

## Foreign-Trade Zones Board, Commerce

## § 400.51

are accompanied with a letter of concurrence from the Port Director.

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

### § 400.45 Retail trade.

(a) *In general.* Retail trade is prohibited in zones, except that sales or other commercial activity involving domestic, duty-paid, and duty-free goods may be conducted within an activated zone project under permits issued by the zone grantee and approved by the Board, with the further exception that no permits shall be necessary for sales involving domestic, duty-paid or duty-free food and non-alcoholic beverage products sold within the zone or subzone for consumption on premises by persons working therein. The Port Director will determine whether an activity is retail trade, subject to review by the Board when the zone grantee requests such a review with a good cause.

(b) *Procedure.* Requests for Board approval under this section shall be submitted in letter form, with supporting documentation, to the Port Director, who is authorized to act for the Board in these cases, subject to the concurrence of the Executive Secretary.

(c) *Criteria.* In evaluating requests under this section, the Port Director and the Executive Secretary will consider:

(1) Whether any public benefits would result from approval; and

(2) The economic effect such activity would have on the retail trade outside the zone in the port of entry area.

[56 FR 50798, Oct. 8, 1991; 57 FR 2319, Jan. 21, 1992, as amended at 62 FR 53535, Oct. 15, 1997]

### § 400.46 Accounts, records and reports.

(a) *Zone accounts.* Zone accounts shall be maintained in accordance with generally accepted accounting principles, and in compliance with the requirements of Federal, State or local agencies having jurisdiction over the site or operation.

(b) *Records and forms.* Zone records and forms shall be prepared and maintained in accordance with the requirements of the Customs Service and the Board, and the zone grantee shall retain copies of applications it submits to the Board.

(c) *Maps and drawings.* Zone grantees or operators, and Port Directors, shall keep current layout drawings of approved sites as described in § 400.24(d)(5), showing activated portions, and a file showing required approvals. The zone grantee shall furnish necessary maps to the Port Director.

(d) *Annual reports.* (1) Zone grantees shall submit annual reports to the Board at the time and in the format prescribed by the Executive Secretary, for use by the Executive Secretary in the preparation of the Board's annual report to the Congress.

(2) The Board shall submit an annual report to the Congress.

(Approved by the Office of Management and Budget under control number 0625-0109)

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

### § 400.47 Appeals to the Board from decisions of the Assistant Secretary for Import Administration and the Executive Secretary.

(a) *In general.* Decisions of the Assistant Secretary for Import Administration and the Executive Secretary made pursuant to §§ 400.22(d)(2)(ii), 400.32(b)(1), 400.44(c)(3), and 400.45(b)(2) may be appealed to the Board by adversely affected parties showing good cause.

(b) *Procedures.* Parties appealing a decision under paragraph (a) of this section shall submit a request for review to the Board in writing, stating the basis for the request, and attaching a copy of the decision in question, as well as supporting information and documentation. After a review, the Board will notify the complaining party of its decision in writing.

## Subpart F—Notice, Hearings, Record and Information

### § 400.51 Notice and hearings.

(a) *In general.* The Executive Secretary will publish notice in the FEDERAL REGISTER inviting public comment on applications docketed for Board action (see, § 400.27(c)), and with regard to other reviews or matters considered under this part when public comment is necessary. Applicants shall

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give appropriate notice of their proposals in local newspapers. The Board, the Secretary, the Commerce Department's Assistant Secretary for Import Administration, or the Executive Secretary, as appropriate, may schedule and/or hold hearings during any proceedings or reviews conducted under this part whenever necessary or appropriate.

(b) *Requests for hearings*—(1) A directly affected party showing good cause may request a hearing during a proceeding or review.

(2) The request must be made within 30 days of the beginning of the period for public comment (see, § 400.27) and must be accompanied by information establishing the need for the hearing and the basis for the requesting party's interest in the matter.

(3) A determination as to the need for the hearing will be made by the Commerce Department's Assistant Secretary for Import Administration within 15 days after the receipt of such a request.

(c) *Procedure for public hearings*. The Board will publish notice in the FEDERAL REGISTER of the date, time and location of a hearing. All participants shall have the opportunity to make a presentation. Applicants and their witnesses shall ordinarily appear first. The presiding officer may adopt time limits for individual presentations.

### § 400.52 Official record; public access.

(a) *Content*. The Executive Secretary will maintain at the location stated in § 400.53(d) an official record of each proceeding within the Board's jurisdiction. The Executive Secretary will include in the official record all factual information, written argument, and other material developed by, presented to, or obtained by the Board in connection with the proceeding. The official record will contain material that is public, business proprietary, privileged, and classified. While there is no requirement that a verbatim record shall be kept of public hearings, the proceedings of such hearings shall ordinarily be recorded and transcribed

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when significant opposition is involved.

(b) *Opening and closing of official record*. The official record opens on the date the Executive Secretary files an application or receives a request that satisfies the applicable requirements of this part and closes on the date of the final determination in the proceeding or review, as applicable.

(c) *Protection of the official record*. Unless otherwise ordered in a particular case by the Executive Secretary, the official record will not be removed from the Department of Commerce. A certified copy of the record will be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of proprietary or privileged information.

### § 400.53 Information.

(a) *Request for information*. The Board may request submission of any information, including business proprietary information, and written argument necessary or appropriate to the proceeding.

(b) *Public information*. Except as provided in paragraph (c) of this section, the Board will consider all information submitted in a proceeding to be public information. If the person submitting the information does not agree to its public disclosure, the Board will return the information and not consider it in the proceeding.

(c) *Business proprietary information*. Persons submitting business proprietary information and requesting protection from public disclosure shall mark the cover page "business proprietary," as well as the top of each page on which such information appears.

(d) *Disclosure of information*. Disclosure of public information will be governed by 15 CFR part 4. Public information in the official record will be available for inspection and copying at the Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce Building, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230.