(d)(1) of this section, it shall be admitted in domestic status.

[T.D. 86–16, 51 FR 5049, Feb. 11, 1986; 51 FR 11012, Apr. 1, 1986]

Subpart G—Penalties; Suspension; Revocation

§ 146.81 Penalties.

(a) *Amount*. Upon violation of the Act, or any regulation issued under the Act, by the grantee, or any officer, agent, operator or employee thereof, the person responsible for or permitting the violation shall be subject to a fine of not more than $1,000. Each day during which a violation continues will constitute a separate offense. Liquidated damages, where applicable, will be imposed in addition to the fine (19 U.S.C. 81s).

(b) *Review*. All fines assessed by the port director under this section will be reviewed by the Director, International Trade Compliance Division, Headquarters, to determine whether further action against the grantee or operator, such as suspension or a recommendation for revocation of the grant, is warranted.

[T.D. 86–16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 91–77, 56 FR 46115, Sept. 10, 1991]

§ 146.82 Suspension.

(a) *For cause*. The port director may suspend for cause the activated status of a zone or zone site, or the privilege to admit, manufacture, manipulate, exhibit, destroy, transfer or remove merchandise at a zone or zone site for a period not to exceed 90 days. Upon order of the Board the suspension may be continued. If appropriate, the suspension may be limited to an individual user or users and not to the zone or zone site as a whole, or may be limited to a particular activity of an operator or user, such as suspension of the privilege to admit merchandise or the privilege to manufacture. An action to suspend will be taken in accordance with the procedure in paragraph (b) of this section if:

(1) The approval of the application to activate the zone was obtained through fraud or the misstatement of a material fact;

(2) The operator neglects or refuses to obey any proper order of a Customs officer or any Customs order, rule, or regulation relating to the operation or administration of a zone;

(3) The operator, or any officer of a corporation which has been granted the right to operate a zone, is convicted of or has commited acts which would constitute a felony, or misdemeanor involving theft, smuggling, or a theft-connected crime. Any change in the employment status of the corporate officer (e.g., discharge, resignation, demotion, or promotion) prior to conviction of a felony or prior to conviction of a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provision;

(4) The operator fails to furnish a current list of names, addresses, or other information as required by § 146.7;

(5) The operator does not provide a secure facility or properly safeguard merchandise within a zone;

(6) [Reserved]

(7) The operator, or any officer, agent, or employee of the operator, discloses to an unauthorized person proprietary information contained on a Customs form or in the inventory control and recordkeeping system; or

(8) The inventory control and recordkeeping system is impaired to the point where the identity of merchandise in zone status has been lost and cannot be reestablished without a suspension of zone operations.

(b) *Procedure*—(1) *Notice*. The port director may, at any time, serve notice, in writing, upon an operator to show cause why its right to continue operation of a zone should not be suspended or why an individual user or activities of an individual user should not be suspended, as provided for in paragraph (a) of this section. The notice will advise the operator of the grounds for the proposed action and will afford the operator an opportunity to respond, in writing, within 15 days after receipt of the notice. Thereafter, the port director shall consider the allegations and any response made by the operator and issue a decision, unless the operator requests a hearing in the matter.

(2) *Hearing*. If the operator requests a hearing, it will be held before a hearing officer designated by the Commissioner of Customs or his designee within 30 days following the operator's request. The operator may be represented by counsel at the hearing, and any evidence and testimony of witnesses in the proceeding, including substantiation of the allegations and the response thereto, will be presented. The right of cross-examination will be available to both parties. A stenographic record of the proceeding will be made and a copy will be delivered to the operator. At the conclusion of the hearing, the hearing officer shall transmit promptly all papers and the stenographic record of the hearing to the Assistant Commissioner, Office of Field Operations, or designee, together with a recommendation for final action.

(3) *Decision of Assistant Commissioner*. Within 10 calendar days after delivery to the operator of a copy of the stenographic record of the hearing, the operator may submit to the Assistant Commissioner, Office of Field Operations, or designee, in writing any additional views or arguments. The Assistant Commissioner, Office of Field Operations, or designee, shall then render a written decision stating his reasons therefor. That decision will be served on the operator and will be considered the final Customs administrative action in the case.

(4) *Grantee*. If the grantee of the zone is not the operator, a copy of the notice to show cause will be served upon the grantee. The grantee, as a party-in-interest, may join the operator in any proceedings under this section.

[T.D. 86–16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 88–63, 53 FR 40220, Oct. 14, 1988; T.D. 95–99, 60 FR 62733, Dec. 7, 1995]

§ 146.83 Revocation of zone grant.

(a) *Recommendation of port director*. The port director may at any time recommend to the Board that the privilege of establishing, operating, and maintaining a zone or subzone under Customs jurisdiction be revoked for willful and repeated violations of the Act (19 U.S.C. 81r). If the port director believes that a substantial question of law exists as to whether willful and repeated violations of the Act have occurred, that officer may request internal advice under the provisions of part 177 of this chapter from the Director, International Trade Compliance Division, Headquarters. A recommendation to the Board that a zone or subzone grant be revoked does not preclude, and may be in addition to, any liquidated damages, penalty, or suspension for cause.

(b) *Decision of the Board*. The procedure for revocation of a grant, the decision of the Board, and appeal is covered by the provisions of the Act and title 15, chapter IV, part 400, Code of Federal Regulations.

[T.D. 86–16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 91–77, 56 FR 46115, Sept. 10, 1991; T.D. 99–27, 64 FR 13676, Mar. 22, 1999]

Subpart H—Petroleum Refineries in Foreign-Trade Subzones

SOURCE: T.D. 95–35, 60 FR 20632, Apr. 27, 1995, unless otherwise noted.

§ 146.91 Applicability.

This subpart applies only to a petroleum refinery (as defined herein) engaged in refining petroleum in a foreign-trade zone or subzone. Further, the provisions relating to zones generally, which are set forth elsewhere in this part, including documentation and document retention requirements, and entry procedures, such as weekly entry, shall apply as well to a refinery subzone, insofar as applicable to and not inconsistent with the specific provisions of this subpart. It does not cover zone-to-zone transfers in which the fact of removal from one zone is ignored.

§ 146.92 Definitions.

(a) *Attribution*. ''Attribution'' means the association of a final product with its source material.

(b) *Feedstocks*. ''Feedstocks'' means crude petroleum or intermediate product that is used in a petroleum refinery to make a final product.

(c) *Feedstock factor*. ''Feedstock factor'' means the relative value of final products utilizing T.D. 66–16 (see § 146.92(h)), and which takes into account any volumetric loss or gain.