

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY (GRANTEE)
Foreign-Trade Zone No. 49 Grantee Schedule
Rates, Rules and Regulations

Foreign-Trade Zone No. 49

Operating under the authority granted by the Foreign-Trade Zones Board
United States Department of Commerce
Board Order #146 dated April 6, 1979

GENERAL OFFICE

150 Greenwich Street
4 World Trade Center – 17th Floor
New York NY 10007
<http://www.panynj.gov/port/ftz-49.html>

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SECTION I - AUTHORITY

Grantee Authority: In April 1979, The Port Authority of New York and New Jersey (Port Authority) was authorized by the FTZ Board to become the Grantee of FTZ No. 49. FTZ No. 49 is comprised of eleven Usage-Driven Sites and six Magnet Sites totaling 5,457, with 2,501 acres located within Port Newark, the Elizabeth-Port Authority Marine Terminal and the Port Jersey-Port Authority Marine Terminal, and 2,956 acres comprised of privately-owned and operated industrial parks located in Elizabeth, Kearny, Carteret, Perth Amboy, Port Reading, Edison, North Bergen, South Brunswick, and Woodbridge, New Jersey. In addition to the Usage-Driven and Magnet Sites, FTZ No. 49 sponsors twelve subzones in New Jersey that include E.R. Squibb Company in New Brunswick; EMD Performance Materials in Somerville and Somerset; Phillips66 in Linden; Firmenich, Inc. in Newark and Plainsboro; Merck & Company, Inc. in Rahway; Movado Group, Inc. in Moonachie; Swatch in Secaucus; In Mocean Group, LLC in North Brunswick; LVMH Watch & Jewelry U.S.A. in Springfield, and Buckeye Perth Amboy Terminal, LLC in Perth Amboy.

All persons conducting business within FTZ No. 49 and all operations moving merchandise into or out of FTZ No. 49 must strictly conform to the Foreign-Trade Zones Act, Foreign-Trade Zones Board Regulations, U.S. Customs & Border Protection Regulations, this Zone Schedule, and all other applicable federal, state and local laws, rules, and regulations.

This Zone Schedule may be modified, amended or replaced by the Port Authority at any time if it is determined to be necessary or appropriate to do so. The Port Authority shall, in its sole discretion, interpret the provisions of this Zone Schedule and determine the applicability of any of its provisions.

U.S. Customs & Border Protection Authority: The rates, rules and regulations provided in this Zone Schedule do not supersede Customs Statutes, Regulations and Rules. Any new measures, rulings, or determinations made by Customs will apply.

Statutory and Regulatory Authority:

Foreign-Trade Zones Act: 19 U.S.C. 81

Foreign-Trade Zones Board Regulations: 15 CFR 400

Customs & Border Protection Regulations: 19 CFR 146

Authority Granted: The Grantee grants the FTZ Operator the authority to utilize the Zone Site as a FTZ subject to the terms and conditions set forth within the Operating Agreement executed between the Grantee and the FTZ Operator.

Authority Accepted: The FTZ Operator assumes responsibility for the operation and management of the Zone Site in accordance with the terms and conditions of the Operating Agreement during the term set within the Agreement and any extensions thereof.

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SECTION II - GENERAL RULES & REGULATIONS

Schedule of Rules, Regulations, Rates and Charges: This schedule is published pursuant to a grant issued by the Foreign-Trade Zones Board, U.S. Department of Commerce, Washington, D.C., on April 6, 1979, to The Port Authority of New York and New Jersey. The rules, regulations, rates and charges of this Schedule shall apply at Foreign-Trade Zone No. 49. The Grantee is authorized to compile, publish, post and file revisions and amendments to this Schedule. Copies of this Schedule are on file with the Foreign-Trade Zones Board, Washington, D.C., and are available at the Grantee's office located at 150 Greenwich Street – 4 World Trade Center, 17th Floor, New York, New York 10007.

The Port Authority publishes a separate tariff naming rules and regulations applying at Port Authority Marine Terminals and rates and charges applicable for the use of public areas at Port Authority Marine Terminals.

Application and Interpretation of Schedule: The Grantee and/or Operator shall interpret and determine the applicability of this Schedule. However, any matter involving interpretation or action by U.S. Customs & Border Protection or another agency of the U.S. Government will be determined by the Director of Customs or duly appointed representative.

Zone Operated as a Public Utility: All rates and charges for services or privileges within the Zone shall be fair and reasonable, and the Operator shall afford to all who may apply for the use of the Zone uniform treatment under like conditions.

Board Regulations: Foreign-Trade Zone No. 49 is regulated by the Foreign-Trade Zones Board, Washington, D.C. under U.S. Code of Federal Regulations, Title 15, Chapter IV, Part 400. Copies of these regulations may be obtained either at the office of the Grantee or Operator.

U.S. Customs Regulations: Foreign-Trade Zone No. 49 is subject to special Customs regulations as defined in U.S. Code of Federal Regulations, Title 19, Chapter I, U.S. Customs, Part 146 Foreign-Trade Zones. Copies of these regulations may be obtained either at the office of the Grantee or Operator.

Customs Inspection of Merchandise: The consignee, Zone User, or agent shall at all times be immediately available to make merchandise available and ready for inspection as may be required by the U.S. Customs and Border Protection, and shall have the sole responsibility of opening crates and packages, handling the merchandise and securing crates and packages following inspection.

Reports to Governmental Agencies: The Grantee is required to submit periodic reports to the Foreign-Trade Zones Board and to U.S. Customs & Border Protection and may be required to perform other acts as the sponsor of the Zone in compliance with governmental regulations. Operators and Users are required to and shall cooperate with the Grantee in the creation and maintenance of procedures, systems, regulations or programs, and provide

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information and statistics, which the Grantee considers necessary to ensure compliance with governmental requirements. Without limiting the generality of the foregoing, the Operator shall provide such information as may be required by the Grantee for inclusion in its Annual Report to the Board. Such information shall be furnished on or before February 1 of each calendar year by all zone operators (including Usage-Driven and Magnet site, and Subzone operators), except as may be authorized in writing by the Grantee.

Governmental Agencies: All lawful regulations regarding government agencies in or about ports of entry must be complied insofar as they are not in conflict with Foreign-Trade Zones Act of June 18, 1934, (48 State. 998-1003; 19 U.S.C. 81a-81u) as amended.

Public Interest, Health and Safety: No Operation or process of treatment will be permitted in the Zone that is detrimental to the public interest, health and safety.

Non-Liability: The Grantee is not liable and cannot assume any responsibility for any loss or damage to freight, cargo or merchandise or other property in the Zone, or for any loss or damage arising from acts of commission or omission of other occupants, or users of adjacent or contiguous compartments or for other portions in or about the Zone.

All liabilities for duties, taxes or penalties due any agency of the United States Government and arising from the utilization of Zone premises shall be borne by the Zone user, including any duty, taxes or penalties on merchandise which is pilfered, lost, damaged, or otherwise not accounted for to the satisfaction of Customs.

Insurance: Insurance is carried by the Grantee on its own property only and does not include insurance on the contents stored therein. Users shall not place or cause to be placed in the zone any merchandise which will cause the cancellation or forfeiture of the insurance or affect the premium rate thereof on the building or buildings in the Zone; and in the event of any merchandise placement, the user shall, subject to all proper procedures, remove such offending merchandise from the Zone.

Compensation Insurance: Every person employed by contractors or customers in the Zone shall be properly covered by Workmen's Compensation Insurance as may be legally required.

Security and Safety Requirements in the Zone: All Foreign-Trade Zone Sites, in order to be approved for their initial activation by Customs, must meet certain security and safety requirements. After a Zone Site has been activated, all security and safety measures required to achieve the initial activation must be maintained. Spot checks may be conducted by Customs and the Grantee, and liquidated damages or notices may be assessed if these requirements are found to be insufficiently met in any way.

Inventory Control and Recordkeeping Systems: All inventory control and recordkeeping systems employed by Operators within the Zone must meet the requirements of Customs Regulations.

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SECTION III - RATES, CHARGES, AND FEES

Fees	Description of Current Fees	
A.) Application Fees	Grantee Review/Concurrence	
1.) Usage-Driven Site or Magnet Site Designation/Minor Boundary Modification	One-Time/Non-Refundable	\$2,000
2.) Subzone Designation/Minor Boundary Modification	One-Time/Non-Refundable Applied toward 1 st year fee under agreement	\$10,000
3.) Major Boundary Expansion	One-Time/Non-Refundable Applied toward 1 st year fee under agreement	\$10,000
B.) Activation Fees	Grantee Review/Concurrence	
1) Activation of Usage-Driven Site or Magnet Site	One-Time/Non-Refundable	\$500
2) Activation of Subzone	One-Time/Non-Refundable	\$1,000
C.) Operating Agreement Fees		
1.) Usage-Driven Site or Magnet Site		
a.) Port Authority Tenants	5 Year Term*	\$1,000
b.) Non-Port Authority Tenants	5 Year Term*	\$6,000
2.) Subzone		
a.) Manufacturing	5 Year Term*	\$25,000
b.) Non-Manufacturing	5 Year Term*	\$15,000
Deactivation Fee		\$1,000

***Note:** Usage-Driven Site and Magnet Site terms extended to 5 years to align new agreements with FTZ Board sunset limits.

Usage-Driven Site and Magnet Site Application Processing Fees:

Designation of Usage-Driven Site or Magnet Site/ Minor Boundary Modification	\$2,000
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The Application Processing Fee covers the Zone Administrator's expenses for reviewing the application and obtaining the necessary approvals/resolutions for the submission of an Application to the Foreign-Trade Zones Board and any necessary support required in the Application process. The application fee will be a one-time charge and is non-refundable.

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Activation Processing Fees: The Activation fee covers the Zone Administrator's expenses for preparation and processing of the Operating Agreement, providing the Grantee Concurrence Letter to Customs, and any necessary Grantee support required in the Customs Activation process.

Grantee Concurrence for Activation by Customs	\$500
The activation fee will be a one-time charge and is non-refundable.	

Usage-Drive Site or Magnet Site Operating Agreement Annual Fees: The Grantee reserves the right to charge a fee to Usage-Drive Site or Magnet Site operators for the privilege of operating within Foreign-Trade Zone No. 49. Fees are charged on an annual basis.

Port Authority of New York & New Jersey Tenant	\$1,000
Non-Port Authority of New York & New Jersey Tenant	\$6,000

The Operator's Annual Fee will cover Grantee expenses for oversight of the Zone Project and submission of the Annual Report to the Board.

Subzone Application Processing Fees: An Application Processing Fee will be paid by any company requesting the Grantee to begin the Subzone Application Process.

Designation of a Subzone/Minor Boundary Modification	\$10,000
Major Boundary Expansion (Subzone or Industrial Park)	\$10,000

The application fee will be credited towards the Subzone Operator's Annual fee once they are activated. If the subzone does not activate, the Grantee will retain the fee to cover expenses incurred.

Subzone Operating Agreement Annual Fees: The Grantee will charge an annual fee to the subzone operator. The fee is based on type and size of the operation, service requirements, and special circumstances, and would be included in the Grantee/Operator Agreement.

Manufacturing Subzone	\$25,000
Non-Manufacturing Subzone	\$15,000

The Annual Fee will cover FTZ No. 49's expenses for oversight of the Subzone and submission of the Annual Report to the Foreign-Trade Zones Board.

Subzone Activation Processing Fees: The Activation fee covers the Zone Administrator's expenses for preparation and processing of a Subzone Operating Agreement, providing the Grantee Concurrence Letter to Customs, and any necessary Grantee support required in the Customs Activation process.

Grantee Concurrence for Activation by Customs	\$1,000
The activation fee will be a one-time charge and is non-refundable.	

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De-activation Fee: There is a \$1,000 fee for deactivation of a Zone Site.

Customs Fees: Any Customs fee levied against the entire Zone will be passed on to each Zone operator proportionally, employing the same basis used by Customs in assessing the fee (i.e., declared dollar value, transaction count, area occupied, etc.). The operator or tenant requesting the services will pay Customs charges for activating or modifying a Zone site.

Fines & Penalties:

- (a.) Customs penalties resulting from inventory discrepancies, operational infractions, or other occurrences will be borne by the Operator at whose site the infraction occurred. The Operator will bear the cost of any legal fees or other costs or charges incidental to the mitigation of the fine or penalty.
- (b.) The Grantee has the right to levy fines against the Zone tenants for non-compliance with U.S. Customs Regulations, or Foreign-Trade Zone No. 49 Schedule of Rules and Regulations and subsequent issues and modifications of each. Repeated violations could result in the cancellation of the Grantee/Operator Agreement and deactivation of the Zone Site.

Building Space Leases and Rates: The Grantee will lease building space in buildings owned or controlled by it for the purpose of storage, manufacturing, manipulation, processing, handling or exhibition of foreign or domestic merchandise. Rental rates are negotiable depending upon size of the space, lease term, modifications, and other pertinent terms of the lease.

Public Warehouse Facilities: Foreign-Trade Zone No. 49 includes public warehouse facilities wherein merchandise may be stored, weighed, inspected, shipped, etc. The intent of the public warehouse operations is to facilitate the operations and serve the needs of users or tenants of Foreign-Trade Zone No. 49.

Although the services of the public warehouses are available to all persons, the Zone Operator reserves the right to refuse merchandise, which would, in the opinion of the Zone Operator, pose unusual or unacceptable problems or hazards to normal warehouse operations.

Arrangements for the use of Foreign-Trade Zone space on a square foot basis will be subject to negotiation with the Operator.

Individual commodity rates for specific items will be subject to negotiation with the Operator.

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**APPENDIX A: DEFINITION OF FOREIGN-TRADE ZONE TERMS
AND U.S. CUSTOMS FORMS**

Act: The Foreign-Trade Zones Act of June 18, 1934 as amended (Title 19 U.S.C. 81a-81u).

Activation: Filing of an application with Customs and Border Protection by the FTZ Operator, with Grantee's concurrence, results in the actual utilization of an FTZ eligible site as an FTZ.

Alteration/Modification: 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.

Board: The Foreign-Trade Zones Board, which consists of the Secretary of the Department of Commerce (Chairman), the Secretary of the Treasury, and the Secretary of the Army or their designated alternatives.

Customs Form 214: Application and permit to admit merchandise into a Foreign-Trade Zone, permit to transfer merchandise through Customs territory to Zone and Customs return thereon, and Customs or operator's report of merchandise received at the Zone. Application and permit for Foreign-Trade Zone status designation.

Customs Form 216: Application and permit for the manipulation, manufacture, exhibition or destruction of merchandise within a Foreign-Trade Zone.

Customs Form 3461: Document prepared by the User, which must be approved by Customs & Border Protection (CBP) and furnished to the FTZ Operator prior to the physical removal of any merchandise from the FTZ into the customs territory of the United States.

Customs Form 7512: Document prepared by the User, which must be approved by Customs & Border Protection (CBP) and furnished to the FTZ Operator prior to the physical removal of any merchandise from the FTZ for exportation of merchandise from the United States.

Customs: United States Customs & Border Protection, U.S. Department of Homeland Security.

Customs Territory: The territory of the United States in which the general tariff laws of the United States apply, but which is not included in any Foreign-Trade Zone. Customs territory of the United States includes only the States, the District of Columbia, and Puerto Rico.

Deactivation: Voluntary discontinuation of the activation of an entire Zone or Subzone by the Grantee or Operator. Discontinuance of the activated status of only part of a Zone is an alteration/modification.

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Domestic Merchandise: Merchandise which has been: (1) produced in the United States and not exported there from; or (2) previously imported into Customs territory and properly released from Customs custody.

Entry: To bring merchandise into U.S. Customs territory.

Foreign Merchandise: Imported merchandise which has not been properly released from Customs custody into Customs territory.

Grantee: The Port Authority of New York and New Jersey to which the privilege of establishing, operating, and maintaining Foreign-Trade Zone No. 49 has been granted by the Foreign-Trade Zones Board.

Imports: Foreign merchandise of every description (export articles specifically and absolutely prohibited by statute) entered into Customs territory to become a part of the domestic supply for the purpose of domestic commerce or consumption, and particularly that which is entered into Customs territory through the Zone and foreign merchandise which, under the laws and regulations of various other Federal agencies having jurisdiction within the Zones, is said to be “imported” into Foreign-Trade Zones, Customs bonded warehouses, or Customs custody. This latter merchandise, in relation to the operations of the Zones, is considered to be Foreign Merchandise until its entry into the commerce of the United States.

In-Transit Merchandise: Includes all foreign merchandise transported into and out of the United States, whether in and out of the same port or across the country to another port, with or without transshipment, warehousing, breaking bulk, or change in mode of transportation, which originated in one foreign country and is destined at the time of the original shipment to another foreign country. Its distinctive feature is that it is being transported, from one foreign country through the United States to another foreign country, under a through bill of lading or other documentation for a completed journey. The term is particularly applied to foreign merchandise shipped in-transit through a Foreign-Trade Zone.

Magnet Site: A site intended to serve or attract multiple operators or users.

Manipulation: The breaking up, repacking, assembling, distributing, sorting, grading, cleaning, mixing with foreign or domestic merchandise, or other processing which does not constitute a manufacture.

Manufacturing: Activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use.

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.

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Non-Privileged Foreign Merchandise: Foreign merchandise which has the duty and applicable taxes determined at the time the merchandise enters U.S. Customs territory for consumption purposes. Non-Privileged Foreign status is also given to: (1) waste recovered from any manipulation or manufacture of privileged foreign merchandise; (2) Domestic Merchandise taken into a Zone whose identity has been lost; and (3) Foreign Merchandise in the Zone which does not have the status of (a) Privileged Foreign Merchandise, or (b) Zone Restricted Merchandise.

Operator: The firm or firms designated by the Grantee to operate and administer the Zone or a portion thereof.

Operator Agreement: Prior to activation of the Site, an agreement between the Operator of the Zone Site and the Grantee will be executed. Activation cannot occur without an executed Operator Agreement.

Operator's Bond: All Zone Operators must submit to Customs a bond to assure compliance with Customs regulations. The bond is submitted on Customs Form (CF) 302. The bond provisions are set forth at 19 C.F.R. 113.73, Customs Regulations. A failure to comply with the regulations may be deemed a "default" by Customs and result in the assessment of liquidated damages under the bond.

Port Director: Customs official with responsibility for overseeing the activation and operations of zone projects within his or her Customs Port of Entry.

Port of Entry: A place designated by the United States Government at which a Customs Officer is assigned with the authority to accept entries of merchandise, collect duties, and enforce the various provisions of the Customs laws.

Privileged Domestic Merchandise: Merchandise which includes: (1) U.S. products on which all internal revenue taxes, if applicable, have been paid; (2) previously imported merchandise on which duty and/or taxes have been paid; and (3) previously admitted merchandise which is free of duty and tax.

Privileged Foreign Merchandise: Foreign merchandise which has the duty and applicable taxes determined at the time the 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 into the Zone with a Non-Privileged Foreign status, Privileged Foreign status may be obtained by filing CF214 and related entry documents. However, application for this status must be filed prior to manipulation or manufacture.

Prohibited Merchandise: 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.

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Re-Exports or Reshipments: Merchandise from one foreign country initially destined to the United States which, after being unladed, stored, and/or manipulated or manufactured in the country, is transported under a new bill of lading or other new documentation to another foreign country. The term is particularly applied to re-exports or reshipments through 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 or processed in such 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.

Subzone: A specialized purpose zone established as part of a zone project for a limited purpose that cannot be accommodated within an existing zone.

Transfer: 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.

Transshipment Merchandise: Foreign merchandise which 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.

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

Usage-Drive Site: A site tied to a single operator or user.

User: A person or firm using a zone or subzone for storage, handling, or processing of merchandise.

Zone: A Foreign-Trade Zone and/or Foreign Trade Zone No. 49. A Foreign-Trade Zone is an isolated, enclosed and policed area, operated as a public utility, in or adjacent to a port of entry, furnished with facilities for lading, unlading, handling, storing, manipulating, manufacturing, and exhibiting goods, and for reshipping them by land, water or air.

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Any foreign and domestic merchandise, except such as is prohibited by law or such as the Board may order to be excluded as detrimental to the public interest, health or safety, may be brought into a Zone without being subject to the Customs laws of the United States governing the entry of goods or the payment of duty thereon; and such merchandise permitted in a Zone may be stored, exhibited, manufactured, mixed or manipulated in any manner, except as provided in the Foreign-Trade Zones Act and other applicable laws or regulations. The merchandise may be exported, destroyed, or sent into Customs territory from the Zone, in the original package or otherwise. It is subject to Customs duties if sent into Customs territory, but not if reshipped to foreign points.

Zone-Restricted Merchandise: Merchandise admitted into a Zone site for the purpose of exportation, destruction (except destruction of distilled spirits, wines and fermented malt liquors), or storage pending exportation or destruction. Merchandise with zone-restricted status may not be returned to U.S. Customs territory for domestic consumption, except as approved by the Foreign-Trade Zones Board.

Zone Schedule: This document constitutes the FTZ No. 49 Zone Schedule as required by 15 C.F.R. 400.42.