

activity does or would result in a significant public benefit, taking into account the factors in paragraph (b) of this section. Applicants for approval of manufacturing or processing in general-purpose zones shall submit evidence regarding the positive economic effects that would result from activity within the zone and may submit evidence and comments as to policy considerations. Both types of applicants are expected to submit information in response to evidence of adverse economic effects during the public comment period. Parties should submit evidence that is probative and substantial in addressing the matter in issue.

(d) *Monitoring and post-approval reviews*—(1) Ongoing zone activity may be reviewed at anytime to determine whether it is in compliance with the Act and regulations, as well as the authority granted by the Board. Reviews 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 § 400.31. The Board may prescribe special monitoring requirements in its decisions when appropriate.

(2) Reviews may be initiated by the Board, the Commerce Department’s Assistant Secretary for Import Administration, or the Executive Secretary; or, they may be undertaken in response to requests from parties directly affected by the activity in question and showing good cause.

(3) Upon review, if the Board finds that zone activity is no longer in the public interest, taking into account the provisions of § 400.31, it may restrict the activity in question. The appropriateness of a delayed effective date will be considered in such cases.

[56 FR 50798, Oct. 8, 1991; 56 FR 56544, Nov. 5, 1991]

§ 400.32 Procedure for review of request for approval of manufacturing or processing.

(a) *Request as part of application for grant of authority.* A request for approval of proposed manufacturing or processing activity may be submitted as part of an application under §§ 400.24–400.26(a). The Board will review

the request taking into account the criteria in § 400.31(b).

(b) *Request for manufacturing/processing in approved zone or subzone.* Prior to the commencement of manufacturing in a zone or subzone involving activity beyond the scope of that which has been previously authorized at the facility (i.e., new end products, significant expansions of plant production capacity), and of similar changes in processing activity that involves foreign articles subject to quotas or inverted tariffs, zone grantees or operators shall request the determination referred to in § 400.31(a) by submitting a request in writing to the Executive Secretary (§ 400.28(a)(2)). Such requests shall include the information required by §§ 400.24(d)(4)(vii) and 400.25.

(1) The Commerce Department’s Assistant Secretary for Import Administration may make determinations in these cases based upon a review by the FTZ staff and the recommendation of the Executive Secretary, when:

- (i) The proposed activity is the same, in terms of products involved, to activity recently approved by the Board and similar in circumstances; or
- (ii) The activity is for export only; or
- (iii) The zone benefits sought do not involve the election of non-privileged foreign status (19 CFR 146.42) on items involving inverted tariffs; or
- (iv) The Port Director determines that the activity could otherwise be conducted under Customs bonded procedures.

(2) When the informal procedure in paragraph (b)(1) of this section is not appropriate—

- (i) The Executive Secretary will:
 - (A) Assign a case docket number and give notice in the FEDERAL REGISTER inviting public comment;
 - (B) Arrange a public hearing, if appropriate;
 - (C) Appoint an examiner, if appropriate, to conduct a review and prepare a report with recommendations for the Board; and
 - (D) Prepare and transmit a report with recommendations, or transmit the examiners report, to the Board for appropriate action; and

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(ii) The Board will make a determination on the requests, and the Executive Secretary will notify the grantee in writing of the Board's determination, and will publish notice of the determination in the FEDERAL REGISTER.

(c) *Scope determinations.* Determinations shall be made by the Executive Secretary as to whether changes in activity are within the scope of related activity already approved for the facility involved under this part. When warranted, the procedures of paragraph (b)(2) of this section will be followed.

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

§ 400.33 Restrictions on manufacturing and processing activity.

(a) *In general.* In approving manufacturing or processing activity for a zone or subzone the Board may adopt restrictions to protect the public interest, health, or safety. The Commerce Department's Assistant Secretary for Import Administration may similarly adopt restrictions in exercising authority under § 400.32(b)(1).

(b) *Restrictions on items subject to anti-dumping and countervailing duty actions—(1) Board policy.* Zone procedures shall not be used to circumvent anti-dumping (AD) and countervailing duty (CVD) actions under 19 CFR parts 353 and 355.

(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 parts 353 and 355.

Subpart E—Zone Operations and Administrative Requirements

§ 400.41 Zone operations; general.

Zones shall be operated by or under the contractual oversight of zone grantees, subject to the requirements of the Act and this part, as well as those of other federal, state and local

agencies having jurisdiction over the site and operation. Zone grantees shall ensure that the reasonable zone needs of the business community are served by their zone projects. The Port Director represents the Board with regard to the zone projects in the district and is responsible for enforcement, including physical security and access requirements, as provided in 19 CFR part 146.

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

§ 400.42 Requirements for commencement of operations in a zone project.

(a) *In general.* The following actions are required before operations in a zone may commence:

(1) Approval by the Port Director of an application for activation is required as provided in 19 CFR part 146; and

(2) The Executive Secretary will review proposed manufacturing or processing, pursuant to § 400.32, and a zone schedule as provided in this section.

(b) *Zone schedule.* (1) The zone grantee shall submit to the Executive Secretary and to the Port Director a zone schedule which sets forth:

(i) Internal rules and regulations for the zone; and

(ii) A statement of the rates and charges (fees) applicable to zone users.

(2) A zone schedule shall consist of typed, loose-leaf, numbered, letter-sized pages, enclosed in covers, and shall contain:

(i) A title page, with information to include:

(A) The name of the zone grantee and operator(s);

(B) Schedule identification;

(C) Site description;

(D) Date of original schedule; and

(E) Name of the preparer;

(ii) A table of contents;

(iii) Administrative information;

(iv) A statement of zone operating policy, rules and regulations, including uniform procedures regarding the construction of buildings and facilities; and

(v) A section listing rates and charges for zones and subzones with information sufficient for the Board or the Executive Secretary to determine