. Sec. 400.27(a)(3) and 400.27(b), 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 production activity;

(iii) Conducting appropriate industry research and surveys, as necessary; and

(iv) Developing recommendations to the Board and submitting a report to the Executive Secretary, generally within 150 days of the close of the period for public comment (although additional time may be required in circumstances such as when the applicant or other party has obtained a time extension for a particular procedural step):

(A) If the recommendations are unfavorable to the applicant, they shall be considered preliminary and the applicant shall be notified in writing (via electronic transmission where appropriate) of the preliminary recommendations and the factors considered in their development. The applicant shall be given 45 days from the date of notification in which to respond to the recommendations and submit additional evidence pertinent to the factors considered in the development of the preliminary recommendations. Public comment may be invited on preliminary recommendations when warranted.

(B) If the response contains new evidence on which there has not been an opportunity for public comment,





invite further public comment for a period of not less than 30 days, with an additional 15-day period for rebuttal comments.

(C) If the factors considered for an examiner's recommendation(s) change as a result of new evidence, the applicable procedures of paragraphs (a)(5)(iv)(A) and (B) of this section shall be followed.

(b) Methodology and evidence. The evaluation of an application for production authority shall include the following steps:

(1) The first phase (Sec. 400.27(a)) involves consideration of threshold factors. If an examiner or reviewer makes a negative finding on any of the factors in Sec. 400.27(a) in the course of a review, the applicant shall be informed pursuant to Sec. 400.34(a)(5)(iv)(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 Sec. 400.34(a)(5)(iv)(A). If the Board determines in the negative regarding any of the factors in Sec. 400.27(a), it shall deny or restrict authority for the proposed or ongoing activity.

(2) The second phase (Sec. 400.27(b)) involves consideration of the enumerated economic factors, taking into account their relative weight and significance under the circumstances. Previous evaluations in similar cases shall be considered.



The examiner shall develop a memorandum with a recommendation on whether to approve the application, taking into account the criteria enumerated in Sec. 400.26. To develop that memorandum, the examiner shall review the case records including public comments, and may request information and evidence from parties of record, as necessary. The examiner's memorandum shall generally be submitted to the Board within 30 days of the close of the period for public comment. However, additional time may be taken as necessary for analysis of any public comment in opposition to the application or if other complicating factors arise.

(a) If the examiner's recommendation is unfavorable to the applicant, it shall be considered preliminary and the applicant shall be notified in writing (via electronic means, where appropriate) of the preliminary recommendation and the factors considered in its development. The applicant shall be given 30 days from the date of notification, subject to extensions upon request by the applicant, which shall not be unreasonably withheld, in which to respond to the recommendation and submit additional evidence pertinent to the factors considered in the development of the preliminary recommendations. Public comment may be invited on preliminary recommendations when warranted.

(b) If the response contains new evidence on which there has not been an opportunity for public comment, the Executive Secretary shall publish notice in the Federal Register after completion of the review of the response. The new material shall be made available for



(c) If the factors considered for an examiner's recommendation(s) change as a result of new evidence, the applicable procedures of paragraphs (a) and (b) of this section shall be followed.

(d) The CBP adviser shall be requested, when necessary, to provide further comments, which shall be submitted within 45 days after the request.

§400.36 Completion of case review.

(a) The Executive Secretary shall circulate the examiner's report (memorandum in the case of subzone applications) with recommendations to CBP headquarters staff and to the Treasury Board member for review and action.

(b) In its advisory role to the Board, CBP headquarters staff shall provide any comments within 15 days for applications under Sec. 400.25 and within 30 days for all other applications.

(c) The vote of the Treasury Board member shall be returned to the Executive Secretary within 30 days, unless a formal meeting is requested (see, Sec. 400.3(b)).

(d) The Commerce Department shall complete the decision process within 15 days of receiving the vote of the Treasury Board member, and the Executive Secretary shall publish the Board decision.

(e) If the Board is unable to reach a unanimous decision, the applicant shall be notified and provided an opportunity to meet with the Board members or their



subzones will be subject to the activation limit for the zone in question.

(g) The Board or the Commerce Department's Assistant Secretary for Enforcement and Compliance may opt to terminate review of an application with no further action if the applicant has failed to provide in a timely manner information needed for evaluation of the application. A request from an applicant for an extension of time to provide information needed for evaluation of an application shall not be unreasonably withheld. The Executive Secretary may terminate review of an application where the overall circumstances presented in the application no longer exist as a result of a material change, and shall notify the applicant in writing of the intent to terminate review and allow 30 days for a response prior to completion of any termination action. The Executive Secretary shall confirm the termination in writing (by electronic means, where appropriate) to the applicant.

§400.37 Procedure for notification of proposed production activity.

(a) Submission of notification. A notification for production authority pursuant to Sec. Sec. 400.14(a) and 400.22 shall be submitted simultaneously to the Board's Executive Secretary and to CBP.

(b) Initial processing of notification. Upon receipt of a



Unless the Executive Secretary determines, based on the content of the notification, to recommend further review to the Board without inviting public comment on the notification, the Executive Secretary shall transmit to the Federal Register a notice inviting public comment on the notification (with such comment subject to the standards of Sec. 400.28(b)). The notice shall be transmitted to the Federal Register within 15 days of the commencement of the processing of the notification, and the comment period shall normally close 40 days after the date the notice appears. If the notification indicates that a material or component to be used in the activity is subject to an AD/ CVD order or proceeding, or suspension of liquidation under AD/CVD procedures, the notice shall include that information. Evidence, factual information and written arguments submitted in response to the notice must be submitted by the deadline for comments. Any comments by CBP pertaining to the notification shall be submitted to the Executive Secretary by the end of the comment period. Within 80 days of receipt of the notification, the Executive Secretary shall submit to the Board a recommendation on whether further review of all or part of the activity subject to the notification is warranted. The Executive Secretary's recommendation shall consider comments submitted during the comment period, any guidance from specialists within government, and other relevant factors based on the Board staff's assessment of the notification, in the context of the factors set forth in Sec. 400.27.

(c) Determinations regarding further review. Within 30 days of receipt of the Executive Secretary's



Board member makes a determination that further review is warranted, the activity that is subject to further review (which may constitute all or part of the notified activity) shall not be conducted without authorization pursuant to the application requirements of Sec. 400.23 and the procedural requirements of Sec. Sec. 400.31-400.34 and 400.36 (or the provisions of paragraph (d) of this section, where applicable). Within 120 days of receipt of the notification, the Executive Secretary shall notify the party that submitted the notification (and the zone grantee, if it did not submit the notification) that:

(1) Further review is not needed for all or part of the activity that is the subject of the notification, and that the activity in question may be conducted; or

(2) Further review is needed for all or part of the activity that is the subject of the notification, with such activity precluded absent specific authorization.

(d) Authorization for commencement of an activity on an interim basis. For an activity notified pursuant to Sec. 400.14(a), the Executive Secretary may authorize the commencement of some or all of the activity on an interim basis. Such authorization shall only be made based on a showing that commencement of the activity is time-sensitive, with such showing to include comments from CBP that specifically address the projected timeframe for commencement of the activity. Interim authorization shall not apply to materials or components subject to an AD/CVD order or proceeding or suspension of liquidation under AD/CVD procedures. As warranted, a determination that further review is needed for all or some of the notified activity pursuant to Sec. 400.37(c) may also



§400.38 Procedure for application for minor modification of zone.

(a) The Executive Secretary shall make a determination in cases under Sec. 400.24(c) involving minor modifications of zones that do not require Board action, such as boundary modifications, including certain relocations, and shall notify the requestor in writing of the decision on the request within 30 days of the Executive Secretary's receipt of the complete request and the CBP comments under paragraph (b) of this section. Depending on the specific request, the decision could be that the request cannot be processed under Sec. 400.24(c). The requestor shall submit a copy of its request to CBP no later than the time of the requestor's submission of the request to the Executive Secretary.

(b) If not previously provided to the requestor for inclusion with the requestor's submission of the request to the Executive Secretary, any CBP comments on the request shall be provided to the Executive Secretary within 20 days of the requestor's submission of the request to the Executive Secretary.

Subpart E-Operation of Zones and Administrative Requirements



(a) In general. Zones shall be operated by or under the general management of zone grantees, subject to the requirements of the FTZ Act and this part, as well as those of other federal, state and local agencies having jurisdiction over the site(s) and operation(s). Zone grantees shall ensure that the reasonable zone needs of the business community are served by their zones. CBP officials with oversight responsibilities for a port of entry represent the Board with regard to the zones adjacent to the port of entry in question and are responsible for enforcement, including physical security and access requirements, as provided in 19 CFR part 146.

(b) Requirements for commencement of operations in a zone. The following actions are required before operations in a zone may commence:

(1) The grantee shall submit the zone schedule to the Executive Secretary, as provided in Sec. 400.44.

(2) Approval or concurrence from the grantee and approval from CBP, pursuant to 19 CFR part 146, are required prior to the activation of any portion of an approved zone; and

(3) Prior to activation of a zone, the 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.

§400.42 Operation as public utility.



and all rates and charges for all services or privileges within the zone shall be fair and reasonable. A rate or charge (fee) may be imposed on zone participants to recover costs incurred by or on behalf of the grantee for the performance of the grantee function. Such a rate or charge must be directly related to the service provided by the grantee (for which the fee recovers some or all costs incurred) to the zone participants. Rates or charges may incorporate a reasonable return on investment. Rates or charges may not be tied to the level of benefits derived by zone participants. Other than the uniform rates and charges assessed by, or on behalf of, the grantee, zone participants shall not be required (either directly or indirectly) to utilize or pay for a particular provider's zone-related products or services.

§400.43 Uniform treatment.

Pursuant to Section 14 of the FTZ Act (19 U.S.C. 81n), a grantee shall afford to all who may apply to make use of or participate in the zone uniform treatment under like conditions. Treatment of zone participants within a zone (including application of rates and charges) shall not vary depending on whether a zone participant has procured any zone-related product or service or engaged a particular supplier to provide any such product or service.

(a) Agreements to be made in writing. Any agreement or contract related to one or more grantee function(s) and involving a zone participant (e.g., agreements with property owners and agreements with zone operators)



in the evaluation of proposals from zone participants. Uniform treatment does not require acceptance of all proposals by zone participants, but the bases for a grantee's decision on a particular proposal must be consistent with the uniform treatment requirement.

(c) Justification for differing treatment. Given the requirement for uniform treatment under like conditions, for any instance of different treatment of different zone participants, a grantee (or person undertaking a zone-related function(s) on behalf of a grantee, where applicable) must be able to provide upon request by the Executive Secretary a documented justification for any difference in treatment.

(d) Avoidance of non-uniform treatment. To avoid non-uniform treatment of zone participants, persons (as defined in Sec. 400.2(l)) within key categories set out in paragraph (d)(2) of this section shall not undertake any of the key functions set out in paragraph (d)(1) of this section (except in specific circumstances where the Board has authorized a waiver pursuant to paragraph (f) of this section).

(1) Key functions are:

(i) Taking action on behalf of a grantee, or making recommendations to a grantee, regarding the disposition of proposals or requests by zone participants pertaining to FTZ authority or activity (including activation by CBP);

(ii) Approving, or being a party to, a zone participant's agreement with the grantee (or person acting on behalf of the grantee) pertaining to FTZ authority or activity (including activation by CBP); or

(iii) Overseeing zone participants' operations on behalf





offering/providing a zone-related product/service to or representing a zone participant in the grantee's zone;

(ii) Any person that stands to gain from a person's offer/provision of a zone-related product/service to or representation of a zone participant in the zone; or

(iii) Any person related, as defined in paragraph (e) of this section, to the person identified in paragraphs (d)(2)(i) and (ii) of this section.

(e) Definition of related persons. For purposes of this section, persons that are related include:

(1) Members of a family or members of a household.

The term members of a family means spouses, parents, grandparents, children, grandchildren, siblings (including half-siblings and step-siblings), aunts, uncles, nieces, nephews, and first cousins, as well as the parents, children, and siblings of a spouse, and the spouse of a sibling, child or parent;

(2) Organizations that are wholly or majority-owned by members of the same family or members of the same household;

(3) An officer or director of an organization and that organization;

(4) Partners;

(5) Employers and their employees;

(6) An organization and any person directly or indirectly owning, controlling, or holding with power to vote, 20 percent or more of the outstanding voting stock or shares of that organization;

(7) Any person that controls any other person and that other person (the term control means the power, direct or indirect, whether or not exercised, through any means, to



person (see definition of control in paragraph (e)(7) of this section).

(f) Waivers. The grantee or other person subject to paragraph (d) of this section may submit an application requesting that the Board issue a waiver exempting from the prohibition of that paragraph a person's undertaking a specific key function(s) listed in paragraph (d)(1) of this section. Using the format developed by the Executive Secretary, an application for a waiver shall explain in detail how the person falls within a key category(ies) set out in paragraph (d)(2) of this section, and the specific key function(s) listed in paragraph (d)(1) of this section that would be undertaken by the person. After receipt of an application requesting a waiver, the Executive Secretary may solicit additional information or clarification, as necessary, including from the person submitting the application and from the grantee. Based on the information presented in the application, the Executive Secretary shall make a recommendation to the Board. A waiver shall be authorized only by an affirmative vote by the Board. If the Board votes not to authorize a waiver or to discontinue a waiver, the applicant shall be notified in writing and allowed 30 days to present evidence in response. In deciding whether to grant a waiver, the Board shall determine whether there is an unacceptable risk that the waiver would result in non-uniform treatment being afforded by the person undertaking a key function(s) listed in paragraph (d)(1) of this section. In its assessment, the Board shall consider the specific circumstances presented, including the nature and extent of the person's involvement in undertaking a key



paragraph (d)(2)(i) of this section, the greater the risk will be that non-uniform treatment will be afforded and, thus, the less likely it will be that a waiver will be granted. The Board may attach to individual waivers such conditions or limitations (including, for example, the length of time a waiver is to be effective) as it deems necessary.

(g) Requests for determinations. A grantee or other party may request a determination by the Executive Secretary regarding the consistency of an actual or potential arrangement with the requirements of this section.

(h) Identification of person undertaking function(s) on behalf of grantee. The Board, the Commerce Department's Assistant Secretary for Enforcement and Compliance, or the Executive Secretary, may require a zone grantee to identify any person undertaking a zone-related function(s) on behalf of the grantee.

§400.44 Zone schedule.

(a) The zone grantee shall submit to the Executive Secretary (electronic copy or as specified by the Executive Secretary) a zone schedule which sets forth the elements required in this section. No element of a zone schedule (including any amendment to the zone schedule) may be considered to be in effect until such submission has occurred. If warranted, the Board may subsequently amend the requirements of this section by Board Order.



(3) Internal rules/regulations and policies for the zone;
(4) All rates or charges assessed by or on behalf of the grantee;

(5) Information identifying any operator which offers services to the public and which has requested that its information be included in the zone schedule; and

(6) An appendix with definitions of any FTZ-related terms used in the zone schedule (as needed).

(c) The Executive Secretary may review the zone schedule (or any amendment to the zone schedule) to determine whether it contains sufficient information for zone participants concerning the operation of the zone and the grantee's rates and charges as provided in paragraphs (b)(3) and (b)(4) of this section. If the Executive Secretary determines that the zone schedule (or amendment) does not satisfy these requirements, the Executive Secretary shall notify the zone grantee. The Executive Secretary may also conduct a review under 400.45(b).

(d) Amendments to the zone schedule shall be prepared and submitted in the manner described in paragraph (a) of this section, and listed in the concluding section of the zone schedule, with dates. No rates/charges or other provisions required for the zone schedule may be applied by, or on behalf of, the grantee unless those specific rates/ charges or provisions are included in the most recent zone schedule submitted to the Board and made available to the public in compliance with paragraph (e) of this section.

(e) A complete copy of the zone schedule shall be freely available for public inspection at the offices of the



§400.45 Complaints related to public utility and uniform treatment.

(a) In general. A zone participant may submit to the Executive Secretary a complaint regarding conditions or treatment that the complaining party believes are inconsistent with the public utility and uniform treatment requirements of the FTZ Act and these regulations. Complaints may be made on a confidential basis, if necessary. Grantees (and persons undertaking zone-related functions on behalf of grantees, where applicable) shall not enter into or enforce provisions of agreements or contracts with zone participants that would require zone participants to disclose to other parties, including the grantee (or person undertaking a zone-related function(s) on behalf of a grantee, where applicable), any confidential communication with the Board under this section.

(b) Objections to rates and charges. A zone participant showing good cause may object to any rate or charge related to the zone on the basis that it is not fair and reasonable by submitting to the Executive Secretary a complaint in writing with supporting information. If necessary, such a complaint may be made on a confidential basis pursuant to paragraph (a) of this section. The Executive Secretary shall review the complaint and issue a report and decision, which shall be final unless appealed to the Board within 30 days. The Board or the Executive Secretary may otherwise initiate a review for cause. The primary factor considered in



may consider the costs incurred by those parties or evidence regarding market rates for the undertaking of those functions. The Board may rely on best estimates, as necessary. The Board will also give consideration to any extra costs incurred relative to non-zone operations, including return on investment and reasonable out-of-pocket expenses.

§400.46 Grantee liability.

(a) Exemption from liability. A grant of authority, per se, shall not be construed to make the zone grantee liable for violations by zone participants. The role of the zone grantee under the FTZ Act and the Board's regulations is to provide general management of the zone to ensure that the reasonable needs of the business community are served. It would not be in the public interest to discourage public entities from zone sponsorship because of concern about liability without fault.

(b) Exception to exemption from liability. A grantee could create liability for itself that otherwise would not exist if the grantee undertakes detailed operational oversight of or direction to zone participants. Examples of detailed operational oversight or direction include review of an operator's inventory-control or record-keeping systems, specifying requirements for such a system to be used by an operator, and review of CBP documentation related to an operator's zone receipts and shipments.



(a) In general. Retail trade is prohibited in activated areas of zones, except that 1) sales or other commercial activity involving domestic, duty-paid, and duty-free goods may be conducted within an activated area of a zone under a permit issued by the zone grantee and approved by the Board, and 2) 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 individuals working therein. The Executive Secretary shall 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. Determinations on whether an activity constitutes retail trade shall be based on precedent established through prior rulings by CBP, as appropriate. Such prior rulings shall remain effective unless a determination is issued to modify their effect (after a notice-and-comment process, as appropriate). Determinations made by the Executive Secretary pursuant to this section shall be made available to the public via the Board's Web site.

(b) Procedure. Requests for Board approval under this section shall be submitted in letter form, with supporting documentation, to the Executive Secretary, who is authorized to act for the Board in these cases, after consultation with CBP as necessary. (c) Criteria. In evaluating requests under this section, the Executive Secretary and CBP shall consider factors that may include:

(1) Whether any public benefits would result from



§400.48 Zone-restricted merchandise.

(a) In general. Merchandise in zone-restricted status (19 CFR 146.44) may be entered into the customs territory of the United States only when the Board determines that the entry would be in the public interest. Such entries are subject to the customs laws and the payment of applicable duties and excise taxes (19 U.S.C. 81c(a), 4th proviso).

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

- (1) The intent of the parties;
- (2) Why the merchandise cannot be exported;
- (3) The public benefit involved in allowing entry of the merchandise; and
- (4) The recommendation of CBP.

(c) Procedure. (1) A request for authority to enter “zone-restricted” merchandise into U.S. customs territory shall be made to the Executive Secretary in letter form by the zone grantee or by the operator responsible for the merchandise (with copy to the grantee), with supporting information and documentation.

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

(3) The Executive Secretary may act for the Board under this section with respect to requests that involve merchandise valued at 500,000 dollars or less and that are accompanied by a letter of concurrence from CBP.



(a) In general. Ongoing zone operation(s) and activity may be reviewed by the Board or the Executive Secretary at any time to determine whether they are in the public interest and in compliance and conformity with the Act and regulations, as well as authority approved by the Board. Reviews involving production activity 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 Sec. 400.27. The Board may prescribe special monitoring requirements in its decisions when appropriate.

(b) Conduct of reviews. Reviews may be initiated by the Board, the Commerce Department's Assistant Secretary for Enforcement and Compliance, or the Executive Secretary; or, they may be undertaken in response to requests from parties directly affected by the activity in question showing good cause based on the provision of information that is probative and substantial in addressing the matter in issue. After initiation of a review, any affected party shall provide in a timely manner any information requested as part of the conduct of the review. If a party fails to timely provide information requested as part of such a review, a presumption unfavorable to that party may be made.

(c) Prohibition or restriction. Upon review, if a finding is made that zone activity is no longer in the public interest (taking into account the factors enumerated in Sec.



be put in place after a preliminary review (e.g., prior to potential steps such as a public comment period) if circumstances warrant such action until further review can be completed. The procedures of Sec. 400.34(a)(5)(iv) (A) shall be followed to notify the grantee of the affected zone and allow for a response prior to the final imposition of a prohibition or restriction. The appropriateness of a delayed effective date shall be considered.

Subpart F-Records, Reports, Notice, Hearings and Information

[§400.51 Records and reports.](#)

(a) Records and forms. Zone records and forms shall be prepared and maintained in accordance with the requirements of CBP and the Board, consistent with documents issued by the Board specific to the zone in question, and the zone grantee shall retain copies of applications/requests it submits to the Board in electronic or paper format.

(b) Maps and drawings. Zone grantees or operators, and CBP, shall keep current layout drawings of approved sites as described in Sec. 400.21(d)(5), showing activated portions, and a file showing required activation approvals. The zone grantee shall furnish necessary maps to CBP.

(c) Annual reports.

(1) Each zone grantee shall submit a complete and accurate annual report to the Board within 90 days after



report to the Board. A zone grantee may request an extension of the deadline for its report, as warranted. The Executive Secretary may authorize such extensions, with decisions on such authorizations taking into account both the circumstances presented and the importance of the Board submitting its annual report to Congress in a timely manner. Annual reports must be submitted in accordance with any instructions, guidelines, forms and related documents specifying place, manner and format(s) prescribed by the Executive Secretary. In the event that a grantee has not received all necessary annual report information from an operator in a timely manner, the grantee may submit its annual report on time and note the absence of the missing information.

(2) The Board shall submit an annual report to Congress.

§400.52 Notices and hearings.

(a) In general. The Executive Secretary shall publish notice in the Federal Register inviting public comment on applications and notifications for Board action (see, Sec. Sec. 400.32 and 400.37(b)), and with regard to other reviews or matters considered under this part when public comment is necessary. An applicant under Sec. Sec. 400.21, 400.24(b) and 400.25 shall give appropriate notice of its proposal in a local, general-circulation newspaper at least 15 days prior to the close of the public comment period for the proposal in question. The Board,



conducted under this part whenever necessary or appropriate.

(b) Requests for hearings.

(1) A party who may be materially affected by the zone activity in question and who shows 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 initial period for public comment (see Sec. 400.32) 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 shall be made by the Commerce Department's Assistant Secretary for Enforcement and Compliance within 15 days after the receipt of such a request.

(c) Procedure for public hearings. The Board shall publish notice in the Federal Register of the date, time and location of a public 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.

§400.53 Official records; public access.

(a) Content. The Executive Secretary shall maintain at the location stated in Sec. 400.54(e) an official record of each proceeding within the Board's jurisdiction. The Executive Secretary shall include in the official record all timely





public hearings, the proceedings of such hearings shall ordinarily be recorded and transcribed when significant opposition to a proposal is involved.

(b) Opening and closing of official record. The official record opens on the date the Executive Secretary docketes an application or receives a request or notification 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 shall not be removed from the Department of Commerce. A certified copy of the record shall be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of business proprietary or privileged information.

§400.54 Information.

(a) Request for information. The Executive Secretary, on behalf of 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 shall consider all information submitted in a proceeding to be public information, and if the person submitting the information does not agree to





meaningful public evaluation pursuant to those sections and Sec. 400.32.

(c) Business proprietary information. Persons submitting business proprietary information and requesting that it be protected from public disclosure shall mark the cover page, as well as the top of each page on which such information appears, “business proprietary.” Any business proprietary document submitted for a proceeding other than pursuant to Sec. 400.45 shall contain brackets at the beginning and end of each specific piece of business proprietary information contained in the submission. Any such business proprietary submission shall also be accompanied by a public version that contains all of the document’s contents except the information bracketed in the business proprietary version, with the cover page and the top of each additional page marked “public version.” Any information for which business proprietary treatment is claimed must be ranged (i.e., presented as a number or upper and lower limits that approximate the specific business proprietary figure) or summarized in the public version. If a submitting party maintains that certain information is not susceptible to summarization or ranging, the public version must provide a full explanation specific to each such piece of information regarding why summarization or ranging is not feasible.

(d) Disclosure of information. Disclosure of public information shall be governed by 15 CFR part 4.

(e) Availability of information. Public information in the official record shall be available at the Office of the Executive Secretary, Foreign-Trade Zones Board, U.S.



address).

Subpart G-Penalties and Appeals to the Board

§400.61 Revocation of authority.

(a) In general. As provided in this section, the Board can revoke in whole or in part authority for a zone (see Sec. 400.2(h)) whenever it determines that the zone grantee has violated, repeatedly and willfully, the provisions of the Act.

(b) 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 shall:

(1) Notify the grantee of the zone in question in writing stating the nature of the alleged violations, provide the grantee an opportunity to request a hearing on the proposed revocation, and notify any known operators in the zone;

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

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

(4) If the Board's determination is affirmative, publish a notice of revocation of authority, in whole or in part, in the Federal Register.

(c) Appeals. As provided in section 18 of the Act (19



§400.62 Fines, penalties and instructions to suspend activated status.

(a) In general. Fines are authorized solely for specific violations of the FTZ Act or the Board's regulations as detailed in Sec. Sec. 400.62(b) and (c). Each specific violation is subject to a fine of not more than 1,000 dollars (as adjusted for inflation pursuant to Sec. 400.62(j)), with each day during which a violation continues constituting a separate offense subject to imposition of such a fine (FTZ Act, section 19; 19 U.S.C. 81s). This section also establishes the party subject to the fine which, depending on the type of violation, would be the zone operator, grantee, or a person undertaking one or more zone-related functions on behalf of the grantee, where applicable. In certain circumstances, the Board or the Assistant Secretary for Enforcement and Compliance could instruct CBP to suspend the activated status of all or part of a zone or subzone. Violations of the FTZ Act or the Board's regulations (including the sections pertaining to uniform treatment and submission of annual reports), failure to pay fines, or failure to comply with an order prohibiting or restricting activity may also result in the Executive Secretary's suspending the processing of any requests to the Board and staff relating to the zone or subzone in question. In circumstances where non-compliance pertains to only a subset of the operations in a zone, suspensions of activated status and suspensions of the processing of requests shall be targeted to the



Act (19 U.S.C. 81p(b)) and Sec. 400.51(c)(1) of these regulations constitutes a violation subject to a fine, with each day of continued failure to submit the report constituting a separate offense subject to a fine of not more than 1,000 dollars (as adjusted for inflation pursuant to Sec. 400.62(j)). Further, each day during which a zone operator fails to submit to the zone's grantee the information required for the grantee's timely submission of a complete and accurate annual report to the Board shall constitute a separate offense subject to a fine of not more than 1,000 dollars (as adjusted for inflation pursuant to Sec. 400.62(j)). Consistent with Sec. 400.46, if the grantee submits a timely report to the Board identifying any operator that has not provided complete and timely information in response to a timely request(s) by the grantee, the grantee shall not be subject to a fine-assessment action stemming from the operator's failure to timely provide its report.

(c) Violations involving uniform treatment. Failure by a grantee or a person undertaking one or more zone-related functions on behalf of the grantee to comply with the uniform treatment requirement of section 14 of the FTZ Act (19 U.S.C. 81n) or the provisions of Sec. 400.43 of these regulations constitutes a violation, with each day of continued violation constituting a separate offense subject to a fine of not more than 1,000 dollars (as adjusted for inflation pursuant to Sec. 400.62(j)).

(d) Procedures for determination of violations and imposition of fines. When the Board or the Executive Secretary has reason to believe that a violation pursuant to Sec. Sec. 400.62(b) and (c) has occurred and that the



following steps shall be taken:

(1) The Executive Secretary shall notify the party or parties responsible for the violation and the zone grantee in writing stating the nature of the alleged violation, and provide the party(ies) a specified period (no less than 30 days, with consideration given to any requests for an extension, which shall not be unreasonably withheld) to respond in writing;

(2) The Executive Secretary shall conduct a hearing, if requested or otherwise if appropriate. Parties may be represented by counsel at the hearing, and any evidence and testimony of witnesses in the proceeding shall be presented. A transcript of the hearing shall be produced and a copy shall be made available to the parties;

(3) The Executive Secretary shall make a recommendation on the record of the proceeding not earlier than the later of 15 days after the deadline for the party(ies)'s response under paragraph (d)(1) of this section or 15 days after the date of a hearing held under paragraph (d)(2) of this section. If the recommendation is for an affirmative determination of a violation, the Executive Secretary shall also recommend the amount of the fine to be imposed; and

(4) The Board shall make a determination regarding the finding of a violation and imposition of a fine based on the Executive Secretary's recommendation under paragraph (d)(3) of this section. For related actions where the total sum of recommended fines is no more than 10,000 dollars (50,000 dollars in the case of violations pursuant to paragraph (b) of this section), the Board delegates to the Executive Secretary the authority to



elimination) of an imposed fine based on specific evidence presented by the affected party. Authority is delegated to the Executive Secretary to mitigate a fine where the total sum of fines imposed on a party for related actions does not exceed 10,000 dollars (50,000 dollars in the case of violations pursuant to paragraph (b) of this section). Mitigating evidence and argument pertaining to mitigating factors must be submitted within 30 days of the determination described in paragraph (d) (4) of this section, subject to requests for extension for cause, the granting of which shall not be unreasonably withheld.

(2) Mitigating factors. Factors to be taken into account in evaluating potential mitigation include:

(i) A good record of a violator over the preceding five years with regard to the type of violation(s) at issue;

(ii) The violation was due to the action of another party despite violator's adherence to the requirements of the FTZ Act and the Board's regulations;

(iii) Immediate remedial action by the violator to avoid future violations;

(iv) A violator's cooperation with the Board (beyond the degree of cooperation expected from a person under investigation for a violation) in ascertaining the facts establishing the violation;

(v) A violation's resulting from a clerical error or similar unintentional negligence; and

(vi) Such other factors as the Board, or the Executive Secretary, deems appropriate to consider in the specific circumstances presented.

(f) Assessment of fines. After evaluating submitted



Executive Secretary to assess a fine where the total sum of the imposed fines for related actions does not exceed 10,000 dollars (50,000 dollars in the case of violations pursuant to paragraph (b) of this section).

(g) Time for payment. Full payment of an assessed fine must be made within 30 days of the date of the assessment or within such longer period of time as may be specified. Payment shall be made in the manner specified by the Commerce Department's Assistant Secretary for Enforcement and Compliance or the Executive Secretary.

(h) Procedures for instruction to suspend activated status. If a fine assessed pursuant to Sec. Sec. 400.62(d) through (g) has not been paid within 90 days of the specified deadline for payment, if there is a repeated and willful failure to comply with a requirement of the FTZ Act or the Board's regulations, or if there is a repeated and willful failure to comply with a prohibition or restriction on activity imposed by an order of the Board or an order of the Commerce Department's Assistant Secretary for Enforcement and Compliance pursuant to Sec. 400.49(c), the Board or the Commerce Department's Assistant Secretary for Enforcement and Compliance may instruct CBP to suspend the activated status of the zone operation(s) in question (or, if appropriate, the suspension may be limited to a particular activity of a zone operator, such as suspension of the privilege to admit merchandise), and the suspension shall remain in place until the failure to pay a fine, failure to comply with a requirement of the FTZ Act or the Board's regulations, or failure to comply with an order's prohibition or restriction



(1) Notification of party(ies). The Executive Secretary shall notify the responsible party(ies) in writing stating the nature of the failure to timely pay a fine, to comply with a requirement of the FTZ Act or the Board's regulations or to comply with a prohibition or restriction on activity imposed by an order of the Board or an order of the Commerce Department's Assistant Secretary for Enforcement and Compliance. If the grantee is not one of the responsible parties notified, the Executive Secretary shall also provide a copy of the notification to the grantee. The responsible party(ies) shall be provided a specified period (of not less than 15 days) to respond in writing to the notification;

(2) Hearing. If the notified responsible party(ies) or the zone's grantee requests a hearing (or if a hearing is determined to be warranted by the Board, the Commerce Department's Assistant Secretary for Enforcement and Compliance or the Executive Secretary), it shall be held before the Executive Secretary (or a member of the Board staff designated by the Executive Secretary) within 30 days following the request for a hearing (or the determination by the Board, the Commerce Department's Assistant Secretary for Enforcement and Compliance or the Executive Secretary). Parties may be represented by counsel at the hearing, and any evidence and testimony of witnesses in the proceeding shall be presented. A transcript of the hearing shall be produced and a copy shall be made available to the parties;

(3) The Executive Secretary shall make a recommendation on the record of the proceeding not earlier than 15 days after the later of:



(4) The Board or the Commerce Department's Assistant Secretary for Enforcement and Compliance shall determine whether to instruct CBP to suspend the activated status of the zone operation(s) in question. If the determination is affirmative, the Executive Secretary shall convey the instruction to CBP, with due consideration to allow for the transfer of any affected merchandise from the applicable zone site(s).

(i) Enforcement of assessment. Upon any failure to pay an assessed fine, the Board may request the U.S. Department of Justice to recover the amount assessed in any appropriate district court of the United States or may commence any other lawful action.

(j) Adjustment for inflation. The maximum dollar value of a fine for a violation of the FTZ Act or the Board's regulations is subject to adjustment for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134).

§400.63 Appeals to the Board of decisions of the Assistant Secretary for Enforcement and Compliance and the Executive Secretary.

(a) In general. Decisions of the Commerce Department's Assistant Secretary for Enforcement and Compliance and the Executive Secretary made pursuant to this part may be appealed to the Board by adversely affected parties showing good cause.



as well as supporting information and documentation.
After a review, the Board shall notify the appealing party
of its decision in writing.

[FR Doc. 2012-4249 Filed 2-27-12; 8:45 am]
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TRIANGLE J COUNCIL OF GOVERNMENTS

World Class Region

Attachment 4

Research Triangle Area Foreign Trade Zone

Zone Schedule

Effective Date: August 25, 2016



**Research Triangle Area Foreign Trade Zone
(Foreign Trade Zone #93)**

Grantee:

Triangle J Council of Governments
4307 Emperor Boulevard, Suite 110
Durham, NC 27703

Phone: 919-549-0551
Fax: 919-549-9390
Website: www.tjcog.org

Grantee Administrator:

Alex Halloway
Economic Development Planner
Phone: 919-558-9402
Mobile: 217-299-2717
E-mail: ahalloway@tjcog.org

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INTRODUCTION

This Zone Schedule (“Schedule”) has been adopted by the Triangle J Council of Governments (“TJCOG”), a governmental unit created and existing pursuant to the General Statutes of North Carolina, Chapter 160A, Article 20, Part 2, acting in its capacity as the Grantee of Foreign Trade Zone Number 93 (“FTZ No. 93”), also known as the Research Triangle Area Foreign Trade Zone, and shall govern all operations taking place within FTZ No. 93. The TJCOG was issued the Grant of Authority by the U.S. Foreign-Trade Zones Board (“Board”) to establish, maintain and operate FTZ No. 93 (Board Order 233, dated November 16, 1983) and was approved to reorganize FTZ No. 93 under the Alternative Site Framework (Board Order 1872, dated November 30, 2012 and Board Order 1963, dated January 9, 2015). The Service Area for FTZ No. 93 encompasses Chatham, Durham, Franklin, Granville, Harnett, Johnston, Lee, Moore, Orange, Person, Sampson, Vance, Wake and Warren counties.

I. ZONE SCHEDULE

1.01 Schedule Content: This Schedule has been promulgated and adopted by the Grantee and contains the internal rules and regulations governing the use of FTZ No. 93 by Operators, Users, Participants, and all other persons or entities. The Schedule also includes the Rates and Charges applicable to the use of the Zone. This Schedule is intended to conform with the Foreign Trade Zones Act (“Act”) and the rules and regulations of the Board and United States Customs and Border Protection (“USCBP”) (“FTZ Regulations”). The effective date of this Schedule is set forth on the cover page.

1.02 Amendment and Interpretation: Subject only to the requirements of the Act and the FTZ Regulations, this Schedule may be modified, amended or replaced by TJCOG at any time, if TJCOG determines it to be necessary or appropriate to do so. TJCOG shall, in its sole discretion, interpret the provisions of this Schedule and determine the applicability of any of its provisions.

II. AUTHORITY

The Zone has been established pursuant to the Grant of Authority and all activities within the Zone are subject to oversight by the Grantee. All persons doing business within the Zone and all operations moving merchandise into or out of the Zone must strictly conform to the Act, the FTZ Regulations, this Schedule and all other applicable federal, state and local laws, rules and regulations.

III. ZONE TO BE OPERATED IN THE PUBLIC INTEREST

3.01 Uniform Treatment: The Grantee shall have the responsibility of ensuring that the needs of the business community located within the Service Area are reasonably served and that the Zone is being operated in the public interest affording uniform treatment to all Operators, Users, and Participants operating under like circumstances. The Grantee will ensure that rates and charges imposed according to this Schedule will be fair and reasonable taking into account the costs and expenses of the Grantee.

3.02 Potential Detriment to Public Interest: In accordance with the Act, the Board may restrict or prohibit any operation in the Zone that the Board deems detrimental to the public interest, health, and/or safety. Any party that is concerned that it is or may be adversely affected by any Zone operation may submit written comments to the Board relative to these concerns, if the Grantee is unable to resolve the party's concerns. Comments must stipulate how the activity in question is or would be detrimental to the public interest, health, and/or safety.

IV. ZONE REGULATIONS, RULES AND POLICIES

4.01 General Policy: It is the policy of TJCOG to promote the use of the U.S. Foreign Trade Zone program and the Zone. TJCOG shall encourage companies that can benefit from the activities allowed under the Act to invest resources and create jobs for the purpose of increasing international commerce.

4.02 Qualifications: Persons and business entities may qualify as Operators of the Zone provided that they have:

- A. Satisfied all requirements imposed by the USCBP.
- B. Executed the necessary Operating Agreement with the Grantee.
- C. Conformed with all federal, state and municipal statutes and regulations, including but not limited to, the USCBP Regulations.
- D. Have filed a schedule of rates and charges with the Grantee, if applicable.

4.03 Non-Reliance: Users contemplating the utilization of an Operator's services should not rely solely upon the schedule for that Operator that is on file with the Grantee. The User should always contact that Operator directly for current quotes of rates and rules relating to the User's cargo to be handled by that Operator.

4.04 Operators Not Filing a Schedule: Any Operator that does not file a Schedule with the Grantee is restricted to handling only its own merchandise.

4.05 Local Requirements: Operators, Users, and Participants whether operating on or off property owned by the Grantee, shall comply with all requirements of applicable local laws, including the provisions of local zoning ordinances.

4.06 Other Requirements: Operators, Users, and Participants shall comply with the rules or regulations promulgated by agencies having jurisdiction over certain imports and/or exports, including but not limited to, the Food and Drug Administration, Fish and Wildlife Service, Environmental Protection Agency, Department of Defense, Import Administration, Export Administration, U.S. Census Bureau, Bureau of Alcohol, Tobacco, Firearms and Explosives, and any other agencies related to the import and export of merchandise. Operators, Users, and Participants shall cooperate fully with all such agencies.

4.07 Availability of Approved Facilities: In the event there are no facilities available in the approved Magnet Sites that meet the Operator's, User's, or Participant's requirements, the Grantee shall use its best efforts to obtain FTZ designation for an area located outside the Magnet Sites to accommodate such Operator, User or Participant.

4.08 Application to the Board: The Grantee shall have the primary responsibility for filing applications with the Board requesting modifications to the Grant. Requests for modification to the Grant may include expansion of the Zone, minor boundary modifications, Subzone or Usage-Driven Site applications and/or changes in the scope of authority.

4.09 Interpretation of this Schedule: Whenever interpretation of the provisions of this Schedule become necessary, such interpretation shall be made by the Grantee in accordance with the regulations and the laws of the State of North Carolina, as the same apply to the Operator's activities in the Zone.

V. PAYMENT OF FEES AND CHARGES

5.01 Rates: Operators, Users and Participants shall pay TJCOG for services rendered at the rates published in Exhibit A attached to this Schedule.

5.02 Fees, Fines, and Penalties Payable to the Grantee: A late fee assessment of one and one-half percent (1-1/2%) per month, will be imposed on all past due amounts not paid within ten (10) days of the due date and shall be assessed for as long as said amount remains delinquent. This provision shall not preclude TJCOG from terminating any Agreement(s) as provided herein or from exercising any other remedy contained herein or as provided by law.

5.03 Non-Payment of Fees: TJCOG reserves the right to terminate any Operating Agreement or otherwise deny any Operator, User, or Participant the use of the Zone as a result of the Operator, User, or Participant's failure to pay fees due the Grantee, as provided for in this Schedule.

5.04 Fees Assessed by Operators: All Operators providing services to the public, unless listed under Section 5.04, shall publish its own schedule of services offered and fees to be charged to Users. Such schedule must be available at the Operator's Zone Site and at the office of the Grantee. Such fees shall be uniform and reasonable, but shall not preclude any Operator from entering into agreements with Users based on time, volumes and other considerations.

5.05 Fees, Fines, and Penalties Payable to the Foreign Trade Zone Board: All Operators, Users, and Participants should familiarize themselves with the fees, fines, and penalties set forth in 15 CFR Part 400 - Board Regulations, including articles 400.29 and 400.62.

VI. OPERATORS WITH A TICOAG AGREEMENT TO OFFER SERVICES TO THE PUBLIC

6.01 Fees for Operator's Administrative Charges: These charges are set forth in the most current Tariff issued by each operator and may be amended from time to time. Tariff schedules are subject to review by the Board and the Grantee. Tariffs are submitted to the Board and made available to the public. For information on fees charged by FTZ No. 93 FTZ Operators see Appendix B.

EXHIBIT A: GRANTEE SCHEDULE OF FEES AND CHARGES

Effective Date: August 25, 2016

The TJCOG fiscal year is July 1 – June 30. Annual fees are invoiced on or about July 1 of each fiscal year and cover the fees incurred for that particular fiscal year (July 1 – June 30).

The Grantee reserves the right to change any fee or charge contained herein if, in the Grantee's determination, it is in the best interest of the welfare of the community to do so. Any fees enumerated herein shall be due and payable ***in addition to any other fee*** required by the Board, USCBP Directives, any other Government Agency, TJCOG's Zone Schedule, Document Recording Fees, and/or other fees associated with any other agreement in effect with TJCOG.

I. MAGNET SITE

- A. Sponsorship of Application for New Magnet Site
 - a. Up to 250 Acres.....\$4,500
 - b. Greater than 250 Acres.....\$7,500

Non-refundable fee payable with letter to Grantee requesting sponsorship of the Magnet Site application. This fee covers Grantee's expenses incurred in reviewing and submitting the request to the US FTZ Board, any other necessary Grantee activities associated with the request and preparing and processing the Property Owner's or Zone Participant's Agreement. The applicant requesting the new Magnet Site is responsible for preparing the expansion application and providing all required documentation and approvals to support the application.

- B. Sponsorship of Application for Production Notification/Authority.....\$7,500

Non-refundable fee payable prior to the Grantee's submission of the Production Notification/Authorization Application Request to the US FTZ Board. The Zone Operator/User is responsible for preparing the Production Notification/Authorization Application request and obtaining all documentation associated with said request.

- C. Sponsorship of Request for Change in Scope of Authority.....\$1,000

Scope of Authority is defined in 15CFR 400.14 (d).

- D. Sponsorship of Request for Minor Modification (expansion).....\$1,000

E. Activation Fee per Site.....\$3,000

Non-refundable fee due prior to the Grantee's submission of the activation concurrence letter to USCBP. The Operator is responsible for preparing the activation request and all documentation associated with said request.

F. Grantee Annual Fee for Operator at Magnet Site

a. Without Production Authority\$4,500

b. With Production Authority\$7,500

This non-refundable Annual Fee is payable to Grantee by Operator at a Magnet Site upon the site's activation. If activation occurs on a date other than July 1, this Annual Fee will be prorated for the remainder of the 12-month period until June 30. This Annual Fee is to be paid on July 1 of each year thereafter that the Zone Site is activated.

G. Grantee Annual Fee for Non-Activated Magnet Site.....\$2,000

This non-refundable Annual Fee is payable to Grantee by Property Owner or Zone Participant of Magnet Site upon the site's receipt of FTZ designation. If FTZ designation is issued on a date other than July 1, this Annual Fee will be prorated for the remainder of the 12-month period until June 30. This Annual Fee is to be paid on July 1 of each year thereafter that the Zone Site is non-activated. This Annual Fee is suspended should a portion of the Magnet Site be activated and remains suspended until the entire Magnet Site is deactivated, at which time Property Owner or Zone Participant will commence payment of this Annual Fee on a yearly basis as described above.

H. Application for New Operator within Magnet Site\$1,000

II. USAGE-DRIVEN SITE

A. Sponsorship of Usage-Driven Site Application.....\$3,000

Non-refundable fee payable with letter to Grantee requesting sponsorship of Usage-Driven Site Request. This fee covers Grantee's expenses incurred in reviewing and submitting the request to the US FTZ Board, any other necessary Grantee activities associated with the request and preparing and processing the Operations Agreement. The applicant and/or Operator of the Usage-Driven Site is/are responsible for preparing the application and providing all required documentation and approvals to support the application.

B. Sponsorship of Application for Production Notification/Authority.....\$7,500

Non-refundable fee payable prior to the Grantee's submission of the Production Notification/Authority Application Request to the US FTZ Board. The Zone Operator/User is responsible for preparing the Production Notification/Authority Application request and obtaining all documentation associated with said request.

C. Sponsorship of Request for Change in Scope of Authority.....\$1,000

Scope of Authority is defined in 15CFR 400.14 (d).

D. Sponsorship of Request for Minor Modification (expansion).....\$1,000

E. Activation Fee per Site.....\$3,000

Non-refundable fee due prior to the Grantee's submission of the activation concurrence letter to USCBP. The Operator of the Usage-Driven Site is responsible for preparing the activation request and all documentation associated with said request.

F. Grantee Annual Fee per Activated Site

a. Without Production Authority\$4,500

b. With Production Authority\$7,500

Non-refundable fee payable within 10 days after Operator is approved for activation by CBP, prorated from date of activation through June 30 of that year. Thereafter, payable annually on July 1 every year that the site remains activated.

G. Grantee Annual Fee per Non-Activated or Activated and Suspended Site\$2,000

Non-refundable fee payable within 10 days after Usage-Driven Site is approved by FTZ Board. Thereafter, payable annually on July 1 every year that the site remains non-activated. Once Site is activated, Operator will be subject to the Grantee Annual Fee per Activated Site. Upon activation, Operator will receive a prorated credit for the non-activated Annual Fee that it paid. If site has activation status suspended and the site becomes an Activated and Suspended Site, the Grantee Annual Fee per Non-Activated or Activated and Suspended Site will be reinstated as of the Anniversary date (July 1) of the next Annual Fee. The Grantee Annual Fee per Non-Activated or Activated and Suspended Site will remain in effect until the suspension of the activation is lifted. At that time, Operator will be subject to the Grantee Annual Fee per Activated Site on a pro rata basis.

III. SUBZONE (MANUFACTURING & DISTRIBUTION) – within Service Area

A. Sponsorship of Subzone Application

- a. Sites 1-2\$3,000
- b. Each Additional Site.....\$1,000

Non-refundable fee payable with letter to Grantee requesting sponsorship of Subzone application. This fee covers Grantee’s expenses incurred in reviewing and submitting the Subzone application to the US FTZ Board, any other necessary Grantee activities associated with the application and preparing and processing the Operations Agreement. The applicant for the subzone is responsible for preparing the application and providing all required documentation and approvals to support the application.

B. Sponsorship of Application for Production Notification/Authority.....\$7,500

Non-refundable fee payable prior to the Grantee’s submission of the Production Notification/ Authority Application Request to the US FTZ Board. The Zone Operator is responsible for preparing the Production Notification/Authority Application request and obtaining all documentation associated with said request.

C. Sponsorship of Request for Change in Scope of Authority.....\$1,000

Scope of Authority is defined in 15CFR 400.14 (d).

D. Sponsorship of Request for Minor Modification (expansion).....\$1,000

E. Activation Fee per Site

- a. Sites 1-2\$3,000
- b. Each Additional Site.....\$1,000

Non-refundable fee due prior to the Grantee’s submission of the activation concurrence letter to USCBP. The Operator of the Subzone is responsible for preparing the activation request and all documentation associated with said request.

F. Grantee Annual Fee per Subzone

- a. Without Production Authority\$7,000
- b. With Production Authority\$10,000

Non-refundable fee payable within 10 days after Operator is approved for activation by USCBP, prorated from date of activation through June 30 of that year. Thereafter, payable annually on July 1 every year that the site remains activated.

- G. Grantee Annual Fee per Non-Activated or Activated and Suspended Subzone.....\$4,000

Non-refundable fee payable within 10 days after Subzone Site is approved by US FTZ Board. Thereafter, payable annually on July 1 every year that the site remains non-activated. Once Site is activated, Operator will be subject to the Grantee Annual Fee per Activated Site. Upon activation, Operator will receive a prorated credit for the non-activated Annual Fee that it paid. If site has activation status suspended and the site becomes an Activated and Suspended Subzone, the Grantee Annual Fee per Non-Activated or Activated and Suspended Subzone will be reinstated as of the Anniversary date (July 1) of the next Annual Fee. The Grantee Annual Fee per Non-Activated or Activated and Suspended Subzone will remain in effect until the suspension of the activation is lifted. At that time, Operator will be subject to the Grantee Annual Fee per Activated Site on a pro rata basis.

IV. SUBZONE (MANUFACTURING & DISTRIBUTION) – outside of Service Area

- A. Sponsorship of Subzone Application

- a. Sites 1-2\$4,000
- b. Each Additional Site.....\$1,000

Non-refundable fee payable with letter to Grantee requesting sponsorship of Subzone application. This fee covers Grantee’s expenses incurred in reviewing and submitting the Subzone application to the US FTZ Board, any other necessary Grantee activities associated with the application and preparing and processing the Operations Agreement. The applicant for the subzone is responsible for preparing the application and providing all required documentation and approvals to support the application.

- B. Sponsorship of Application for Production Notification/Authority.....\$8,500

Non-refundable fee payable prior to the Grantee’s submission of the Production Notification/ Authority Application Request to the US FTZ Board. The Zone Operator is responsible for preparing the Production Notification/Authority Application request and obtaining all documentation associated with said request.

- C. Sponsorship of Request for Change in Scope of Authority.....\$1,000

Scope of Authority is defined in 15CFR 400.14 (d).

- D. Sponsorship of Request for Minor Modification (expansion).....\$1,000

E. Activation Fee per Site

- a. Sites 1-2\$4,000
- b. Each Additional Site.....\$1,000

Non-refundable fee due prior to the Grantee's submission of the activation concurrence letter to USCBP. The Operator of the Subzone is responsible for preparing the activation request and all documentation associated with said request.

F. Grantee Annual Fee per Subzone

- a. Without Production Authority\$8,000
- b. With Production Authority \$11,000

Non-refundable fee payable within 10 days after Operator is approved for activation by USCBP, prorated from date of activation through June 30 of that year. Thereafter, payable annually on July 1 every year that the site remains activated.

G. Grantee Annual Fee per Non-Activated or Activated and Suspended Subzone.....\$5,000

Non-refundable fee payable within 10 days after Subzone Site is approved by US FTZ Board. Thereafter, payable annually on July 1 every year that the site remains non-activated. Once Site is activated, Operator will be subject to the Grantee Annual Fee per Activated Site. Upon activation, Operator will receive a prorated credit for the non-activated Annual Fee that it paid. If site has activation status suspended and the site becomes an Activated and Suspended Subzone, the Grantee Annual Fee per Non-Activated or Activated and Suspended Subzone will be reinstated as of the Anniversary date (July 1) of the next Annual Fee. The Grantee Annual Fee per Non-activated or Activated and Suspended Subzone will remain in effect until the suspension of the activation is lifted. At that time, Operator will be subject to the Grantee Annual Fee per Activated Site on a pro rata basis.

EXHIBIT B: FEES CHARGED BY OPERATORS OFFERING SERVICE TO THE PUBLIC

I. LONGISTICS INTERNATIONAL LLC SCHEDULE OF FEES AND CHARGES

Longistics International LLC is authorized by the TJCOG to function as the FTZ Operator at Magnet Site 1 of FTZ No. 93.

Fees for Operator's administrative and service charges are set forth in Tariff #4, effective March 1, 2006, updated August 18, 2015, and can be found below:

Container Processing	\$19.82 per cubic meter, or \$2.65 per cwt, or \$330.27 for 20' Container \$462.38 for 40' Container \$528.43 for 48' Trailer \$132.11 minimum charge per container (highest rate will apply)
Other Handling	\$0.47 per carton - in or out \$5.28 per std. Pallet -in or out \$5.28 per barrel (drum) - in or out \$10.57 per bundle/crate/piece over six feet in length/width - in or out \$1.99 per cwt - in or out \$12.67 minimum charge per shipment (highest rate will apply)
Storage	\$0.86 psf per month \$14.53 per pallet (if applicable)
Seal Charge	\$6.60 per seal
Dock Work, Stacking, Manual Handling	\$29.33 per man-hour
Forklift with Operator	\$35.00 per man-hour
Clerical Services	\$27.61 per man-hour
Supervisor Time for Labor and Clerical	\$39.63 per man-hour
Zone Administration Fee	\$1,100 per month
Inventory Management Fee	\$1,200 per month

APPENDIX A: DEFINITIONS

The following words have the following meanings when used in this Schedule:

“Act” means the Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 998-1003; 19 USC81 81a-81u), as amended.

“Activated Area” means a Zone Site, whether a Magnet, Usage-Driven or Subzone Site or any portion thereof that has been activated pursuant to the Act.

“Board” means the U.S. Foreign-Trade Zones Board of the United States (U. S.) Department of Commerce, as established by the Act.

“Board Regulations” means Title 15, Code of Federal Regulations (CFR), Part 400, as presently constituted and as amended from time to time, which governs the grant of authority, the establishment and maintenance of FTZ’s by Grantees.

“CBPF” means Customs Form as used in the Regulations, which will typically be paired with a specific number used by USCBP to stipulate the use of such form.

“Customs Territory” means the territories of the U.S. in which general U.S. Tariff laws apply. This includes all of the U.S. States, District of Columbia and Puerto Rico minus any areas within the boundaries of Foreign Trade Zones.

“Domestic Merchandise” means merchandise which has been (i) produced in the United States and not exported, or (ii) previously imported into the Customs Territory of the United States and properly released from USCBP’s custody. Foreign merchandise on which all necessary and applicable duties and taxes have been paid, and upon which no drawback has been claimed, is considered Domestic Merchandise when admitted to a foreign-trade zone.

“FTZ” means Foreign-Trade Zone (capitalized or not) as defined by the Act.

“FTZ Regulations” means 15 CFR 400 and 19 CFR 146.

“Grant” means the authorization, as amended, issued to the Grantee that established the Zone pursuant to Board Order No. 233, dated November 4, 1983.

“Grantee” means the Triangle J Council of Governments as the recipient of the Grant, approved pursuant to Board Order No. 233, issued November 4, 1983, and subject to the requirement of Title 15 CFR Part 400, this Schedule and all other applicable federal, state and local statutes and regulations.

“Magnet Site” means large industrial/commercial sites intended to attract multiple potential FTZ operators/users meeting criteria established by the Grantee in accordance with the Act.

“Minor Boundary Modification” means a proposed change to a zone that may be authorized by the Executive Secretary of the Board.

“Operating Agreement” means a written agreement between the Grantee and any Operator utilizing the Zone that establishes the rules, procedures and requirements for the Operator’s use of the Zone.

“Operating Procedures” means the inventory control and record keeping system that will be used in the Zone specified in writing and certified by the Operator to USCBP and the Grantee to meet the requirements of Subpart B of 19 CFR 146.

“Operator” means any company or other entity that executes an Operating Agreement with the Grantee and that assumes the responsibilities enumerated by Operating Agreement and 19 CFR 146.

“Participant” means a party who engages in Zone activity with the Grantee.

“Port Director” means the local USCBP Port Director with jurisdiction over the Durham area Port of Entry and the Zone pursuant to Section 4.02(h) of 15 CFR 15.

“Schedule” means this schedule of rules, regulations and fees issued and promulgated by the Grantee.

“Service Area” means the designated County or Counties approved by the FTZ-Board in the Alternative Site Framework application, or subsequent expansion applications, where usage-driven or magnet sites and subzones can be established.

“Subzone” means a special purpose zone established for a limited use.

“Sunset Provision” Magnet Sites have a rolling five (5) year sunset provision where at least a portion of the magnet site must be activated. A usage-driven site must demonstrate actual zone activity within three (3) years or lose zone status.

“Usage-Driven Site” means a site designated to meet a specific operator’s/user’s present need for FTZ designation.

“USCBP” means the United States Customs and Border Protection Service.

“USCBP Regulations” means 19 CFR 146 that governs the activities of Operators within the Zone; the admission, manipulation, manufacture or exhibition of merchandise within the Zone; the exportation of merchandise from the Zone; the transfer of merchandise from one zone to another;

and the transfer of merchandise from the Zone into Customs Territory.

“User(s)” means those persons utilizing the services of any Operator of a Zone Site. An Operator can also be a User.

“Zone” means the aggregate of all Zone Sites within FTZ No. 93.

“Zone Site” means each separate area comprising the Zone, including Magnet, Usage-Driven and Subzone Sites including the buildings and facilities located within that particular area that is utilized by an Operator while exercising the rights and privileges granted it pursuant to its Operating Agreement with the Grantee.

“Zone Status” means status of merchandise that is brought into the Zone or any of its Zone Sites. Merchandise shall be identified according to its type of status. The four types of Zone Status are:

- A. Privileged Foreign Status** - the status that will be given to foreign merchandise or non-tax-paid domestic merchandise upon which the duty and applicable taxes have been determined at the time the status is approved according to a CBPF 214. Once they have been determined, the duty rate and taxes are not subject to future fluctuation. Once established, the Privileged Foreign Status given to merchandise cannot be changed. If merchandise has already been admitted into the Zone and given Non-Privileged Foreign Status, Privileged Foreign Status for that merchandise may be requested by filing CBPF 214, CBPF 7502 and related documents. Application for Privileged Foreign Status must be filed prior to manipulation or manufacture of any merchandise.
- B. Non-Privileged Foreign Status** - the status that will be given to foreign merchandise or non-tax paid domestic merchandise upon which the duty and applicable taxes will be determined at the time the merchandise enters Customs Territory from the Zone for consumption.
- C. Domestic Status** - the status that will be given to merchandise that is comprised of (i) U.S. products on which all internal revenue taxes have been paid; or (ii) imported merchandise on which all duty and/or taxes have been paid; or (iii) imported merchandise which is free of duty and tax.
- D. Zone Restricted Status** - the status that will be given to merchandise entering the Zone for the purpose of exportation or destruction (other than alcoholic spirits or beverages). Merchandise with Zone Restricted status may not be returned to any geographic area under USCBP jurisdiction for domestic consumption except where the Board determines the return to be in the public interest.

Attachment 5

FTZ #93 RATES, TARIFF AND LEGAL REVIEW BOARD

BYLAWS

- I. **NAME.** The name of this advisory committee shall be the FTZ #93 Rates, Tariff and Legal Review Board (hereinafter, the Board).
- II. **AUTHORIZATION.** This advisory committee is created by the Triangle J Council of Governments (hereinafter, TJCOG), pursuant to Article XIII of its Charter and N.C.G.S. Section 160A-475.3.
- III. **PURPOSE.** TJCOG has been granted a license to operate Foreign Trade Zone (FTZ) #93 serving the Port of Raleigh-Durham and the Research Triangle. Said FTZ shall also be known as the Research Triangle Area Foreign Trade Zone. The TJCOG hereby creates the FTZ #93 Rates, Tariff and Legal Review Board to oversee the operation, administration, and public utility nature of the Research Triangle Area FTZ and make appropriate recommendations to the TJCOG Board of Delegates (TJCOG).
- IV. **DUTIES.** The duties of the FTZ #93 Rates, Tariff and Legal Review Board are as follows:
 - (a) The Board shall ensure the Grantee operates the Zone as a public utility according to FTZ regulations.
 - (b) The Board shall adopt a Zone Schedule including, rates, rules, regulations, and practices for operation in the Research Triangle Area Foreign Trade Zone.
 - (c) The Board shall ensure the Zone Schedule adheres to the guidelines set forth by the US FTZ Board and the Board shall recommend revisions as appropriate.
 - (d) The Board shall review and make recommendations to TJCOG on proposed modifications of the zone boundaries.
 - (e) The Board shall consider applications for Zone status as part of the Research Triangle Area FTZ and may recommend sponsorship of applications to the TJCOG Board of Delegates.
 - (f) The Board may consider related matters brought forth by the economic development community, TJCOG member governments, FTZ #93 Board members, or others.
 - (g) From time to time, the Board shall propose to TJCOG such amendments to these Bylaws as may be appropriate.
- V. **MEMBERSHIP AND CHAIRMAN.** The FTZ #93 Rates, Tariff and Legal Review Board shall consist of at least nine (9) members and up to thirteen (13) members, appointed by the Board of Delegates of TJCOG. At least three of the members shall be elected officials, two of whom shall be delegates and/or alternate delegates on the TJCOG Board of Delegates. The Board seeks to geographically diversify the Board and expand representation from counties across the FTZ #93 service area.

The members shall serve staggered, three-year terms. A Chairman and Vice Chairman shall be annually recommended by the FTZ Board, from its membership, and be confirmed by the TJCOG

Board of Delegates or Executive Committee.

- VI. MEETINGS. The FTZ #93 Rates, Tariff and Legal Review Board shall hold such meetings as may be necessary to conduct its business and shall meet at least annually. TJCOG staff shall consult with the chairman to develop the regular meeting schedule for adoption each year. In addition, any three members of the board may call a meeting.

A notice of at least 48 hours of any called or special meeting shall be given to all FTZ #93 Board members. The notice shall state the time, place and purpose of the meeting. Notices may be sent by electronic transmission. In an emergency, a 24-hour notice shall be sufficient.

Holding meetings, establishing a quorum, and voting may be achieved by participating in-person and/or via electronic telecommunication, or a combination thereof.

- VII. QUORUM AND VOTING REQUIREMENTS. A majority of Board members shall constitute a quorum. The affirmative vote of a simple majority of the members present at any meeting at which a quorum has been established shall be required for an action or recommendation of the Board.

- VIII. STAFF. The Executive Director of TJCOG shall appoint one or more staff members to serve as the Grantee Administrator and may appoint an attorney (if one is not a member of the Board) to assist the FTZ #93 Rates, Tariff and Legal Review Board in carrying out its responsibilities. The Grantee Administrator shall be authorized to carry out the duties assigned to Grantee organizations.

- IX. AMENDMENTS. These bylaws may be amended at any time by a majority vote of the TJCOG Board of Delegates.

Originally adopted: 1984
Amended: January 2009
February 22, 2012
TBD



A RESOLUTION IN SUPPORT OF U.S. FLUE-CURED TOBACCO GROWER INC.'S REQUEST FOR SPONSORSHIP UNDER FOREIGN TRADE ZONE # 93

WHEREAS, Central Pines Regional Council serves as the grantee administrator for Foreign Trade Zone #93; and

WHEREAS, Central Pines Regional Council recognizes the importance of FTZ #93 as an economic tool and progressor of foreign domestic investment in our region and surrounding areas; and

WHEREAS, Central Pines Regional Council encourages businesses to utilize this tool to retain and create jobs, and further attract industry and businesses; and

WHEREAS, Central Pines Regional Council authorizes final sponsorship of inquiring FTZ #93 sites, authorizing applicants to then progress their application submittal to the U.S. Foreign Trade Zone Board.

NOW, THEREFORE, BE IT RESOLVED THAT Central Pines Regional Council hereby authorizes the sponsorship of U.S. Flue-Cured Tobacco Grower, Inc.'s request to submit an application to the U.S. Foreign Trade Zone Board, to have a designated usage-driven site in Foreign Trade Zone #93.

Passed this 22nd day of January 2025 by the Central Pines Regional Council Executive Committee.

Signed:

Attest:

By: _____
Brett Gantt, Chair
Central Pines Regional Council
Board of Delegates

By: _____
Beth Davis
Central Pines Regional Council
Clerk to the Board

Meeting Date:

January 22, 2025-Executive Committee

Agenda Location:

Consent

Item Title:

FY24-25 Budget Amendment #3

Presenter(s):

Hope Tally, CFO

Background:

According to the Budget Resolution for Fiscal Year 2024-2025 adopted on May 22, 2024, the Chief Finance Officer is authorized to transfer funds within and among divisions as needed during the fiscal year. Any additions or reductions to the total budget warrant adoption of an amendment to the FY25 budget resolution. The proposed attached resolution increases the total CPRC budget by \$2,116,210.

New Project Funding:

- The Environment & Resilience division is being increased by \$1,200,000 with the award of the Nature Conservancy Grant. This new project is a National Oceanic and Atmospheric Administration project and focuses on supporting fish habitat restoration in the Cape Fear River Basin. CPRC will be the lead COG on this effort alongside The Nature Conservancy's (TNC) North Carolina Chapter to engage underserved and disadvantaged communities. CPRC will work with Mid-Carolina Council of Government to engage diverse groups, review the science, add social elements to project evaluation criteria, and identify projects that can be locally led. Collectively, this work improves community and aquatic resilience from source to sea and from in-water to on land.

Changes to Project Funding:

- The Member Support division is being amended by a total of \$113,076 with additional funding for grant assistance to members and Rural Transformation grant funds for Sanford, Vass, and Cameron.
- The Aging division is being amended by \$357,000 with the addition of federal funding for the Veteran Directed Home & Community Based Services Program. This program has seen an increase in the number of veterans served and therefore individual budgets are being managed on an authorized case mix rate.
- The Housing division is being amended by a total of \$595,000 with additional funding for Single Family Rehabilitation and Urgent Repair Program homes in Chatham and Wake counties.
- The Environment & Resilience division is being amended by a total decrease of \$217,397. The TEST Real World project budget is being decreased by \$235,548 to reflect the final approved funding budget. The Jordan Lake One Water project budget is being increased

by \$18,151 with an appropriation from fund balance to reflect unused funding collected in the prior fiscal year.

- The Transportation division is being amended by \$68,531 to reflect the approved budget with NC Department of Transportation for the Transportation Demand Management project.

Recommendation:

Place on Consent Agenda

Focus Area:

Administration & Operations

Will Documentation Be Included for Agenda Packet:

Yes No

If yes, please include documentation in the appropriate meeting folder [HERE](#).

Is Any Additional Action/Communication Required:

- Public Hearing
- Newspaper Notice Required
- Website
- Press Release
- Social Media
- Other:

**Central Pines Regional Council
A Resolution for Budget Amendment
of the Fiscal Year 2024-2025 Budget
Amendment 3**

WHEREAS, the Central Pines Regional Council adopted its 2024-2025 Budget Resolution on May 22, 2024; and, **WHEREAS**, it is necessary for Central Pines Regional Council to make a revision by way of the following amendment;

NOW, THEREFORE, BE IT RESOLVED that the Central Pines Regional Council FY 2024-2025 Budget Resolution is hereby amended as follows:

SECTION 1. REVENUES

Revenues by Source:	Revised	Amendment	New Revised
Federal	\$ 14,172,217	\$ 121,452	\$ 14,293,669
Federal Pass Thru	\$ 17,317,876	\$ 1,863,531	\$ 19,181,407
State	\$ 2,842,719	\$ -	\$ 2,842,719
Member Investment	\$ 898,436	\$ -	\$ 898,436
Special Local Dues	\$ 4,465,938	\$ -	\$ 4,465,938
Local Aging Share	\$ 272,525	\$ -	\$ 272,525
Project Income	\$ 5,892,974	\$ 113,076	\$ 6,006,050
Assigned Fund Balance	\$ 450,583	\$ 18,151	\$ 468,734
Other Revenue	\$ 7,069	\$ -	\$ 7,069
General Fund Total Revenues:	\$ 46,320,337	\$ 2,116,210	\$ 48,436,547

SECTION 2. EXPENDITURES

Expenditures by Division:	Original	Amendment	New Revised
General Government	\$ 402,858	\$ -	\$ 402,858
Member Support Strategy	\$ 6,286,494	\$ 113,076	\$ 6,399,570
Transportation	\$ 3,150,233	\$ 68,531	\$ 3,218,764
Durham MPO	\$ 6,760,317	\$ -	\$ 6,760,317
Community & Economic Development	\$ 2,032,282	\$ -	\$ 2,032,282
Housing	\$ 4,452,974	\$595,000	\$ 5,047,974
Environment & Resilience	\$ 7,752,075	\$ 982,603	\$ 8,734,678
Aging & Human Services	\$ 15,483,104	\$ 357,000	\$ 15,840,104
General Fund Total Expenditures:	\$ 46,320,337	\$ 2,116,210	\$ 48,436,547

Adopted and approved on this 22nd day of January 2025.

Brett Gantt

Attest:

Lee Worsley, Executive Director

Meeting Date:

January 22, 2025-Executive Committee

Agenda Location:

Consent

Item Title:

Deputy Finance Officer Resolution

Presenter(s):

Hope Tally, CFO

Background:

Finance staff have been cross-training core functional areas to provide financial stability and resiliency to CPRC. As a next step, staff are requesting the Board approve updated roles for deputy finance officers for the organization in accordance with the Local Government Budget and Fiscal Control Act, NC General Statute (NCGS) 159. NCGS 159 defines the organization's responsibilities as a local government in relation to fiscal control, including the duties of the finance officer, accounting systems, budgetary appropriations, encumbrances, deposits and investments, and disbursements and signatures.

The Resolution Authorizing Representatives of the COG to be Designated as Deputy Finance Officers requests the Board approve the following assignments:

- Hope Tally, Chief Finance Officer – Finance Officer duties, All Bank Account Authority, and Check Signer Authority
- Katie Davis, Finance Manager – Deputy Finance Officer for Pre-Audit, Bank Account Authority as Delegated by Finance Officer, Check Signer Authority as Acting Finance Officer
- Lee Worsley, Executive Director – All Bank Account Authority, Check Signer Authority, and Deputy Finance Officer for Pre-Audit
- Jenny Halsey, Assistant Executive Director – Check Signer Authority as Acting Executive Director

Recommendation:

Place on Consent Agenda

Focus Area:

Administration & Operations

Will Documentation Be Included for Agenda Packet:

Yes No

If yes, please include documentation in the appropriate meeting folder [HERE](#).

Is Any Additional Action/Communication Required:

- Public Hearing
- Newspaper Notice Required
- Website
- Press Release
- Social Media
- Other:



A RESOLUTION AUTHORIZING REPRESENTATIVE(S) OF THE COG TO BE DESIGNATED AS DEPUTY FINANCE OFFICERS

WHEREAS, NCGS 159 defines the Finance Officer and Chair or Chief Executive Officer as being authorized to sign checks on behalf of Central Pines Regional Council should no other designation be made and no obligation may be incurred for the organization without preauditing the obligation; and

WHEREAS, it is the request of the Central Pines Regional Council management to authorize the following representatives the authority to sign and/or countersign checks, preaudit obligations, and sign and/or authorize transactions with the following banks on behalf of Central Pines Regional Council as well as Finance Officer and Deputy Finance Officer responsibilities.

NOW THEREFORE BE IT RESOLVED by the Board of Delegates of Central Pines Regional Council, Durham, North Carolina, that the following representatives are authorized to act on behalf of the council in all respects as authorized under NCGS 159 as follows:

Name	Title	Role	Account(s)
Lee Worsley	Executive Director	All Bank Account Authority Deputy Finance Officer for Pre-Audit Check Signer	Wells Fargo – All Accounts; NCCMT – All Accounts; PNC – All Accounts
Jenny Halsey	Assistant Executive Director	Check Signer as Acting Executive Director	Wells Fargo – All Accounts; NCCMT – All Accounts; PNC – All Accounts
Hope Tally	Chief Finance Officer	All Bank Account Authority Finance Officer Check Signer	Wells Fargo – All Accounts; NCCMT – All Accounts; PNC – All Accounts
Katie Davis	Finance Manager	Deputy Finance Officer for Pre-Audit Bank Account Authority as Delegated by Finance Officer Check Signer as Acting Finance Officer	Wells Fargo – All Accounts; NCCMT – All Accounts; PNC – All Accounts

This Resolution will be effective immediately and will remain until such time it is modified.
Passed this 22nd day of January 2025 by the Central Pines Regional Council Executive Committee.

Signed:

Attest:

By: _____
Brett Gantt, Chair
Central Pines Regional Council
Board of Delegates

By: _____
Beth Davis
Central Pines Regional Council
Clerk to the Board