

§ 400.4

(9) Restrict or prohibit zone operations;

(10) Terminate reviews of applications under certain circumstances pursuant to § 400.36(g);

(11) Authorize under certain circumstances the entry of “zone-restricted merchandise” (19 CFR 146.44) into the customs territory pursuant to § 400.48;

(12) Impose fines for violations of the Act and this part;

(13) Instruct CBP to suspend activated status pursuant to § 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 § 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 Import Administration (Alternate Chairman).* The Commerce Department’s Assistant Secretary for Import Administration has the authority to:

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

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

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

(e) *Determinations of the Board.* Determinations of the Board shall be by the unanimous vote of the members (or alternate members) of the Board, which shall be recorded.

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§ 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 § 400.12(d);

(j) Make recommendations in cases involving questions as to whether zone activity should be prohibited or restricted for public interest reasons, including proceedings and reviews under § 400.5;

(k) Determine questions of scope under § 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 §§ 400.21–400.25;

(m) Issue instructions, guidelines, forms and related documents specifying time, place, manner and formats for applications and notifications in various sections of this part, including §§ 400.21(b) and 400.43(f);

(n) Determine whether proposed modifications are major modifications or minor modifications under § 400.24(a)(2);

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(o) Determine whether applications meet pre-docketing requirements under § 400.31(b);

(p) Terminate reviews of applications under certain circumstances pursuant to § 400.36(g);

(q) Authorize minor modifications to zones under § 400.38, commencement of production activity under § 400.37(d) and subzone designation under § 400.36(f);

(r) Review notifications for production authority under § 400.37;

(s) Direct monitoring and reviews of zone operations and activity under § 400.49;

(t) Review rate schedules and determine their sufficiency under § 400.44(c);

(u) Assess potential issues and make recommendations pertaining to uniform treatment under § 400.43 and review and decide complaint cases under § 400.45;

(v) Make certain determinations and authorizations pertaining to retail trade under § 400.47;

(w) Authorize under certain circumstances the entry of “zone-restricted merchandise” into the customs territory under § 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 § 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 § 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.

The headquarters of the Board are located within the U.S. Department of Commerce (Herbert C. Hoover Building), 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 those approved under the entitlement provision of paragraph (a)(1) of this section may be approved by the Board if it determines that the existing zone(s) will not adequately serve the convenience of commerce.

(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 general-purpose zone site is located within 60 statute miles or 90 minutes’ driving time (as determined or