

ZONE SCHEDULE

RULES, REGULATIONS, RATES, AND CHARGES APPLYING AT:

**FOREIGN-TRADE ZONE NO. 170
PORT OF INDIANA - JEFFERSONVILLE
JEFFERSONVILLE, INDIANA**

**Operating under granted authority by the Foreign-Trade Zones
Board, Washington, D.C., to the Ports of Indiana**

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Ports of Indiana
Miller & Company P.C.**

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ZONE GRANTEE

ZONE SCHEDULE

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DESCRIPTION OF FOREIGN-TRADE ZONE NO. 170

Pursuant to a Grant issued by the Foreign-Trade Zones Board, Washington D.C., as Board Order No. 495 on December 27, 1990, the Ports of Indiana, under provisions of the Foreign-Trade Zones Act (19 U.S.C. 81a-81u), Foreign-Trade Zone No. 170, has issued the following Zone Schedule on rules, regulations, rates, and charges. The Ports of Indiana submitted an Alternative Site Framework Application, which was officially filed by the Foreign-Trade Zones Board as 12-2010 on February 22, 2010. The Application was approved pursuant to Board Order No. 1704 on September 3, 2010. All new submissions will be done under the ASF.

The zone has been expanded pursuant to Board Order Nos. 907, 1355, 1704, and 1781.

INTERNAL RULES/REGULATIONS AND POLICIES FOR THE ZONE

SECTION I - DEFINITION OF TERMS

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

Alternative Site Framework (ASF) means a three-part application that transforms a general-purpose zone by creating a service area (Jackson, Washington, Harrison, Floyd, Clark, Scott, Jefferson, Ripley, Dearborn, Brown, Ohio, and Switzerland Counties) where a “usage-driven” site can be established in thirty (30) days or a traditional “magnet” industrial park site can be established in six (6) to ten (10) months if certain criteria are met.

Antidumping/Countervailing Duty—FTZ Board Regulations require that any merchandise admitted to a zone that is subject to an AD/CVD Order must be placed in privileged foreign status. (15 C.F.R. § 400.14(e)(1)).

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

Customs Territory—The territory of the United States in which the general tariff law of the United States applies but which is not included in any Foreign-Trade Zone.

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

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

Grantee—The Grantee of Foreign-Trade Zone No. 170 is the Ports of Indiana, an organization to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign Trade Zone Board.

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

Interim Production Approval- Existing zone site and subzone may secure interim production approval with Customs concurrence and approval by the Foreign-Trade Zones Board. This does not require the entire four (4) months that a normal Production Notification Application requires. However, the Customs letter must indicate that the Operator is activated or could be activated soon.

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Inventory Records–

A. Zone Lot Number (ZLN)–A number assigned to the unit or units of goods (zone lot) for which a separate record and account is to be kept by the Zone Operator or Zone User. The merchandise must be physically segregated and marked by lot at all times. (19 C.F.R. 146.37(a)(1) and (d)).

B. Unique Identifier Number (UIN)–Numbers, letters, or combination of both (alphanumeric) that identifies merchandise admitted to a zone. It is fungible material typically identified by a part number, model number, style number, SKU, etc. This number may be used for control and accounting of the goods. FIFO (First In, First Out) and FOFI (Foreign First) inventory relief methods have been authorized by the U.S. Customs. (19 C.F.R. 146.37(a)(2) and (d)). Generally, a FIFO system is used for UIN activity.

Magnet Site means sites intended to attract multiple potential FTZ operators/users.

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

Manufacturing– This is the old term used by the Foreign-Trade Zones Board for activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, use, and HTS classification. It is now referred to as production. Authority for such activity in a zone must be secured from the Foreign-Trade Zones Board and authorized on a CBPF 216 by the U.S. Customs.

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

OFIS- This is the Online FTZ Information System that includes information on each zone. It can be accessed through the FTZ Board web site. All annual reports are now filed electronically through OFIS.

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

Port Director, U.S. Customs–The Port Director of U.S. Customs located in Louisville, Kentucky, or his representative.

SECTION I - DEFINITION OF TERMS

Production- This means traditional manufacturing activity and “kitting” activity where the new HTSUS classification applies to the finished product. The Foreign-Trade Zones Board uses this term to cover both manufacturing and processing activity.

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

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

Re-Exports or Reshipments—Merchandise from one foreign country initially destined to the United States that, after being unladen, stored, and/or manipulated or manufactured in this country, is transported under a new bill of lading or other new documentation to another foreign country. Generally, it includes all merchandise of foreign origin which has not been so manipulated or manufactured as to be deemed a product of the United States, and which has not been released from Customs custody into Customs territory.

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

Restricted Merchandise/Operations—Merchandise which may not be authorized for delivery from Customs custody without a special permit, or a waiver thereof, by an agency of the U.S. Government. Also, the Foreign-Trade Zones Board and U.S. Customs have restricted certain operations in the past involving the following products: steel, apparel/textiles, television tubes, auto parts, milk, and sugar, orange juice, printers ink, alcohol/gasohol, oil refining, tires, chain saws, silicon metals, and golf carts. The restrictions may vary on a case-by-case basis.

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Service Area means the area including Jackson, Washington, Harrison, Floyd, Clark, Scott, Jefferson, Ripley, Dearborn, Brown, Ohio, and Switzerland Counties, where usage-driven or magnet sites can be established under ASF rules.

Status of Merchandise–

A. Domestic Merchandise–Merchandise produced in the U.S., not exported therefrom, and on which all internal revenue taxes, if applicable, have been paid; and, imported merchandise properly released from Customs' custody on which all applicable duties and taxes have been paid. (19 C.F.R. § 146.43).

B. Nonprivileged Foreign Merchandise–Foreign merchandise or non-tax-paid domestic merchandise upon which the duty and applicable taxes will be determined at the time the merchandise enters the Customs territory of the United States from the zone for consumption. (19 C.F.R. § 146.42).

C. Privileged Foreign Merchandise–Foreign merchandise or non-tax-paid domestic merchandise upon which the duty and applicable taxes have been determined at the time this status is approved. The determined duty rate and taxes are not subject to future fluctuation. However, if merchandise is subject to antidumping or countervailing duties, and therefore placed in Privileged Foreign status, the merchandise will be entered under the HTSUS rate of duty in effect at the time of admission to the zone; however, the estimated AD/CVD rates are those in effect at the time of withdrawal from the zone. Merchandise subject to antidumping or countervailing duties, that must be placed in privileged foreign status pursuant to Section 400.14(e)(2), Foreign-Trade Zones Board Regulations, may be exported duty free except to North American Free Trade Agreement countries. Once established, Privileged Foreign status cannot be changed. If merchandise has already been admitted to a zone with Nonprivileged Foreign status, Privileged Foreign status may be obtained by filing a CBPF 214 and related documents. Application for this status, however, must be filed prior to manipulation or manufacture in the zone. (19 C.F.R. § 146.41).

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

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

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into U.S. Customs territory either on the basis of the imported materials or the finished product depending on the zone status designation. For new subzones if a company wishes to have production authority it must request approval of a Production Notification Application which can require four (4) months unless U.S. Customs will support an interim approval. A usage-driven site may also be called a subzone if requested during the Application process.

Sunset Provision—Magnet sites have a rolling five (5) year sunset provision during which at least a portion of the magnet site must be activated, while a usage-driven site must demonstrate actual zone activity within three (3) years or lose zone status.

United States—The fifty States, the District of Columbia, and Puerto Rico that constitute the Customs territory of the U.S. The term "United States" includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and the Island of Guam, which are not considered part of U.S. Customs territory.

Usage-Driven Site- Means sites designated to meet a specific operator/user's present need for FTZ designation; usage-driven sites cannot be used by another entity.

Zone Operator—The foreign-trade zone may be managed by the Grantee, a firm that oversees one or multiple zone users, or each firm may be its own foreign-trade Zone Operator. For the purposes of this Schedule, the term Zone Operator shall apply to both general-purpose zones and subzones. The zone or subzone may be an organization, corporation, partnership, or person that operates under the terms of an agreement with the Zone Grantee. There may also be multiple Zone Operators operating under the terms of agreement with the Zone Grantee.

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

Zone Year—Each Zone Operator may choose its own zone year. December 31 is the year-end for Foreign-Trade Zones Board Annual Report purposes.

SECTION II - OVERVIEW OF FOREIGN-TRADE ZONES

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

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

Foreign and domestic merchandise may be moved into zones for operations not otherwise prohibited by law involving storage, exhibition, assembly, production, or other processing. The usual formal Customs entry procedure and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the importer ordinarily has a choice of paying duties either on the original foreign material or the finished product. Quota restrictions do not normally apply to foreign goods stored in zones, but the Foreign-Trade Zones Board can limit or deny zone use in specific cases on public interest grounds. Domestic goods moved into a zone for export may be considered exported upon entering the zone for purposes of excise tax rebates and drawback. "Subzones" are a special-purpose type of ancillary zone authorized by the Foreign-Trade Zones Board, through grantees of public zones, for operations by individual firms that cannot be accommodated within an existing zone when it can be demonstrated that the activity will result in a significant public benefit and is in the public interest. Foreign merchandise and domestic merchandise for export in a zone are exempt from state and local ad valorem taxes. (15 C.F.R. § 400.1(c)).

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

SECTION III - APPLICATION OF RULES, REGULATIONS AND RATES

Section III.0 – Application and Interpretation of Foreign-Trade Zone No. 170, Zone Schedule

The rules, regulations and rates of this Zone Schedule shall apply at Foreign-Trade Zone No. 170, its subzones, magnet sites, usage-driven sites, and annexes unless otherwise provided for. The Zone Grantee/Operator, shall be the sole judge to interpret and determine the applicability of any of the rates, regulations or services provided for in this Zone Schedule. However, any matter involving interpretation or action by U.S. Customs or other agency of the U.S. Government will be determined by the Port Director of Customs, with the concurrence of the Foreign-Trade Zones Board. Where applicable, the Foreign-Trade Zones Board and U.S. Customs Regulations shall prevail should any conflict arise with this schedule.

Section III.1 – Regulations - Foreign-Trade Zones Board

Foreign-Trade Zone No. 170 is regulated by the Foreign-Trade Zones Board, Washington, D.C., special regulations as defined in the U.S. Code of Federal Regulations, Title 15, Chapter IV, Part 400-Regulations of the Foreign-Trade Zones Board.

Section III.2 – Regulations - U.S. Customs and Border Protection

Foreign-Trade Zone No. 170 is subject to special U.S. Customs regulations as defined in U.S. Code of Federal Regulations, Title 19, Chapter I, Part 146-Foreign-Trade Zones.

Section III.3 – Public Utility Standards

Pursuant to Foreign-Trade Zones Board Regulation, the zone must be operated as a public utility. All rates and charges for all services or privileges within the zone shall be fair and reasonable, and the Zone Grantee and Zone Operator(s) shall afford to all who may apply for the use of the zone and its facilities and appurtenances uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments regardless of whether a zone participant has processed any zone related product or engaged a particular service provider. (15 C.F.R. § 400.42). The General-Purpose Zone contains buildings available for sale or lease, and open land suitable for construction, to ensure that the reasonable zone needs of the business community are being met. The buildings are equipped to provide storage, manipulation, manufacturing, and other office space for individual companies to act as their own Operator within their own facility. Additionally, there are buildings available, or land available for construction, that would accommodate a third-party provider public warehouse building or buildings, making zone services available to those companies who did not wish to lease or purchase their own building, or physically handle their own

SECTION III - APPLICATION OF RULES, REGULATIONS AND RATES

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

Section III.4 - Uniform Treatment Standard

Any company that prepares an application to be filed with the Foreign-Trade Zones Board shall be sponsored by this Grantee organization unless that company is in a business that will harm other domestic companies, includes information in its application that is detrimental to the local community, or is not deemed to be in the general public interest.

SECTION IV - OPERATION OF ZONE

Section IV.0–Activation

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

Section IV.1–Boundary Modification

The Zone Grantee may submit to the Foreign-Trade Zones Board an Application to modify the boundary of an existing zone or subzone or to add a new site under the ASF. The procedure is administrative at the Foreign-Trade Zones Board without a *Federal Register* notice. (15 C.F.R. § 400.24(c)). No fee is owed the Foreign-Trade Zones Board. The site may also be requested to be approved as a subzone.

Section IV.2–Deactivation

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

Section IV.3–Disposition of Merchandise in a Zone

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

Section IV.4–Exclusion from Zone of Goods or Process of Treatment/Grant Restrictions

When it shall be reported to the Foreign-Trade Zones Board that any goods or process of treatment is detrimental to the public interest, health, or safety, the Foreign-Trade Zones Board shall cause such investigation to be made, as it may deem necessary. No operation or process of treatment will be permitted in the zone that in the judgment of the Foreign-Trade Zones Board or the Zone Operator is detrimental to the public interest, health, or safety. (15 C.F.R. § 400.13(a)(8)(b)). Normally, the Foreign-Trade Zones Board issues a Grant Restriction by means of a Board Order governing such activity. Grant Restrictions are restrictions or conditions placed in a Grant or other approval by the Foreign-Trade Zones Board that may limit the zone status allowed, the kind of operation or the merchandise in a zone, the entry of merchandise into the commerce, the life of the Grant, or the amount of acreage allowed to be activated.

SECTION IV - OPERATION OF ZONE

Section IV.5–Forms, Procedures and Operations in a Zone

The merchandise and operations permitted in a zone, the disposition of merchandise in a zone, the zone status of the merchandise and special provisions applicable to each status, compliance with requirements of other Federal Agencies, the subsequent importation of merchandise, the exportation of merchandise from a zone, and other operations in a zone authorized by the Act are all controlled by U.S. Customs Forms or forms of other Federal Agencies.

Section IV.6–Grant Sale/Conveyance, Transfer, Assignment, Etc.

The Foreign-Trade Zone Grant of Authority may not be sold, conveyed, transferred, set over, or assigned (FTZ Act, Section 17; 19 U.S.C. 81q). (15 C.F.R. § 400.13(a)(7)). Application may be made to the Foreign-Trade Zones Board to reissue a Grant under certain conditions.

Section IV.7–Independent Contractor Status

Zone Grantee, Zone Administrator, Zone Operator, and any future Zone User are not and shall not be considered as joint venturers, partners, or agents of each other, and none shall have the power to bind or obligate the other except as set forth in any written agreements. Zone Grantee, Zone Operator, and any future Zone User agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another except as set forth in any written agreements.

Section IV.8–Lapse/Sunset Provision

The grant of authority for every general-purpose zone or subzone may lapse if it is not activated and in operation within five years of the initial Foreign-Trade Zones Board Order issued after November 7, 1991. Detailed provisions apply. If a portion of any zone site is not activated within five (5) years of the establishment of the zone site, Grantee has the right to transfer zone status to another parcel of land adjacent to the Customs Port of Entry. Contact the Zone Grantee for a complete explanation. (15 C.F.R. § 400.13(a)(4)). All zone operators in general-purpose zone sites are subject to sunset provisions. A usage-driven site operator secure activation approval and must demonstrate zone activity within three (3) years or lose zone status. If an operator is located in a magnet site, the operator or another operator in the magnet site must activate a portion of the magnet site within five (5) years. Failure to meet the sunset provisions will result in automatic deletion of zone status. The Ports of Indiana as Grantee will not be held liable for any difficulties this may create for an operator.

SECTION IV - OPERATION OF ZONE

Section IV.9—Manipulation, Manufacture, Exhibition of Merchandise

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

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

(b) For production (manufacturing/processing), a second request must be made in advance to the Foreign-Trade Zones Board for production operations. The Foreign-Trade Zones Board defines production as any change in HTS classification. The Foreign-Trade Zones Board must approve all production operations. This includes certain “kitting” operations where there may be a change in HTSUS classification. Any new production operation beyond the scope approved in the Grant of Authority must be authorized by the Foreign-Trade Zones Board. See generally 15 C.F.R. 400.14(a). In a general-purpose zone, expedited action under Interim Production Notification authority can be secured. In existing general-purpose zone sites and subzones, Interim Production Notification authority may be secured in less than one hundred and twenty (120) days if U.S. Customs and Border Protection will provide a concurrence letter to the Foreign-Trade Zones Board.

Section IV.10—Merchandise Permitted in a Zone

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

(a) Merchandise that is specifically and absolutely prohibited by law shall not be admitted into a zone. Any merchandise so prohibited by law that is found within a zone shall be disposed of in the manner provided for in the laws and regulations applicable to such merchandise. A distinction is made between (1) merchandise which is specifically and absolutely prohibited by law on the grounds of policy or morals, such as immoral or subversive literature, obscene articles, or lottery matter, and (2) merchandise which is subject to conditional prohibition only, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal agencies. Port Directors of Customs are required to exclude the first class of articles and may not permit them to be admitted to a zone if they are aware of their prohibited status, except that the Port Director may permit the temporary deposit of any

SECTION IV - OPERATION OF ZONE

such merchandise in the zone pending final determination of its status. The transfer of articles of the second class to a zone is subject to any requirements of the Federal agency concerned. See 19 C.F.R. § 146.31(a) and (b).

There is no prohibition against placing over-quota merchandise in a zone pending its right to transfer to Customs territory pursuant to the applicable quota provisions.

(b) The application for the admission of merchandise into a zone shall be approved or disapproved by the Port Director of Customs as the representative of the Foreign-Trade Zones Board on a CBPF 214.

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

Section IV.11–Retail Trade Within Zone

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

Section IV.12–Scope of Authority

Foreign-Trade Zone No. 170 is authorized by Foreign-Trade Zone Board Order Nos. 907, 1355, 1704, and 1781 to undertake the activities set out therein. The Foreign-Trade Zones Board must authorize all production activity that results in a change in the imported material's Harmonized Tariff Schedule of the United States classification. This includes "kitting" operations where finished products are packaged together for sale. Any change in imported materials and finished products for such activity must also be authorized to only undertake those activities approved by the Foreign-Trade Zones Board. Zone Operator/User shall promptly notify the Zone Grantee of any activity requiring Foreign-Trade Zones Board notice and authorization.

Section IV.13–Sponsor of New Zone or Subzone

The Zone Grantee may in its sole discretion decide to sponsor a new zone or subzone project and its Application to the Foreign-Trade Zones Board. In order to make its determination, the interested party must submit, in letter form to the Grantee, sufficient data in summary form as required in an Application to the Foreign-Trade Zones Board. (15 C.F.R. § 400.14(a), 400.22, 400.25, 400.37). If the Zone Grantee decides to sponsor the proposed project, the Application must be prepared at the cost of the applicant.

SECTION IV - OPERATION OF ZONE

Section IV.14–Status of Merchandise in a Zone

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

Section IV.15–Subsequent Importation of Zone Merchandise

Articles produced in a zone and exported from there shall, on subsequent importation into the Customs territory of the United States, be subject to the import laws applicable to like articles produced in a foreign country, except that articles produced or manufactured in a zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the Second Proviso of Section 3 of the Act, as amended, may, on such importation, be entered as American goods returned. (19 C.F.R. § 146.67(e)).

Section IV.16–Termination-Accrued Obligations/Survival

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

Section IV.17–Termination-Conviction/Abandonment

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

SECTION V - GENERAL RULES AND REGULATIONS

Section V.0–Agreements

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

Section V.1–Charges

- A. Government Agencies**--Charges made by government agencies are not included in this Zone Schedule and should be arranged by the Zone User or his agent with the government agency concerned.
- B. When Payable**--Zone charges are due and payable as they accrue.

Section V.2–Communication, Audits, Inspections and Requests for Information

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

Section V.3–Confidential Relationship

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

SECTION V - GENERAL RULES AND REGULATIONS

Section V.4–Government Agencies

Zone Operator/User must comply with all lawful regulations of U.S. or Indiana government agencies. Besides the U.S. Customs, many U.S. agencies have specific laws that apply to the import and export of merchandise. The Zone Operator/User and its Customs Broker, if applicable, are responsible for assuring compliance.

Section V.5–Governmental Licenses

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

Section V.6–Public Interest, Health and Safety

No operation or process of treatment will be permitted in the zone that, in the judgment of the Foreign-Trade Zones Board, Zone Grantee, Zone Administrator, or Zone Operator, is detrimental to the public interest, health and/or safety. Zone management reserves the right to refuse merchandise that would, in the opinion of the zone management, pose unusual or unacceptable problems or hazards to the zone. See also Restricted Merchandise/Operations in Section I.

Section V.7–Regulations - General

All persons and merchandise of every description entering or leaving Foreign-Trade Zone No. 170 for any purpose whatsoever shall be bound by the lawful regulations of the Foreign-Trade Zones Board and by the Board Order issued thereunder, and U.S. Customs and actions of the Port Director of Customs.

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

SECTION V - GENERAL RULES AND REGULATIONS

Section V.8—Regulations - Zone

The rules governing procedure within Foreign-Trade Zone No. 170 are issued in conformity with and supplementary to the Foreign-Trade Zones Board and U.S. Customs regulations and such other United States laws and regulations relating to the Port of Entry as are applicable to Foreign-Trade Zone Operations.

SECTION VI - SPECIAL RULES PERTAINING TO MERCHANDISE

Section VI.0—Customs Inspection of Merchandise While in Zone

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

Section VI.1—Grantee Knowledge

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

Section VI.2—Handling of Merchandise

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

Section VI.3—Hazardous/Objectionable Commodities

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

Section VI.4—Indemnification

Zone Operator/User will protect, indemnify, and hold harmless Zone Grantee and its respective Boards, officers, and employees from and against any and all actions, suits, proceedings, claims, demands (including attorneys' fees and costs), whether

insured or not, arising out of, or incident to, Zone Operator/Users obligations and operations hereunder. Zone Grantee/Zone Operator may require a bond at any time Zone Grantee/Zone Operator deems it necessary to adequately protect the parties indemnified hereby.

Section VI.5–Insurance

The Grantee may require special insurance coverage in its Agreement with Operator.

Section VI.6–Permission to Manipulate, Manufacture, Exhibit, Repack or Destroy

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

Section VI.7–Record Deficiencies

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

Section VI.8–Record Retention

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

Section VI.9–Reports to Governmental Agencies

The Zone Operator may be required to submit periodic reports to the Grantee and the U.S. Customs, or may be required to perform other acts as the Zone Operator

of the zone in compliance with governmental regulations. Zone Users are required to and shall cooperate with the Zone Operator in the creation and maintenance of procedures, systems, regulations, or programs, and provide information and statistics that the Zone Operator considers necessary to ensure compliance with governmental requirements. The Zone Grantee must file an Annual Report to the Foreign-Trade Zones Board by the last business day in March on all activity that occurred in the zone during the previous calendar year (January 1 through December 31). Each Zone or Subzone Operator and Zone User must cooperate in providing the necessary data (15 C.F.R. § 400.51(c)). This data must be provided to the Grantee by no later than February 15 each year. An Annual Reconciliation and Annual Internal Review is required of each Foreign-Trade Zone or Subzone Operator. (19 C.F.R. § 146.25, 146.26). A certification letter acknowledging the Annual Reconciliation and Annual Systems Review have been completed and must be forwarded to the Customs Port Director within ninety (90) days of the end of the Operator zone year.

Section VI.10–Right of Entry

Representatives of the Zone Grantee, Zone Operator, Zone User, the Foreign-Trade Zones Board, U.S. Customs and other authorized U.S. Government officers, shall have the right of access to enter the Zone for the authorized and lawful purpose of examining same, conferring with Zone Operator/User, its agents, invitees, and employees on such premises, inspecting and checking operations, supplies, equipment and merchandise, and determining whether the business is being conducted in accordance with the procedures established for the operation and management of the zone.

SECTION VII – CHARGES

Section VII.0–Charges

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

Section VII.1–Uniform Pricing

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

GRANTEE CHARGES

APPLICATION, ACTIVATION, AND ANNUAL FEES--

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

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

These fees are payable by the Zone Operator of the appropriate site as described in 1, 2, and 3 above. The Zone Grantee will not be liable for any such fees, nor shall they be liable for preparing the application, the applicant shall prepare the necessary paperwork for the application submittal with the Grantee's approval. Note that there are no fees payable to the Foreign-Trade Zones Board for Usage-Driven Applications, Boundary Modifications or Production Notification Applications or Production Applications within a general-purpose zone or subzone; however, the Grantee charges an administrative review fee for assisting an applicant with a request for a boundary modification or expansion application, see (c)(2) below.

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

(c) The Zone Grantee charges each Zone Operator fees based upon services rendered. Fees may be adjusted from time to time by the Grantee by issuance of a correction to the Schedule.

(1) Annual Fee/Firms Acting as their own Operator – And administrative annual fee is charged by the Zone Grantee for each general-purpose zone and special-purpose subzone acting as their own Zone Operator.

The fee amount is:

For General-Purpose Zone Operators/Subzone/Usage-Driven Sites – Non-Production: \$10,000

For General-Purpose Zone Operators/Subzone/Usage-Driven Sites – Production: \$20,000

Dates payable, etc. are specified in the Operations Agreement between the Zone Grantee and Zone Operator of the General-Purpose Zone and/or Special Purpose Subzone.

- (2) Activation Fee—An initial activation fee of \$2,000 is charged by the Zone Grantee to each Zone Operator prior to commencing zone operations within the general-purpose zone. This fee shall be payable as reimbursement for administrative services provided by the Zone Grantee to assist the Zone Operator with the activation process with U.S. Customs and Border Protection. In the event an Operator activates a second site at a subsequent date a \$1,000 activation fee would be required as reimbursement for administrative services provided by the Zone Grantee to assist the Zone Operator with the activation process with U.S. Customs and Border Protection.
- (3) Expansion and/or Boundary Modification Fee to the general-purpose zone, usage-driven or magnet sites or special-purpose subzone—An administrative review fee of \$3,000 shall be assessed to the applications requesting an expansion or boundary modification to Zone No. 170. Before an application is submitted to the FTZ Board, the Grantee shall approve such request and require the applicant to prepare the necessary paperwork as required by the FTZ Board for such requests.

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