

# ZONE SCHEDULE FOR FOREIGN-TRADE ZONE NO. 267

## **GRANTEE**

Municipal Airport Authority of the City of Fargo

## **OPERATOR/S**

Operators are listed below:

1. There are no current Operators

Foreign-Trade Zone No. 267 consists of six sites located in the Cass County as described below:

2. Site 1 – 270 acres within the 1546 acre Airport, Science and Technology Complex, Hector International Airport, Fargo
3. Site 2 – 392 acres within the 1,074 acre Midtown Industrial Complex, Fargo
4. Site 3 – 222 acres within the 395 acre West Fargo Industrial Complex, Fargo
5. Site 4 – 27 Acres within the 31 acre Heartland Industrial Complex, Casselton
6. Site 5 – 100 acre Mapleton Industrial Complex, Fargo
7. Site 6 – 15 acre Swanson Industrial Complex, Fargo

Zone Schedule Date: December 23, 2008

Prepared By:  
Foreign-Trade Zone Corporation

December 23, 2008

**FOREIGN-TRADE ZONE NO. 267    ZONE SCHEDULE NO.  
1.00**

On behalf of Municipal Airport Authority of the City of Fargo

**TABLE OF CONTENTS**

DEFINITIONS.....	1
DESCRIPTION OF FOREIGN-TRADE ZONE NO. 267 .....	7
FOREIGN-TRADE ZONE OPERATIONS AGREEMENT .....	8
ZONE POLICY.....	9
OPERATIONS IN ZONES.....	12
GENERAL REGULATIONS .....	16
REGULATIONS PERTAINING TO MERCHANDISE.....	21
RATES AND CHARGES.....	23

**ADMINISTRATIVE PAGE**

**Grantee**

Municipal Airport Authority of the City of Fargo  
P.O. Box 2845  
Fargo, ND 58108

Phone: (701) 241-1501

Fax: (701) 241-1538

**Operator/s**

Operators are listed below

1. No current Operator

12/23/2008

**FOREIGN-TRADE ZONE NO. 267    ZONE SCHEDULE NO. 1.00**

## DEFINITIONS

**ACT:**

The Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 98-1003; 19 U.S.C. 81a-81u), as amended by Pub. L. 566, 81st Congress, approved June 17, 1950 (64 Stat. 246), and Pub. L. 791, 85th Congress, approved August 28, 1958 (72 Stat. 945).

**ACTIVATION:**

Approval by the Grantee and the Port Director of U.S. Customs and Border Protection for operations and for the admission and handling of merchandise in Zone status.

**ADMISSION:**

Physical arrival of goods in the Foreign-Trade Zone with the approval of the Zone Operator and U.S. Customs and Border Protection. The word "admission" is to be used instead of "entry" of goods into a Zone to avoid confusion with U.S. Customs and Border Protection entry processes under parts 141-144 of the U.S. Customs and Border Protection regulations.

**ADMIT:**

To bring merchandise into a Zone with Zone status.

**AUDIT-INSPECTION INVENTORY CONTROL SYSTEM:**

The procedures used to maintain the records necessary for inventory control of merchandise that is under the supervision and control of U.S. Customs and Border Protection.

**BOARD:**

The Foreign-Trade Zones Board established by the Act. The Board consists of the Secretary of Commerce and the Secretary of the Treasury. Each Board member designates an official of his/her Department, usually an Assistant Secretary, to serve as his/her alternate.

**MUNICIPAL AIRPORT AUTHORITY OF THE CITY OF FARGO**

The Municipal Airport Authority of the City of Fargo serves as the Grantee for U. S. Foreign-Trade Zone No. 267, and provides trade and economic development services to the Fargo metropolitan area, including zone services for the benefit of the public. The Municipal Airport Authority of the City of Fargo established U.S. Foreign-Trade Zone No. 267 under a grant of authority issued by the U. S. Foreign-Trade Zones Board pursuant to Board Order No. 1422, issued on January 4, 2006.

**BULK:**

The term used in describing fungibles, which can be poured, scooped, or shoveled, which generally cannot be counted or identified piece by piece.

**CUSTOMS TERRITORY:**

The territory of the United States in which the general tariff law of the United States applies, but which is not included in any Foreign-Trade Zone.

**DOMESTIC MERCHANDISE:**

Merchandise of every description (except articles specifically and absolutely prohibited by statute), which has been:

- (1) Grown, produced, or manufactured in the United States and not exported therefrom, or;
- (2) Previously imported into Customs territory and properly released from Customs custody.

**EXAMINER:**

An employee of one of the Board agencies designated under the regulations to conduct or participate in an investigation concerning the establishment or expansion of a Zone or Subzone or other matter requiring a fact-finding determination and recommendation for Board action.

**FOREIGN MERCHANDISE:**

Merchandise of every description (except articles specifically and absolutely prohibited by statute), which has not been properly released into Customs territory.

**FOREIGN-TRADE ZONE:**

A Foreign-Trade Zone is a restricted access site, in or adjacent to a Customs Port of Entry, operated under public utility principles under the sponsorship of a corporation granted authority by the Foreign-Trade Zones Board. U.S. Foreign-Trade Zones are restricted areas, under supervision of U.S. Customs and Border Protection, in which, when activated under Zone procedures, merchandise is treated for Customs and taxation purposes as if it is outside the Customs territory of the United States. Foreign-Trade Zones are the U. S. version of what are generally known internationally as Customs free trade zones; however, U.S. Foreign-Trade Zones are different in several important respects from other types of free trade zones. Located in or near Customs Ports of Entry, Zones are operated under public utility principles by qualified corporations. Authority for establishing these facilities is granted by the Foreign-Trade Zones Board under the Act and regulations. The term "Foreign-Trade Zone" typically refers to a Zone environment known as a "General Purpose Zone." The General Purpose Zone is established to accommodate various Zone activities carried on by multiple users. Storage, distribution, testing, repair, and repackaging are typical of activities carried on within a General Purpose Zone. Manufacturing or processing activity within a General Purpose Zone requires prior approval by the Foreign-Trade Zones Board. "Foreign-Trade Zone" might, as a general term, include special purpose Subzones. If the Zone is designed to serve a special type of activity, the term

“Subzone” may be used. Like the General Purpose Zone, Subzones are established under the sponsorship of the Grantee. When a Zone consists of more than one site under the same Grantee, the sites shall be considered part of the same Zone project. Foreign and domestic merchandise may be moved into Zones for operations not otherwise prohibited by law involving storage, exhibition, assembly, manufacture or other processing. The usual formal Customs entry procedures and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the importer generally has a choice of paying the duty rate which applies to either the original foreign material or to the finished product. Quota restrictions do not normally apply to foreign goods in Zones, except that special procedures may apply when manufacturing is involved. Domestic goods moved into a Zone for export may, at the request of the exporter, be considered exported upon admission to the Zone for purposes of excise tax rebates and drawback.

**GRANTEE:**

The Municipal Airport Authority of the City of Fargo, to which the privilege of establishing, operating, and maintaining Foreign-Trade Zone No. 267 has been granted. For the purpose of this document, “Grantee” shall refer to the Municipal Airport Authority of the City of Fargo.

**HOLIDAYS:**

The Grantee will be closed on certain holidays. Please contact the Grantee to get a list of these holidays.

**MANIPULATION:**

Means breaking up, repacking, assembling, distributing, sorting or grading, cleaning mixing with foreign or domestic merchandise or other processing which does not constitute a manufacture or processing as defined by the Foreign-Trade Zones Board.

**NON-PRIVILEGED FOREIGN MERCHANDISE:**

- (1) Foreign merchandise properly in the Zone that does not have status of:
  - (a) privileged-foreign merchandise, or;
  - (b) zone-restricted merchandise.
- (2) Waste recovered from any manipulation or manufacture of privileged foreign merchandise, or;
- (3) Domestic merchandise taken into a Zone whose identity has been lost.

**OPERATOR:**

The Grantee may designate any number of Operators, including General-Purpose Zone and Subzone Operators pursuant to a written agreement with the Grantee. A Zone or Subzone Operator is that party that has an Agreement with the Grantee, and accepts Customs liability for Zone or Subzone operations through a bond filed with U.S. Customs and Border Protection. Only the Grantee is authorized by statute to operate a Foreign-Trade Zone or Subzone. Any other entity must have a contract with the Grantee to serve as an Operator.

**PORT DIRECTOR, U.S. CUSTOMS AND BORDER PROTECTION:**

The U.S. Customs and Border Protection official so designated for Fargo, North Dakota. The Port Director is the Board's representative for Foreign-Trade Zone No. 267 and any of its Subzones.

**PORT OF ENTRY:**

Places designated by the U.S. Government, at which a U.S. Customs and Border Protection officer is assigned with authority to accept entries of merchandise, collect duties, and enforce the various provisions of the U.S. Customs laws.

**PRIVILEGED-FOREIGN MERCHANDISE:**

Foreign merchandise or non-tax-paid Domestic merchandise upon which the duty and applicable taxes have been determined at the time this Status is approved. The determined duty rate and taxes are not subject to future fluctuation. Once established, Privileged Foreign Status cannot be changed. If merchandise has already been admitted to a Zone with Non-privileged Foreign Status, Privileged Foreign Status may be obtained by filing a CF214 and related documents. Application for this Status, however, must be filed prior to manipulation or manufacture in the Zone.

**RE-EXPORTS OR RE-SHIPMENTS:**

Merchandise from one foreign country initially destined to the United States which, after being unladen, stored, and/or manipulated or manufactured in this country, is transited under a new bill of lading or other new documentation to another foreign country. The term is particularly applied to re-exports or re-shipments from a Foreign-Trade Zone.

It includes privileged, non-privileged, or zone-restricted foreign merchandise which:

- (1) Is in the same condition as when transported into the United States, or;
- (2) Has been manipulated without any change in its form or nature, or;
- (3) Has been manipulated, manufactured, or processed in such a manner as to change its form, whether or not mixed with domestic merchandise, provided the domestic merchandise is not a component part or substantial ingredient thereof.

Generally, it includes all merchandise of foreign origin, which has not been so manipulated or manufactured, as to be deemed a product of the United States, and which has not been released from Customs custody into Customs territory.

**SECRETARY:**

The Secretary of Commerce.



**STORAGE:**

The keeping of merchandise in or upon the premises within the Foreign-Trade Zone. Covered storage means keeping within a covered and enclosed structure affording weather protection. The term "storage," with or without designation, ordinarily implies covered storage.

**SUBZONES:**

Special-purpose ancillary Zone sites authorized by the Board through Grantees of public Zones for operations by individual firms that cannot be accommodated within an existing Zone, when it can be demonstrated that the activity, usually manufacturing, will result in a significant public benefit. Subzones are considered noncontiguous extensions of Zones for single users, usually at their own facilities and, in this sense, are private rather than public Zone facilities. Separate Zone sites within an industrial or commercial complex subject to common management and covenants may be considered as contiguous, and thus a part of the General Purpose Zone, rather than as Subzones.

**TRANSSHIPMENT MERCHANDISE:**

Foreign merchandise that enters and leaves the United States through the same port, being transferred from one vessel to another directly or by way of a Foreign-Trade Zone or Customs bonded warehouse. The term is particularly applied to such merchandise transferred through a Foreign-Trade Zone.

**UNIT OF QUANTITY:**

The customary groupings of a commodity as a unit to indicate the medium or method of measure.

**UNITED STATES:**

The several states, District of Columbia and Puerto Rico. The term "United States" includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island Midway Islands, Kingman Reef, and the Island of Guam.

**USER:**

A person or firm using a Zone or Subzone, an individual, company, or corporation utilizing the services and facilities of the Zone. Generally this is referred to as the "Applicant Firm" when admitting merchandise to a Zone. Each User must have an Operations Agreement executed with the Grantee, unless that User stores its merchandise in a third party warehouse.

**ZONE:**

The term "Zone" refers to any General Purpose Zone or Subzone site.

**ZONE PROJECT:** All of the Zone and Subzone sites established by the Board under a single Grantee, normally in a single Port of Entry area.

**ZONE-RESTRICTED MERCHANDISE:**

Foreign or domestic merchandise taken into the Zone under the rules and regulations of the controlling Federal agency for the sole purpose of exportation or destruction (except destruction of distilled spirits, wine, and fermented malt liquors) or storage pending exportation or destruction.

## **DESCRIPTION OF FOREIGN-TRADE ZONE NO. 267**

Foreign-Trade Zone No. 267 was established by Board Order No. 1422, issued on January 4, 2006. The Grantee is the Municipal Airport Authority of the City of Fargo. Foreign-Trade Zone No. 267 consists of six sites totaling 1026 acres distributed as follows:

1. Site 1 – 270 acres within the 1546 acre Airport, Science and Technology Complex, Hector International Airport, Fargo
2. Site 2 – 392 acres within the 1,074 acre Midtown Industrial Complex, Fargo
3. Site 3 – 222 acres within the 395 acre West Fargo Industrial Complex, Fargo
4. Site 4 – 27 Acres within the 31 acre Heartland Industrial Complex, Casselton
5. Site 5 – 100 acre Mapleton Industrial Complex, Fargo
6. Site 6 – 15 acre Swanson Industrial Complex, Fargo

The General Purpose Foreign-Trade Zone currently has no Operator.

The Municipal Airport Authority of the City of Fargo, as Grantee of Foreign-Trade Zone No. 267, has established no Subzones.

In the event Subzones are established, each will be operated pursuant to an agreement between the Subzone operators and the Grantee.

## FOREIGN-TRADE ZONE OPERATIONS AGREEMENT

Prior to submission of any application to Manufacture or Process under zone procedures, or submission of any application to establish a Subzone, the applicant must have an executed agreement with the Grantee to Operate a Zone or Subzone.

Prior to activation of any facility within the Zone, the firm wishing to activate must have an executed agreement with the Grantee.

- Each firm that maintains its own inventory system must have a separate Operations Agreement with the Grantee. For example; A firm may not operate multiple facilities unless those facilities' inventory control system, exclusive of any FTZ system, for each company utilize the same system.
- For each firm operating in the Foreign-Trade Zone, the Grantee accepts considerable liability. For this reason, an Agreement must be executed with each firm, whether that firm is a "User", or "Operator".

## **ZONE POLICY**

### **SCHEDULE AUTHORITY**

This Schedule is published pursuant to a Grant of authority by the Foreign-Trade Zones Board, U.S. Department of Commerce, Washington, DC on January 4, 2006, to the Municipal Airport Authority of the City of Fargo, under provisions of Public Law No, 397, 73rd Congress, approved June 18, 1934, as amended. The Zone policy, rules, regulations, rates and charges of this schedule shall apply at Foreign-Trade Zone No. 267 and its Subzone unless otherwise provided for.

### **ZONE OPERATED AS A PUBLIC UTILITY**

The rates and charges for space, facilities, and services within a Zone shall be fair and reasonable, and the Grantee shall afford uniform treatment under like conditions to all users. The Board shall determine whether the rates and charges are fair and reasonable.

### **BOARD REGULATIONS**

Foreign-Trade Zone No. 267 is regulated by the Foreign-Trade Zones Board, Washington, DC under U.S. Code of Federal Regulations; Title 15, Chapter IV, Part 400. Copies of these regulations are attached herewith for reference.

### **U.S. CUSTOMS AND BORDER PROTECTION REGULATIONS**

Foreign-Trade Zone No. 267 is subject to special U.S. Customs and Border Protection regulations as defined in U.S. Code of Federal Regulations, Title 19, Chapter I, Part 146 - Foreign-Trade Zones; and the guidelines contained in the "U.S. Customs and Border Protection Foreign-Trade Zones Operations Manual."

### **INTERPRETATION OF SCHEDULE**

The Grantee shall interpret and determine the applicability of any rates, rules, regulations, or services provided for in this schedule. However, any matters involving interpretation or action by U.S. Customs and Border Protection or another agency of the U.S. Government will be determined by the Port Director of U.S. Customs and Border Protection or his/her duly appointed representative.

### **PRIVILEGES OF FOREIGN-TRADE ZONES**

Section 3 of the Act, as amended, authorizes the following privileges:

"Foreign and domestic merchandise of every description, except such as prohibited by law, may, without being subject to Customs laws of the United States, except as otherwise as provided in this Act, be brought into a Zone and may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign and domestic merchandise, or otherwise manipulated, or be manufactured except as otherwise provided in this Act, and be exported, destroyed, or sent into Customs territory of the United States, therefrom, in the original package or otherwise;

but when foreign merchandise is so sent from a Zone into Customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise:

Provided, that whenever the privilege shall be requested there has been no manipulation or manufacture affecting a change in tariff classification, the collector of Customs shall take under supervision and regulations prescribed by the Secretary of the Treasury, and whether mixed or manufactured with domestic merchandise or not may, under regulations prescribed by the Secretary of the Treasury, be exported or destroyed, or may be sent into Customs territory upon the payment of such liquidated duties and determined taxes thereon. If merchandise so taken under supervision has been manipulated or manufactured, such duties and taxes shall be payable on the quantity of such foreign merchandise used in the manipulation or manufacture of the entered articles. Allowance shall be made for recoverable and irrecoverable waste; and if recoverable waste is sent into Customs territory, it shall be dutiable and taxable in its condition and quantity and at its weight at the time of entry. When two or more products result from a manipulation or manufacture of merchandise in a Zone the liquidated duties and determined taxes shall be distributed to the several products in accordance to their relative value at the time of separation with due allowance for waste as provided for above:

Provided further, that subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles, the growth, product, or manufacture of the United States, on which all internal revenue taxes have been paid, or which have been admitted free of duty and tax may be taken into a Zone from the Customs territory of the United States, placed under the supervision of the collector, and whether or not they have been combined with or made part, while in such Zone, of other articles, may be brought back thereto free of quotas, duty or tax:

Provided further, that if in the opinion of the Secretary of the Treasury, their identity has been lost, such articles not entitled to free entry by reason of non-compliance with the requirements made hereunder by the Secretary of the Treasury shall be treated, when they re-enter Customs territory of the United States, as foreign merchandise under the provisions of the tariff and internal revenue laws in force at that time:

Provided further, that under the rules and regulations of the controlling Federal agencies, articles which have been taken into a Zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of:

(a) The draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder, and;

(b) The statutes and bonds exacted for the payment of drawback, refund, or exemption from liability of internal revenue taxes and for the purposes of the internal revenue laws generally and the regulations thereunder.

Such a transfer may also be considered an exportation for the purposes of the Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to Customs territory for domestic consumption except where the Foreign-Trade Zones Board deem such return to be in the public interest, in which event the article shall be subject to the provisions of the paragraph 1615 (F) of the Tariff Act of 1930, as amended:

Provided further, that no operation involving any foreign or domestic merchandise brought into a Zone which operation would be subject to any provision or provisions of Section 1807, Chapter 15, Chapter 16, Chapter 17, Chapter 21, Chapter 23, Chapter 24, Chapter 25, Chapter 26 or Chapter 32 of the Internal Revenue Code if performed in Customs territory, or involving the manufacture of any article provided for in Paragraph 367 or Paragraph 368 of the Tariff Act of 1930, shall be permitted in a Zone except those operations (other than rectification of distilled spirits and wines, or the manufacture of production of alcoholic products unfit for beverage uses) which were permissible under this Act prior to July 1, 1949.

Provided further, that articles produced or manufactured in a Zone and exported therefrom shall on subsequent importation into the Customs territory of the United States be subject to the import laws applicable to like articles produced or manufactured in a Zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the second provision of this section, may on such importation, be entered as American goods returned."

#### **USE OF ZONE FACILITIES**

Zone facilities will be used for the sole purpose of receipt, storage, handling, exhibition, manipulation, manufacturing, and related processing and shipment of foreign merchandise, and domestic merchandise as considered necessary to the conduct of a User's normal business in conjunction with the foreign merchandise. Users shall not use or permit the Zone to be used for any other purpose without the proper written consent of the Grantee. Users shall not do or permit anything to be done on or about the Zone, which will in any way obstruct or interfere with the rights of other Users or occupants of the Zone or injure or annoy them.

#### **INSPECTION OF ZONE AREAS**

The Grantee may inspect any activated area at any an all reasonable times to ascertain whether or not the conditions related to its proper use are being observed.

## **OPERATIONS IN ZONES**

### **MERCHANDISE PERMITTED IN A ZONE**

Foreign and domestic merchandise of every description, except in such as is specifically prohibited by law, may, without being subject to the Customs Laws of the United States, except as otherwise provided in the Act and the regulations made thereunder, be brought into a Zone.

- (a) Merchandise, which is specifically and absolutely prohibited by law, shall not be admitted into a Zone. Any merchandise so prohibited by law that is found within a Zone shall be disposed of in the manner provided for in laws and regulations applicable to such merchandise. A distinction is made between (i) Merchandise which is specifically and absolutely prohibited by law on the grounds of policy and morals, such as immoral or subversive literature, obscene articles, or lottery matter and (ii) Merchandise which is subject to conditional prohibition only, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal Agencies. Port Directors of U.S. Customs and Border Protection are required to exclude the first class of articles and may not permit them to be transferred to a Zone if they are aware of their prohibited status except that the Port Director may permit the temporary deposit of any such merchandise in the Zone pending final determination of its status. The transfer of articles of the second class to a Zone is subject to any requirements of the Federal agency concerned. There is no prohibition against placing over quota merchandise in a Zone pending its rights to transfer to Customs territory pursuant to the applicable quotas' provisions.
- (b) The application for the admission of merchandise into a Zone shall be approved or disapproved by the Port Director as the representative of the Board, where the merchandise is not excluded by any other Federal agency having jurisdiction over the merchandise.
- (c) Zone procedures may not be used to circumvent the laws and regulations. Upon order of the Secretary of the Commerce, or his designee, the Commissioner of U.S. Customs and Border Protection, or his designee, shall direct that an importer place goods in a specific status for this purpose, subject to appeal to the Board.

### **DISPOSITION OF MERCHANDISE IN A ZONE**

In general, merchandise lawfully brought into a Zone may in accordance with these and other regulations made under the provisions of the Act, be exported, destroyed or sent into the Customs territory of the United States in the original package or otherwise; but when foreign merchandise, and domestic merchandise whose identity has been lost, is sent from a Zone into the Customs territory of the United States, it shall be subject to the laws and regulations of the United States affecting imported merchandise.



**MANIPULATION, MANUFACTURE, AND EXHIBITION OF MERCHANDISE**

In general, merchandise lawfully brought into a Zone may, in accordance with these and other regulations made under the provisions of the Act, be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign and domestic merchandise, or otherwise manipulated, with the prior approval of the Board as otherwise provided by the Act.

- (a) Permission for any manipulation or exhibition in a Zone shall be obtained from the Port Director of U.S. Customs and Border Protection, as the representative of the Board, subject to such application and procedure prescribed by the Secretary of the Treasury for the protection of the revenue.
- (b) In the event of the denial of any application by the Port Director of U.S. Customs and Border Protection for any reason, the applicant, the Grantee, or the Operator of the Zone may appeal the adverse ruling to the Board. If any revenue protection considerations are involved in such an application, the Board shall be guided by the determinations of the Secretary of the Treasury with respect to them.

**STATUS OF MERCHANDISE IN A ZONE**

- (a) For the purpose of the Act and the regulations of this section, all merchandise within a Zone, except merchandise in-transit through a Zone as provided in Sections 146.14 and 146.13 of U.S. Customs and Border Protection Regulations, and except merchandise temporarily transferred to a Zone for manipulation as provided in paragraph (b) of this section, shall be given a Zone status as (i) Privileged Foreign Merchandise, (ii) Non-Privileged Foreign Merchandise, (iii) Domestic Merchandise, or (iv) Zone Restricted Merchandise.
- (b) Imported merchandise, which has been entered and which has remained in continuous Customs custody, may be temporarily transferred to a Zone for manipulation under U.S. Customs and Border Protection supervision pursuant to Section 562, Tariff Act of 1930, as amended, and for return to Customs territory. Any such merchandise shall not be considered within the purview of the Foreign-Trade Zones Act, but shall be treated in all respects as though remaining in Customs territory. Therefore, no Zone form or procedure shall be considered applicable, but the merchandise shall remain subject in the Zone to such requirements as are necessary for the enforcement of Section 562 and other pertinent Customs Laws.

**USE OF ZONE BY CARRIERS**

The cargo facilities, and service of a Zone area, are intended primarily for the use of vessels, vehicles, or aircraft lading or unlading Zone merchandise, and their use for other purposes may be terminated by the Commissioner of U.S. Customs and Border Protection if found to endanger the revenue, or by the Board if found to interfere with the primary uses of the Zone.

**SUBSEQUENT IMPORTATION OF ZONE MERCHANDISE**

Articles produced or manufactured in a Zone and exported therefrom shall, on subsequent importation into the Customs territory of the United States, be subject to the import laws applicable to like articles manufactured in a foreign country, except that articles produced or manufactured in a Zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the Second Proviso of Section 3 of the Act, as amended may, on such importation, be entered as American goods returned.

**PUBLIC INTEREST PROVISION**

Pursuant to 15(c) of the Act, the Board has authority to restrict or prohibit any Zone operation "That in its judgment is detrimental to the public interest, health or safety."

- (a) Adversely affected parties may submit complaints to the Board under this section, requesting the prohibition or restriction of a Zone activity; or, the Board may conduct investigations on its own initiative. A complaint must contain information as to how the Zone activity in question is or would be detrimental to the public interest, health, or safety. When the Board or the Executive Secretary finds good cause, the matter shall be investigated pursuant to these regulations. In deciding whether good cause exists, special consideration shall be given to conducting investigations when the Zone activity in question involves "import-sensitive" industry. In determining whether an industry is import-sensitive, the Board and the Executive Secretary shall be guided by references to such industries in trade laws and regulations and decisions of federal courts and agencies.
- (b) In investigations under this section, either self-initiated or in response to complaints, the factors considered by the Board shall include:
1. Whether the adverse effect is significant in relation to actual and potential public benefits.
  2. Whether additional exports from the U.S. will be created;
  3. Whether Zone procedures will encourage activity related to import displacement or substitution;
  4. Whether employment and investment will be generated or sustained in the U.S.;
  5. Whether Zone activity will undermine a remedial action or program in effect because an unfair trade practice, or materially or substantially harm an existing domestic industry.
- (c) Zone activity may be approved for limited periods, subject to extension after a review as to whether the anticipated public benefits have materialized.
- (d) Zone activity, which is exclusively for export, shall be presumed to be in the public interest.

(e) Interested parties shall have an opportunity to submit comments or participate in any public hearings or proceedings held on such investigations.

#### **RETAIL TRADE WITHIN A ZONE**

No retail trade shall be conducted within activated Zone space except under permits issued by the Grantee and approved by the Board. Only domestic, duty-paid, and duty-free goods may be sold in such cases. In considering whether to approve requests under this section, the Board shall consider the economic impact on the retail trade outside the Zone in the Port of Entry area. No approval is required for sales involving domestic or duty-paid food products sold within the Zone or Subzone to be consumed on the premises by persons working therein. Grantees shall revoke permits when there is a violation of this restriction. The Port Director of U.S. Customs and Border Protection shall determine which sales are to be classified as retail sales under this section, subject to review by the Board when a question arises. Appeals from his decision may be made to the Executive Secretary. Retail sales within non-activated but approved Zone areas, may be prohibited if found by the Board, the Executive Secretary, or the Port Director, to be incompatible with Zone operations.

#### **RESIDENCE WITHIN A ZONE**

No person shall be allowed to reside within a Zone except Federal, State, or Municipal Officers or agents whose resident presence is deemed necessary by the Board or U.S. Customs and Border Protection.

#### **CONTROLLED ACCESS TO ZONES**

Plans for the controlled access of persons and vehicles to activated Zone areas shall be subject to the approval of the Port Director as part of his/her review for operation approval. All persons and vehicles entering such areas shall be subject to the requirements of U.S. Customs and Border Protection, Zone User, and the Zone Schedule.

#### **HOURS OF BUSINESS AND SERVICE**

Hours of business and service, for Customs purposes, shall be the same as those prescribed in U.S. Customs and Border Protection regulations. Hours for other business and service shall be those set forth in this Schedule.

#### **SUBJECT TO U.S. CUSTOMS AND BORDER PROTECTION SUPERVISION**

Zone operations are subject to the control of the Customs and Border Protection, exercised mainly through the Port Director who shall be in charge of the Zones within the Port for purposes of enforcement of the requirements of the Act and regulations, the Board, and U.S. Customs and Border Protection. Requirements for such matters as Zone forms, inventory control systems, cargo security standards, and physical security shall be determined by the Title 19, CFR Part 146.

## **GENERAL REGULATIONS**

### **APPLICATION OF REGULATIONS**

All persons and merchandise of every description entering or leaving activated Zone areas for any purpose whatsoever shall be bound by the lawful regulations of the Foreign-Trade Zones Board, U.S. Customs and Border Protection, and Grantee of the Zone.

### **CONFIDENTIAL RELATIONSHIPS**

The Grantee will take precaution to avoid the divulging of information regarding merchandise and services thereon performed in the Zone. Any Zone employee violating this confidential relationship will be suitably disciplined or discharged.

### **REPORTS TO GOVERNMENTAL AGENCIES**

The Grantee is required to submit periodic reports to the Foreign-Trade Zones Board and to U.S. Customs and Border Protection, or may be required to perform other acts as the Grantee of the Zone in compliance with governmental regulations. Users are required to and shall cooperate with the Grantee in the creation and maintenance of procedures, systems, regulations, or programs, and provide information and statistics which the Grantee considers necessary to ensure compliance with governmental requirements.

### **GOVERNMENTAL LICENSES**

Users are responsible to obtain, maintain, and keep current any and all licenses, permits, certificates, or other authorizations required by any Federal, State, or Local governments that are or may be necessary in the conduct of business in or from the Zone.

### **OPERATOR AGREEMENTS**

The Grantee requires that a Zone Operator Agreement be executed between and among the Operator and the Grantee prior to any person or firm conducting Zone business in Foreign-Trade Zone No. 267 or any of its Subzones. Under certain circumstances, Users must also execute an Operator Agreement Grantee.

### **PUBLIC INTEREST, HEALTH, AND SAFETY**

No merchandise, operation, or process of treatment will be permitted in the Zone that is detrimental to the public interest, health, and safety.

### **PUBLIC WAREHOUSE OPERATIONS**

Public warehousing services may be performed in the Zone by private firms under a Operator Agreement with the Grantee.

### **INDEMNITY BOND**

Users shall be required upon notice by the Grantee to post an indemnity bond executed on a form and by a U.S. Surety acceptable to the Grantee, or other security payable to the Grantee, as a guarantee of payment of Customs duty or taxes or other obligations of or to the Grantee under the following circumstances:

- (a) User does not have a sufficient beneficial interest in inventoried merchandise to pay the estimated duty/taxes;
- (b) User accepts delivery of a shipment of unusually high duty/tax liability;
- (c) Value of user inventory is insufficient to compensate U.S. Customs and Border Protection for possible duty/tax obligations payable on merchandise inventory shortages and/or financial obligations to the Grantee;
- (d) A significant increase in duty/tax liability due to changes in U.S. Customs and Border Protection regulations, foreign currency valuations, etc;
- (e) Other situations, which require appropriate security to protect past, present, or future obligations or liabilities of the Grantee.

### **INSURANCE**

Insurance is carried by the Grantee or on its own property only and does not include insurance on any contents stored within the Zone. Users shall not do or permit anything to be done in or about the Zone nor bring or keep anything in the Zone which will in any way increase the existing rate of or effect any fire or other insurance upon the building or any of its contents, or cause cancellation of any insurance policy covering any Zone building or any part thereof or any of its contents. Insurance on commodities or other property stored on the leased premises, if desired, must be carried by and at the expense of the User or owner of the commodities or other properties. Merchandise stored, manipulated, or transferred within the Zone is not insured by the Grantee. The Zone Schedule rates do not include insurance on merchandise.

### **INDEMNIFICATION**

Each user shall indemnify and hold harmless the Grantee from and against any and all loss, cost (including attorney's fees), damages, expense, and liability (including statutory liability and liability under Workman's Compensation Laws) in connection with claims for damages as a result of injury or death of any person or persons or property damages to any property sustained by user and/or all other persons which arise from or in any manner grow out of any act or neglect on or about the Zone by user, user's partners, agents, employees, customers, invitees, contractor, or subcontractors. Additionally, the user shall be responsible for and pay any fines, (including Customs fines, penalties, and liquidated damages), penalties, claims, legal fees, suits, or other costs, arising out of any action or omission, accident, or any other occurrence at its Zone site and shall hold harmless the Grantee from any and all liabilities and costs arising out of any fines, (including Customs fines, penalties, and liquidated damages) penalties, claims legal fees, suits, or other costs arising out of any action or omission, accident, or any other occurrence at the user's Zone site.

12/23/2008

**FOREIGN-TRADE ZONE NO. 267    ZONE SCHEDULE NO. 1.00**

**RELEASE OF GRANTEE FROM LIABILITY**

In consideration of permission granted user to enter the Zone and participate in its activities, user, for itself, its heirs, legal representatives, agents, partners, employees, customers, invitees, and assignees, releases, premises, and discharges the Grantee and its directors, officers, servants, agents and employees of and from all damage, claim, demand, action, and cause of action of any sort of loss, damage, or destruction to buildings or contents, or to property or merchandise of any kind located or stored in the Zone by the user or by any other person with the consent or knowledge of the user and without regard to whether such loss or damage be the result of negligence or misconduct of any person in the employ of the Grantee.

**LIABILITY INSURANCE**

All persons or firms conducting business operations within the Zone or Subzone, in accordance with a Operator Agreement with the Grantee, shall carry, and keep in force, those insurance levels required by the Operator Agreement.

**PERSONS ENTERING AND LEAVING ZONE**

Employees and other persons entering and leaving activated Zone areas shall pass through the designated entrances to the activated Zone area. Employees and other persons shall be subject to such examination upon entering and leaving the Zone area as the Grantee may deem necessary for the protection of the revenue and security of the Zone.

**REGULATIONS APPLICABLE AT SUBZONES**

"Subzones" are special-purpose ancillary Zone sites authorized by the Board through Grantees of public Zones for operations by individual firms that cannot be accommodated within an existing Zone when it can be demonstrated that the activity, usually manufacturing, will result in significant public benefits. They are considered noncontiguous extensions of Zones for single users, usually at their own facilities, and in this sense, are private rather than public Zone facilities. Separate Zone sites within an industrial or commercial complex subject to common management and covenants may be considered contiguous, and thus a part of the general purpose Zone, rather than as Subzones.

In reviewing proposals for Subzones the Foreign-Trade Zones Board and the Grantee will, in addition to the economic factors for public Zones consider:

- (1) Whether the operation can be accommodated in the public Zone serving the area;
- (2) Whether efforts have been made to accommodate the operation, such as enlarging the public Zone area, the cost of locating in a public Zone not being a determining factor;
- (3) Whether convincing evidence has been presented as to a resulting significant public benefit, including export development and displacement or substitution of imports, usually measured in terms of new or sustained employment.

All persons and entities doing business within a Subzone established by a Grantee must comply with the provisions of the Foreign-Trade Zones Act; with the rules, regulations, and procedures of the Foreign-Trade Zones Board; with such laws and regulations of the United States, the operators, occupants, their employees, and invitees, and users of Subzones; and with such of the provisions of this Schedule and subsequent issues and modifications thereof as may be applicable to the operations conducted in the Subzone.

All persons and entities who request the Grantee to apply for authority to establish a Subzone must first enter into an agreement with the Grantee concerning proposed Subzone operations. This agreement will contain provisions including, but not limited to, those relating costs incident to the preparation of the applications and any subsequent amendments or modification thereof; costs incident to public hearings and legal proceedings; charges for providing required U.S. Customs and Border Protection; Startup and Activation and User Fees; and charges for special services not provided in this Schedule. Applicants for the establishment of a Subzone will bear application costs and charges resulting to preparing and filing of application whether or not the Foreign-Trade Zones Board favorably acts upon the application.



## **REGULATIONS PERTAINING TO MERCHANDISE**

### **TRANSPORTATION**

Transfer of foreign merchandise between Customs territory and the Zone, or through Customs territory, must be made by Customs bonded trucks or other carriers and in accordance with U.S. Customs and Border Protection regulations.

### **TENDER FOR ACCEPTANCE**

All merchandise for Zone movement shall be delivered at designated points properly marked and packed and accompanied or preceded by necessary documents for preserving the identity of such merchandise.

### **CUSTOMS INSPECTION OF MERCHANDISE**

The consignee, the Zone user, or agent, shall at all times be immediately available to make merchandise available and ready for inspection as may be required by U.S. Customs and Border Protection, and shall have the sole responsibility of opening crates and packages, handling the merchandise, and securing the crates and packages following inspection. In the event that the consignee or his agent is not immediately available for inspections, Zone personnel are authorized to open such packages for U.S. Customs and Border Protection and shall not be liable for any loss or damage to the goods for any reason.

### **INVENTORY PROCEDURES**

Zone users are responsible for establishing and maintaining an Audit Inspection Inventory Control System acceptable to U.S. Customs and Border Protection and the Grantee for all merchandise in their care, custody, and control. Inventory actions may be conducted by the user or through an agent authorized to maintain inventory records and to represent the user in inventory matters. The Grantee will advise users where necessary in establishing an Audit Inspection Inventory Control System, monitor records, conduct periodic selective inventories of merchandise, and advise the Port Director of any inventory discrepancies. It is the User's entire responsibility to establish proper inventory, audit, and compliance procedures and record keeping.

**PERMIT TO MANIPULATE, MANUFACTURE, PROCESS AND EXHIBIT**

Before merchandise may be manufactured, processed, manipulated, or exhibited within the Zone, application must be presented to the Port Director of U.S. Customs and Border Protection for approval. The Port Director of U.S. Customs and Border Protection must submit requests for manufacturing or processing authority to the Foreign-Trade Zones Board and final approval prior to approval. On approval by appropriate agencies, the contemplated operation will be permitted.

**TRANSITING MERCHANDISE**

Merchandise transiting the Zone under the provision of CR 146.14 must leave the Zone within five (5) working days after arrival. Working days do not include Saturday, Sunday, or Holidays. Items remaining in the Zone beyond five (5) working days will lose the "transiting" status and will be admitted into the Zone as merchandise under supervision of U.S. Customs and Border Protection unless the Port Director of U.S. Customs and Border Protection authorizes an extension.

**MARKING**

All merchandise handled in the Zone, before entry to Customs territory, must be truly marked in accordance with U.S. Customs and Border Protection regulations as to the country of origin and in accordance with all other government regulations, and no merchandise will be permitted to leave the Zone for any purpose that carries any false or misleading label or mark. When repacked or labeled in the Zone, the goods should, when possible, be marked to indicate that fact.

**PUBLIC WAREHOUSE OPERATING REQUIREMENTS**

Private firms may enter into an Operator Agreement with the Grantee to offer public warehousing facilities and services within the Zone. The warehouse firm will be required to comply with the Foreign-Trade Zone No. 267 public warehouse minimum standards as established by the Grantee.

**UNIFORM PROCEDURES REGARDING CONSTRUCTION OF BUILDINGS AND FACILITIES**

All uses and development of the lands of the Zone shall comply with all applicable Zoning Ordinances of the appropriate local government, which has zoning jurisdiction, and applicable covenants that run with the land.

## **RATES AND CHARGES**

### **RESPONSIBILITY FOR DUTY AND TAXES**

Users of the Zone are responsible and liable for payment of any duties, taxes, fines, penalties, or liquidated damages, due any agency of the Federal, State or Local government arising from use of the Zone, including liabilities on merchandise which is not accounted for to the satisfaction of U.S. Customs and Border Protection. In the event the Grantee or Operator is required to pay any duty or tax to U.S. Customs and Border Protection under conditions of the Customs Bond maintained by Grantee or Operator, the person responsible for payment of the duty or tax will immediately reimburse the Grantee or Operator for such payments. Such person shall be liable to the Grantee or Operator for all costs, expenses, and attorney fees, which may be incurred or sustained by the Grantee or Operator by reason of collection of such duty or taxes. Any sums due to the Grantee or Operator under the provisions of this paragraph shall constitute a lien against the interest of the User in the Zone and all its property situated in the Zone to the same extent and on the same condition as delinquent rent would constitute a lien on such premises and property.

### **CUSTOMS FEES**

The user shall reimburse the Operator for any Customs fees connected with its conducting business within the Zone. Such Customs Fees may include activation and deactivation fees, alteration fees, transaction fees, and annual fees. Whenever the operator pays fees to U.S. Customs and Border Protection, which concern the entire general purpose Zone or the entire Zone project, reimbursement by users to the Operator our user will be done by apportionment.

### **CUSTOMS BOND FEES**

The Operator provides a Foreign-Trade Zones Operator's Bond to U.S. Customs and Border Protection, which is applicable to all merchandise in the Zone that is under Customs supervision. The amount of the bond required for a specific facility is established by U.S. Customs and Border Protection and the appropriate cost of the bond will be billed to the user.

**ONGOING USER FEES**

Each Operator or User of Foreign-Trade Zone No.267 shall pay the Grantee user fees as set forth in the table herein listed below:

<b>TYPE OF ZONE OPERATION</b>	<b>USER FEE CHARGED</b>
Subzone or General Purpose Manufacturing/Processing Facility	\$15,000 per year \$15,000 per year
General Purpose Distribution Facility Option A	\$35.00 per transaction
General Purpose Distribution Facility Option B	Unlimited transactions for \$10,000 per year
<b>Other Activities</b>	<b>FEE CHARGED</b>
Fee for review and submission of any Manufacturing Application, or Subzone Application to the Foreign-Trade Zones Board	\$2,500 per application
Fee for submission and review of any Minor Boundary Modification or Temporary Minor Boundary Modification.	\$1,500 per application
<p>Note: The term "transaction" means the movement or manipulation of any merchandise requiring a CBPF 214, automated admission, CBPF 216, CBPF 7512, 3461, 7501, local transfer document, local control or authorization number, or customs entry of any kind. In the event weekly entry procedures are used, 5 transactions will be counted for the week.</p>	

**CHARGES BY OTHER GOVERNMENT AGENCIES**

Charges made by government agencies that are not included in this Schedule should be arranged for and paid by the user.

**WHEN CHARGES ARE PAYABLE**

Zone charges are due and payable as they accrue.

12/23/2008

**FOREIGN-TRADE ZONE NO. 267    ZONE SCHEDULE NO. 1.00**

**ACTIVATION FEE**

Each Operator of Foreign-Trade Zone No. 267, including Subzone Operators shall pay the Grantee an activation fee according to the table herein listed below prior to the Grantee's review of the user's FTZ Inventory Control Systems and its FTZ Systems and Procedures Manual, and other documentation necessary for activation of the User's Zone site.

<b>Type of Zone Operation</b>	<b>Location</b>	<b>Activation Fee</b>
Subzone Activation	Within Cass County	\$5,000 one-time fee
Subzone	Outside Cass County	\$10,000 one-time fee
General Purpose Manufacturing/Processing Facility	Inside or Outside Cass County	\$5,000 one-time fee
General Purpose Distribution Facility	Inside or Outside Cass County	\$5,000 one-time fee