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APPENDIX TO PART 146—GUIDELINES FOR DETERMINING PRODUCIBILITY AND RELATIVE VALUES FOR OIL REFINERY ZONES

AUTHORITY: 19 U.S.C. 66, 81a–81u, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624.

SOURCE: T.D. 86–16, 51 FR 5049, Feb. 11, 1986, unless otherwise noted.

§ 146.0 Scope.

Foreign trade zones are established under the Foreign Trade Zones Act and the general regulations and rules of procedure of the Foreign Trade Zones Board contained in 15 CFR part 400. This part 146 of the Customs Regulations governs the admission of merchandise into a foreign trade zone, manipulation, manufacture, or exhibition in a zone; exportation of the merchandise from a zone; and transfer of merchandise from a zone into Customs territory.

Subpart A—General Provisions

§ 146.1 Definitions.

(a) The following words, defined in section 1 of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a), are given the same meaning when used in this part, unless otherwise stated: “Board”, “Grantee”, and “Zones”.

(b) The following are general definitions for the purpose of this part:

Act. “Act” means the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998–1003; 19 U.S.C. 81a–u).

Activation. “Activation” means approval by the grantee and port director for operations and for the admission and handling of merchandise in zone status.

Admit. “Admit” means to bring merchandise into a zone with zone status.

Alteration. “Alteration” means a change in the boundaries of an activated zone or subzone; activation of a separate site of an already-activated zone or subzone with the same operator at the same port; or the relocation of an already-activated site with the same operator.

Conditionally admissible merchandise. “Conditionally admissible merchandise” is merchandise which may be imported into the U.S. under certain conditions. Merchandise which is subject to permits or licenses, or which may be reconditioned to bring it into compliance with the laws administered by various Federal agencies, is an example of conditionally admissible merchandise.

Constructive transfer. “Constructive transfer” is a legal fiction which permits acceptance of a Customs entry for merchandise in a zone before its physical transfer to the Customs territory.

Customs territory. “Customs territory” is the territory of the U.S. in which the general tariff laws of the U.S. apply. “Customs territory of the United States” includes only the States, the District of Columbia, and Puerto Rico. (General Note 2, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202)).

Deactivation. “Deactivation” means voluntary discontinuation of the activation of an entire zone or subzone by the grantee or operator. Discontinuance of the activated status of only a part of a zone site is an alteration.

Default. “Default” means an action or omission that will result in a claim for duties, taxes, charges, or liquidated damages under the Foreign Trade Zone Operator Bond.

Domestic merchandise. “Domestic merchandise” is merchandise which has been (i) produced in the U.S. and not exported therefrom, or (ii) previously imported into Customs territory and properly released from Customs custody.

Foreign merchandise. “Foreign merchandise” is imported merchandise which has not been properly released from Customs custody in Customs territory.

Fungible merchandise. “Fungible merchandise” means merchandise which for commercial purposes is identical and interchangeable in all situations.

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 are not “merchandise” for the purpose of this part.

Operator. “Operator” is a corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee. Where used in this part, the term “operator” also applies to a “grantee” that operates its own zone.

Port Director. For those foreign trade zones located within the geographical limits of a port of entry, the term “port director” means the director of that port of entry. For those foreign trade zones located outside the geographical limits of a port of entry, the term “port director” means the director of the port of entry geographically nearest to where the foreign trade zone is located.

Prohibited merchandise. “Prohibited merchandise” is merchandise the importation of which is prohibited by law on grounds of public policy or morals, or any merchandise which is excluded from a zone by order of the Board. Books urging treason or insurrection against the U.S., obscene pictures, and lottery tickets are examples of prohibited merchandise.

Reactivation. “Reactivation” means a resumption of the activated status of an entire area that was previously deactivated without any change in the operator or the area boundaries. If the boundaries are different, the action is an alteration. If the operator is different, it is an activation.

Subzone. “Subzone” is a special-purpose zone established as part of a zone project for a limited purpose, that cannot be accommodated within an existing zone. The term “zone” also applies to a subzone, unless specified otherwise.

Transfer. “Transfer” means to take merchandise with zone status from a zone for consumption, transportation, exportation, warehousing, cartage or lighterage, vessel supplies and equipment, admission to another zone, and like purposes.

Unique identifier. “Unique identifier” means the numbers, letters, or combination of numbers and letters that identify merchandise admitted to a zone with zone status.

User. “User” means a person or firm using a zone or subzone for storage, handling, or processing of merchandise.

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Zone lot. “Zone lot” means a collection of merchandise maintained under an inventory control method based on specific identification of merchandise admitted to a zone by lot.

Zone site. “Zone site” means the physical location of a zone or subzone.

Zone status. “Zone status” means the status of merchandise admitted to a zone, *i.e.*, nonprivileged foreign, privileged foreign, zone restricted, or domestic.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 89-1, 53 FR 51263, Dec. 21, 1988; T.D. 99-27, 64 FR 13674, Mar. 22, 1999]

§ 146.2 Port director as Board representative.

The appropriate port director shall be in charge of the zone as the representative of the Board.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

§ 146.3 Customs supervision.

(a) *Assignment of Customs officers.* Customs officers will be assigned or detailed to a zone as necessary to maintain appropriate Customs supervision of merchandise and records pertaining thereto in the zone, and to protect the revenue.

(b) *Supervision.* Customs supervision over any zone or transaction provided for in this part will be in accordance with §101.2(c) of this chapter. The port director may direct a Customs officer to supervise any transaction or procedure at a zone. Supervision may be performed through a periodic audit of the operator’s records, quantity count of goods in a zone inventory, spot check of selected transactions or procedures, or review of recordkeeping, security, or conditions of storage in a zone.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 98-22, 63 FR 11826, Mar. 11, 1998]

§ 146.4 Operator responsibility and supervision.

(a) *Supervision.* The operator shall supervise all admissions, transfers, removals, recordkeeping, manipulations, manufacturing, destruction, exhibition, physical and procedural security, and conditions of storage in the

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zone as required by law and regulations. Supervision by the operator shall be that which a prudent manager of a storage, manipulation, or manufacturing facility would be expected to exercise, and may take into account the degree of supervision exercised by the zone user having physical possession of zone merchandise.

(b) *Customs access.* The operator shall permit any Customs officer access to a zone.

(c) *Safekeeping of merchandise and records.* The operator is responsible for safekeeping of merchandise and records concerning merchandise admitted to a zone. The operator, at its liability, may allow the zone importer or owner of the goods to store, safeguard, and otherwise maintain or handle the goods and the inventory records pertaining to them.

(d) *Records maintenance.* The operator shall (1) maintain the inventory control and recordkeeping system in accordance with the provisions of subpart B, (2) retain all records required in this part and defined in §162.1(a) of this chapter, pertaining to zone merchandise for 5 years after the merchandise is removed from the zone, and (3) protect proprietary information in its custody from unauthorized disclosure. Records shall be readily available for Customs review at the zone.

(e) *Merchandise security.* The operator shall maintain the zone and establish procedures adequate to ensure the security of merchandise located in the zone in accordance with applicable Customs security standards and specifications.

(f) *Storage and handling.* The operator shall store and handle merchandise in a zone in a safe and sanitary manner to minimize damage to the merchandise, avoid hazard to persons, and meet local, state, and Federal requirements applicable to a specific kind of goods. All trash and waste will be promptly removed from a zone. Aisles will be established and maintained, and doors and entrances left unblocked for access by Customs officers and other persons in the performance of their official duties.

(g) *Guard service.* The operator is authorized to provide guards or contract