

Foreign-Trade Zones Board, Commerce

§ 400.12

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

[62 FR 53534, Oct. 15, 1997]

Subpart B—Foreign-Trade Zones Board

§ 400.11 Authority of the Board.

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

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

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

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

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

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

(2) All votes will be recorded.

(3) The Board will issue its determination in proceedings under the regulations in the form of a Board order.

[56 FR 50798, Oct. 8, 1991, as amended at 62 FR 53535, Oct. 15, 1997]

§ 400.12 Responsibilities and authority of the Executive Secretary.

The Executive Secretary has the following responsibilities and authority:

- (a) Represent the Board in administrative, regulatory, operational, and public affairs matters;
- (b) Serve as director of the Commerce Department's Foreign-Trade Zones staff;
- (c) Execute and implement orders of the Board;
- (d) Arrange meetings and direct circulation of action documents for the Board;
- (e) Arrange with other sections of the Department of Commerce, Board agencies and other governmental agencies for studies and comments on zone issues and proposals;
- (f) Maintain custody of the seal, records, files and correspondence of the Board, with disposition subject to the regulations of the Department of Commerce;
- (g) Issue notices on zone matters for publication in the FEDERAL REGISTER;
- (h) Determine subzone sponsorship questions as provided in § 400.22(d);
- (i) Determine whether additional information is needed for evaluation of applications and other requests for decisions under this part, as provided for in various sections of this part, including §§ 400.24, 400.25, and 400.26;
- (j) Issue guidelines on information required for subzone applications under § 400.25(a)(6);
- (k) Determine whether proposed modifications involve major changes under § 400.26(a)(2);

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

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

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

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

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

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

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

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

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

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

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

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

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

(y) Designate an acting Executive Secretary.

§ 400.13 Board headquarters.

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

Subpart C—Establishment and Modification of Zone Projects

§ 400.21 Number and location of zones and subzones.

(a) *Number of zone projects—port of entry entitlement.* (1) Provided that the

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other requirements of this subpart are met:

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

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

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

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

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

(2) The “adjacency” requirement is satisfied if:

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

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

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

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

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

§ 400.22 Eligible applicants.

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

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