

MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY

Zone Schedule For Foreign Trade Zone No. 282



Effective Date: January 22, 2014

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Table of Contents

Informal Rules/Regulations and Policies for the Zone

Introduction

I. Zone Policy

- 1.01 Policy Content
- 1.02 Amendment and Interpretation

II. Definitions

III. Authority

IV. Zone To Be Operated In The Public Interest

- 4.01 Uniform Treatment
- 4.02 Uniform Treatment Standard
- 4.03 Potential Detriment to Public Interest
- 4.04 Public Utility Standards

V. Zone Regulations, Rules and Policies

- 5.01 General Policy
- 5.02 Qualifications
- 5.03 Non-Reliance
- 5.04 Operators Not Filing A Policy
- 5.05 Local Requirements
- 5.06 Other Requirements
- 5.07 Use of Grantee Owned Facilities
- 5.08 Availability of Approved Facilities
- 5.09 Application to the Board
- 5.10 Interpretation of This Policy

VI. Operations within the Zone

- 6.01 USCBP Approval
- 6.02 Treatment of Merchandise in the Zone
 - A. Admission
 - B. Status of Merchandise
 - C. Treatment of Merchandise in the Zone
- 6.03 Prohibited Use
- 6.04 Retail Trade
- 6.05 Residence within the Zone
- 6.06 Controlled Access to the Zone
- 6.07 Reporting
 - A. Annual Report
 - B. Other Reports
 - C. Confidentiality
- 6.08 Prior Disclosure

6.09 Indemnification

6.10 Insurance

A. On Facilities Not Owned by Grantee

B. On Grantee Owned Facilities

VII. Fees and Charges

7.01 Credit Privileges

7.02 Rates

7.03 Late Fee Assessment

7.04 Non-Payment of Fees

7.05 Fees Assessed By Operators

Exhibit A

**Midcoast Regional Redevelopment Authority
Operations Plan
For Foreign Trade Zone No. 282**

Informal Rules/Regulations and Policies for the Zone

Introduction

This Zone Policy (“Policy”) has been adopted by the Midcoast Regional Redevelopment Authority (“MRRRA”), a body politic and corporate created and existing under 5 MRSA §13083-G of Maine, as acting in its capacity as the Grantee of Foreign Trade Zone Number 64 and shall govern all operations taking place within Foreign Trade Zone No. 282.

I. Zone Policy

1.01 Policy Content: This Policy has been promulgated and adopted by the Grantee and contains the internal rules and regulations governing the use of Foreign Trade Zone No. 282 by Operators, Subzone Operators, Users and all other persons or entities. The Policy also includes the Rates and Charges applicable to the use of the Zone. This Policy is intended to conform with and supplement the Foreign Trade Zones Act (“Act”) and the rules and regulations of the Board and United States Customs and Border Protection (“USCBP”). The effective date of this Policy is set forth on the cover page.

1.02 Amendment and Interpretation: Subject only to the requirements of the Act and the FTZ Regulations, this Policy may be modified, amended or replaced by the MRRRA at any time, if the MRRRA determines it to be necessary or appropriate to do so. MRRRA shall, in its sole discretion, interpret the provisions of this Policy and determine the applicability of any of its provisions. The MRRRA shall also have complete authority governing the imposition of the Rates and Charges provided for herein, including a decision to waive any such rate or charge in whole or in part.

II. Definitions

The following words have the following meanings when used in this Policy:

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

2.02 “Activated Area” means the Zone Site or any portion thereof that has been activated pursuant to the Act.

2.03 “Board” means the U.S. Foreign-Trade Zones Board of the United States (U. S.) Department of Commerce, as established by the Act.

2.04 “CBPF” means Customs and Border Protection Form as used in the Regulations, which will typically be paired with a specific number used by USCBP to stipulate the use of such form.

2.05 “Customs Territory” means the territories of the U.S. in which general U.S. Tariff laws apply. This includes all of the U.S. States, District of Columbia and Puerto Rico minus any areas within the boundaries of Foreign Trade Zones that are activated.

2.06 “Domestic Merchandise” means merchandise which has been (i) produced in the United States and not exported, or (ii) previously imported into the Customs Territory of the United States and properly released from USCBP’s custody. Foreign merchandise on which all necessary and applicable duties and taxes have been paid, and upon which no drawback has been claimed, is considered Domestic Merchandise when admitted to a foreign-trade zone.

2.07 “FTZ” means Foreign Trade Zone (capitalized or not) as defined by the Act.

2.08 “FTZ Regulations” means Title 15, Code of Federal Regulations (CFR), Part 400, as presently constituted and as amended from time to time, which governs the grant of authority, the establishment and maintenance of FTZ’s by Grantees.

2.09 “General-Purpose Zone” means those portions of the Zone site used for the general import, storage and distribution of merchandise which do not involve manufacturing or processing.

2.10 “Grant” means the authorization, as amended, issued to the Grantee that established the Zone pursuant to, Board Order Number 1845, dated September 7, 2012 and published in 77 *Federal Register* 58512 on September 21, 2012.

2.11 “Grantee” means the MRRRA as the recipient of the Grant, approved pursuant to Board Order No. 1845 issued September 21, 2012 and subject to the requirement of Title 15 CFR Part 400, this Policy and all other applicable federal, state and local statutes and regulations.

2.12 “OFIS” OFIS- This is the Online FTZ Information System that includes information on each zone. It can be accessed through the FTZ Board web site. All annual reports are now filed electronically through OFIS.

2.13 “Operating Agreement” means a written agreement between the Grantee and any Operator utilizing the Zone that establishes the rules, procedures and requirements for the Operator’s use of the Zone.

2.14 “Operating Procedures” means the inventory control and record keeping system that will be used in the Zone, specified in writing and certified by the Operator to USCBP and the Grantee to meet the requirements of Subpart B of 19 CFR 146

2.15 “Operator” means any company or other entity that executes an Operating Agreement with the Grantee and that assumes the responsibilities enumerated by Operating Agreement and 19 CFR 146.

2.16 “Port Director” means the local USCBP Port Director with jurisdiction over the Brunswick area port of entry and the Zone pursuant to Section 4.02(h) of 15 CFR 15.

2.17 “Regulations” collectively means 15 CFR 400 and 19 CFR 146.

2.18 “Policy” means this policy of rules, regulations and fees issued and promulgated by the Grantee.

2.19 “Subzone” means a special purpose zone established for a limited use that cannot be accommodated as a general purpose use within the Zone.

2.20 “USCBP” means United States Customs and Border Protection.

2.21 “USCBP Regulations” means 19 CFR 146 that governs the activities of Operators within the Zone; the admission, manipulation, manufacture or exhibition of merchandise within the Zone; the exportation of merchandise from the Zone; the transfer of merchandise from one zone to another; and the transfer of merchandise from the Zone into Customs Territory.

2.22 “User(s)” means those persons, whether real or artificial, utilizing the services of any Operator of a Zone Site.

2.23 “Zone” means the aggregate the Zone Site at FTZ #282.

2.24 “Zone Schedule” means MRRA’s published Zone Schedule, as amended or reissued from time to time.

2.25 “Zone Site” means each separate area comprising the Zone and its Subzones including the buildings and facilities located within that particular area that is utilized by an Operator while exercising the rights and privileges granted it pursuant to its Operating Agreement with the Grantee.

2.26 “Zone Status” means status of merchandise that is brought into the Zone or any of its Subzones. Merchandise shall be identified according to its type of status. The four types of Zone Status are:

A. Privileged Foreign Status is the status that will be given to foreign merchandise or non-tax paid domestic merchandise upon which the duty and applicable taxes have been determined at the time the status is approved according to a CBPF 214. Once they have been determined, the duty rate and taxes are not subject to future fluctuation. Once established, the Privileged Foreign Status given to merchandise cannot be changed. If merchandise has already been admitted into the Zone and given Non-Privileged Foreign Status, Privileged Foreign Status for that merchandise may be requested by filing CBPF 214, CBPF 7502 and related documents. Application for Privileged Foreign Status must be filed prior to manipulation or manufacture of any merchandise.

B. Non-Privileged Foreign Status is the status that will be given to foreign merchandise or non-tax paid domestic merchandise upon which the duty and applicable taxes will be determined at the time the merchandise enters Customs Territory from the Zone for consumption.

C. Domestic Status is the status that will be given to merchandise that is comprised of (i) U.S. products on which all internal revenue taxes have been paid; or (ii) imported merchandise on which all duty and/or taxes have been paid; or (iii) imported merchandise which is free of duty and tax.

D. Zone Restricted Status is the status that will be given to merchandise entering the Zone for the purpose of exportation or destruction (other than alcoholic spirits or beverages). Merchandise with Zone Restricted status may not be returned to any geographic area under USCBP jurisdiction for domestic consumption except as approved by the Board.

III. Authority

The Zone has been established pursuant to the Grant subject to oversight by the Grantee and all activities within the Zone. All persons doing business within the Zone and all operations moving merchandise into or out of the Zone must strictly conform to the Act, the Regulations, this Policy and all other applicable federal, state and local laws, rules and regulations.

IV. Zone to be Operated in the Public Interest

4.01 Uniform Treatment: The Grantee shall have the responsibility of ensuring that the needs of the business community utilizing the port of entry for the Zone are reasonably served and that the Zone is being operated in the public interest affording uniform treatment to all Operators, Subzone Operators and Users operating under like circumstances. The Grantee will ensure that rates and charges imposed according to this Policy will be fair and reasonable taking into account the costs and expenses of the Grantee.

4.02 Uniform Treatment Standard: Any company that prepares an application to be filed with the Foreign-Trade Zones Board shall be sponsored by this Grantee organization unless that company is in a business that will harm other domestic companies, includes information in its application that is detrimental to the local community, or is not deemed to be in the general public interest.

4.03 Potential Detriment to Public Interest: In accordance with the FTZ Regulations, the Board may restrict or prohibit any operation in the Zone that the Board deems detrimental to public interest, health and/or safety. Any party that is concerned that it is or may be adversely affected by any Zone operation may submit written comments to the Board relative to these concerns, if the Grantee is unable to resolve the party's concerns. Comments must stipulate how the activity in question is or would be detrimental to the public interest, health and/or safety.

4.04 Public Utility Standards: Pursuant to Foreign-Trade Zones Board Regulation, the zone must be operated as a public utility. All rates and charges for all services or privileges within the zone shall be fair and reasonable, and the Zone Grantee and Zone Operator(s) shall afford to all who may apply for the use of the zone and its facilities and appurtenances uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments regardless of whether a zone participant has processed any zone related product or engaged a particular service provider. (15 C.F.R. § 400.2(g)43). The General-Purpose Zone Project contains buildings available for sale or lease, and open land suitable for construction, to ensure that the reasonable zone needs of the business community are being met. The buildings are equipped to provide storage, manipulation, manufacturing, and other office space for individual companies to act as their own Operator within their own facility. Additionally, there are buildings available, or land available for construction, that would accommodate a third party provider public warehouse building or buildings, making zone

services available to those companies who did not wish to lease or purchase their own building, or physically handle their own merchandise while within the foreign-trade zone site. In this manner, the Grantee provides the community the opportunity for a wide range of firms to be accommodated under public utility principles.

V. Zone Regulation, Rules and Policies

5.01 General Policy: It is the policy of MRRRA to promote the use of the U.S. Foreign Trade Zone program and the Zone. The MRRRA shall encourage companies that can benefit from the activities allowed under the Act to invest resources and create jobs for the purpose of increasing international commerce.

5.02 Qualifications: Persons and business entities may qualify as Operators or Users of the Zone provided that they have:

- A. Satisfied any requirements imposed by the USCBP.
- B. Executed the necessary Operating Agreement with the Grantee.
- C. Conformed with all federal, state and municipal statutes and regulations, including but not limited to, the USCBP Regulations.
- D. Have filed a policy of rates and charges with the Grantee if they are operating a general-purpose zone warehouse available to the general public.

5.03 Non-Reliance: Users contemplating the utilization of an Operator's services should not rely solely upon the Fee Schedule for that Operator that is on file with the Grantee. The User should always contact that Operator directly for current quotes of rates and rules relating to the User's cargo to be handled by that Operator.

5.04 Operators Not Filing a Fee Schedule: Any Operator that does not file a Fee Schedule with the Grantee is restricted to handling only its own merchandise.

5.05 Local Requirements: Operators and Users, whether operating on or off of property owned by the Grantee, shall comply with all requirements of applicable local laws, including the provisions of local zoning ordinances.

5.06 Other Requirements: Operators and Users shall comply with agencies of such legislation, rules or regulations promulgated by agencies having jurisdiction of certain import and/or exports, including but not limited to, the Food and Drug Administration, Fish and Wildlife Commission, Environmental Protection Agency, Department of Defense, Import Administration, Export Administration, U.S. Census Bureau, Alcohol, Tobacco & Firearms, Alcohol and Tobacco Tax and Trade Bureau, and any other agencies related to the import and export of merchandise. Operators and Users shall cooperate fully with all such agencies.

5.07 Use of Grantee Owned Facilities: In the event an Operator or User is utilizing a facility owned by the Grantee as a Zone Site, the Operator or User shall maintain that facility in a good state of repair and housekeeping in accordance with its Operating Agreement with the Grantee.

5.08 Availability of Approved Facilities: In the event there are no facilities available in the approved areas of the Zone that meet the Operator's or User's requirements, the Grantee shall use its best efforts to obtain approved status for an area located outside of the Zone to accommodate such facilities on a first-come, first-to-be-served basis.

5.09 Application to the Board: The Grantee shall have the primary responsibility for filing applications with the Board requesting modifications to the Grant. Requests for modification to the Grant may include expansion of the Zone, Zone boundary modifications, Subzone applications and/or changes in the scope of authority. However, a potential Operator or User may file an application directly with the Board subject to the approval of the Grantee and the Port Director evidenced by a letter of concurrence from each.

5.10 Interpretation of This Policy: Whenever interpretation of the provisions of this Policy become necessary, such interpretation shall be made by the Grantee in accordance with the Regulations and the laws of the State of Maine, as the same apply to the Operator's activities in the Zone.

VI. Operations Within the Zone

6.01 USCBP Approval: No Operator or User shall commence operations within the Zone or a Subzone without having first received approval for activation from the Port Director.

6.02 Treatment of Merchandise in the Zone:

A. Admission: Application for admission of merchandise into the Zone must be approved by the Port Director. Admission may also be conditioned upon the approval of any other state or federal agency having jurisdiction over such merchandise. If merchandise is to be admitted into the facilities owned or operated by the Grantee, such admittance shall be accomplished in accordance with the MRRRA's published tariff.

B. Status of Merchandise: Status of merchandise in the Zone shall be determined according to the provisions of Section 2.25 of this Policy and shall be approved by the Port Director.

C. Treatment of Merchandise in the Zone:

1. **General Purpose:** Merchandise may be imported, exported, stored, labeled, exhibited, separated, sorted, graded, cleaned, and/or mixed with foreign or domestic merchandise within the Zone. Distribution of merchandise into Customs Territory or export of merchandise from the Zone shall be processed in accordance with the Act, the Regulations and USCBP directives.
2. **Production Activity in the Zone:** No production (formerly manufacturing or processing) activities as defined by the Regulations, shall take place in the General Purpose Zone unless the Zone Site has been designated as an appropriate site for production by the Board and the Grantee.

6.03 Prohibited Use: The Zone shall not be used to circumvent trade laws and directives of the United States, nor shall the Zone be used for any activities that do not comply with any other federal, state and municipal law or regulation or the MRRRA's published Zone Schedule.

6.04 Retail Trade: No retail trade shall be conducted within the activated areas of the Zone except as may be approved by the Board and the Port Director, with the concurrence from the Grantee.

6.05 Residence within the Zone: No person or persons shall reside within the activated areas of the Zone unless such residence is deemed to be necessary or beneficial by the Board, the Port Director. Permission for this activity shall also be required from the Grantee with respect to facilities that it owns; however, the Grantee shall not be required to grant such permission if it is not in the best interest of the Grantee's facilities.

6.06 Controlled Access to the Zone: All persons and vehicles entering and leaving each Zone Site shall do so only through designated entrances to and exits from activated areas. All such persons and vehicles shall comply at all times with requirements of USCBP, the Grantee and/or Operator relating to ingress to and egress from the Zone.

6.07 Reporting:

A. Annual Report: All Operators are required to electronically submit an annual report to OFIS no later than February 15 of each year which shall address the activated areas of the Zone detailing the total value of cargo that was handled in the Zone from January 1 to December 31 each year. Said report shall be submitted to electronically through OFIS so the Grantee can transmit its Annual Report before its deadline on March 31 each year.

B. Other Reports: The Grantee or the Operators may be required from time to time to furnish information to other governmental entities. The Operators and Users of the Zone shall cooperate and provide any information necessary to comply with mandates of other governmental entities possessing jurisdiction over cargo handled through the Zone.

C. Confidentiality: To the extent permitted by the laws of the State of Maine, the Grantee will avoid disclosing proprietary information regarding an Operator's or User's activities and handling of merchandise within the Zone.

6.08 Prior Disclosure: In the event an Operator or User discovers any error or violation related to the handling or reporting of merchandise in the Zone, the Operator or User shall report such error or violation to USCBP as soon as reasonably practical.

6.09 Indemnification: All Operators or Users operating within the Zone shall be required to indemnify, defend and hold harmless MRRRA, its officers, employees, and any of its agents or representatives from all claims and demands including, but not limited to, claims and demands for personal injuries, including death, and for property damage and for any other loss, arising out of or connected or related in any way to the activities of the Operator or User, its agents, officers, representatives, employees or contractors within the Zone or in connection with any of its activities or responsibilities related to its use of the Zone. Without limiting the generality of the foregoing, it is understood that Operators and Users recognize that this indemnification includes any liability resulting from all claims and demands prosecuted by any governmental agency, department or other entity, including without limitation, any claim or demand made by the USCBP for lost duty, penalties, fines and liquidated damages. In the event any claim or demand is asserted against the Grantee in connection with the operation by any Operator or User of the Zone, MRRRA shall promptly notify such

Operator or User in writing of such claim or demand and shall provide the Operator or User the opportunity to defend MRRRA and/or Operator or User (as the case may be) against such claim or demand.

6.10 Insurance

A. On Facilities Not Owned By Grantee: Whether using facilities owned by the Grantee or not, all Operators shall at all times during the term of their respective Operating Agreements, carry and keep in force comprehensive general liability insurance policies, issued by an insurance carrier or carriers acceptable to Grantee, providing standard coverage for the Commercial General Liability in an amounts of not less than a limit of \$2,000,000 General Aggregate in combined single limit of liability for personal and bodily injury, property damage and fire legal liability, naming and endorsing the Grantee as an additional insured thereunder. Operator will furnish Grantee with certificates evidencing such insurance, which certificates shall provide that there shall be no reduction or cancellation of, or failure to renew such insurance without thirty (30) days written notice to Grantee.

B. On Grantee Owned Facilities: In addition to the above referenced insurance coverage, an Operator shall carry and provide the Grantee proof of the following insurance coverage if it is conducting its business on facilities owned by Grantee:

Property Insurance/Fire and Extended Coverage – In the amount of the full insurable value of the merchandise, equipment and personal property under the Operator's care and custody.

VII. Fees and Charges

7.01 Rates: Operators and Users shall pay MRRRA for services rendered at the rates published on Exhibit A attached to this Zone Schedule.

7.02 Late Fee Assessment: A late fee assessment of one and one-half percent (1-1/2%) per month (.000493) or fraction thereof, will be imposed on all past due amounts not made within ten (10) days of the due date and shall be assessed for as long as said amount remains delinquent. This provision shall not preclude the MRRRA from terminating this Agreement as provided herein or from exercising any other remedy contained herein or as provided by law.

7.03 Non-Payment of Fees: MRRRA reserves the right to terminate any Operating Agreement or otherwise deny any Operator or User the use of the Zone as a result of the Operator or User's failure to pay fees due the Grantee, as provided for in this Policy.

7.04 Fees Assessed by Operators: All Operators, unless listed under Section 5.04 shall publish its own policy of services offered to and fees to be charged to Users. Such policy must be available at the Operator's Zone Site and at the office of the Grantee. Such fees shall be uniform and reasonable, but shall not preclude any Operator from entering into agreements with Users based on time, volumes and other considerations.

**Midcoast Regional Redevelopment Authority
Zone Policy For
Foreign Trade Zone No. 282**

Exhibit A

Policy of Fees and Charges

Effective Date: January 22, 2014

The Grantee reserves the right to change or waive any fee or charge contained herein if, in the Grantee's determination, it is in the best interest of the welfare of the community to do so. Any fees enumerated herein shall be due and payable in addition to any other fee required by the FTZ Board, USCBP Directives, any other Government Agency, MRRRA's Zone Schedule, Document Recording Fees, and/or other fees associated with any other agreement in effect with MRRRA.

A. Applications to FTZ Board:

1. Expansion Application(1)	\$2,500	\$7,500
2. Production Notification Application:		\$1,000
3. Minor Boundary Modification (Permanent):		\$1,000
4. Request for Temporary Minor Boundary Modification:		\$500
5. Request for time extension of Temporary Minor Boundary Modification:		\$500

C. Activation Fee (Per Site): \$750

D. Annual Fees to Grantee (in addition to any project fee(s) listed above)

1. Annual Fee:	\$5,000
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