



May 23, 2011

Submitted through Federal eRulemaking Portal at www.Regulations.gov

Mr. Andrew McGilvray
Executive Secretary/Staff Director
Foreign Trade Zones Board
U.S. Department of Commerce
1401 Constitution Ave., NW, Room 2111
Washington, DC 20230

Re: NPRM Docket No. ITA-2010-0012

Dear Mr. McGilvray:

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking ("NPRM") published December 30, 2010. Givaudan Fragrances Corporation ("Givaudan") is pleased to present its comments as an operator/user of general-purpose Foreign-Trade Zone ("FTZ") 44.

Background

Givaudan (previously Givaudan Roure Corporation) was approved by the U.S. Foreign-Trade Zones Board ("Board") on June 12, 2000 to manufacture flavor and fragrance compounds under zone procedures (Board Order 1095). The availability of FTZ benefits at the International Trade Center in Mount Olive, New Jersey (FTZ 44 Site 1) was a specific reason that Givaudan located its flavor and fragrance processing facility within the state of New Jersey. For the past 10+ years FTZ manufacturing benefits have helped Givaudan maintain a strong employment base in New Jersey and grow operations through facility/production expansion in 2008 and acquisition of Quest International Fragrances in 2007. Prior to its acquisition, Quest International Fragrances also utilized FTZ manufacturing authority at Site 1 of FTZ 44 for many years. The FTZ program helps Givaudan maintain manufacturing operations in the U.S. while remaining competitive with foreign companies. The FTZ program also helps Givaudan compete for export opportunities with all of its competitors, both foreign and domestic as well as sister manufacturing plants.

Givaudan appreciates the Board's goal of modernizing the regulations with export promotion in mind. However, we respectfully submit that many of the provisions as written in the NPRM would add a significant burden on companies that conduct



production activity in zones and that these additional burdens could negatively impact the ability to continue to successfully operate under FTZ procedures in the future.

Comments

In general, Givaudan agrees with the technical comments submitted by the National Association of Foreign-Trade Zones (“National Association of Foreign-Trade Zones”). The issues specifically discussed herein are intended to supplement those comments as they specifically relate to our manufacturing operations.

Sec. 400.2 Definitions

We agree with the technical comments of the NAFTAZ that add new definitions and modify existing definitions in Section 400.2. We believe the new and modified definitions provide clarity and important guidance especially as it relates to production activity in zones.

We recommend adoption of the NAFTAZ’s comments to this section.

Sec. 400.13 General conditions, prohibitions and restrictions applicable to grants of authority.

We agree with the technical comments of the NAFTAZ that state that any prohibition or restriction of zone activity due to a finding of detriment to the public interest should be based on facts and the public record, and that in the case of production reviews of operations, any determination that the activity is not in the public interest must be supported by evidence of significant and material detrimental impact upon a directly affected person. Companies conducting production activity in zones typically invest significant capital to do so successfully; therefore, we believe such companies should be afforded a high burden of proof by the Board in cases of negative findings.

We recommend adoption of the NAFTAZ’s comments to this section.

Sec. 400.14 Production--activity requiring approval or reporting; restrictions.

We agree with the technical comments of the NAFTAZ including: the explicit provision for expedited export only production authority; the ability for the Executive Secretary to approve interim production authority pending a Board order; the ability for the Executive Secretary to expedite authority for production activities that could be conducted under CBP bonded warehouse procedures, scrap/waste from production activities, or activities that are the same by intermediate/finished product and have similar circumstances as activities that were recently approved by the Board; and the establishment of scope of authority based on intermediate/finished product only. We believe this section, as written by the NAFTAZ, provides a strong regulatory framework to balance the Board’s oversight needs with the real and flexible business needs of operators and users.



We recommend adoption of the NAFTAZ's comments to this section.

Sec. 400.23 Application for production authority.

We agree with the technical comments of the NAFTAZ as they relate to applications for production authority under Sec. 400.23. Specifically, we agree with the requirement to provide general descriptions of intermediate/finished products and materials/components instead of specific Harmonized Tariff Schedule (HTS) categories. We also agree with the concept of the Board maintaining lists of products that have been subject to restriction, prohibition, or withdrawal of applications. We believe this section, as written by the NAFTAZ, provides a strong regulatory framework to balance the Board's oversight needs with the real and flexible business needs of operators and users.

We recommend adoption of the NAFTAZ's comments to this section.

Sec. 400.24 Criteria for evaluation of production activity.

We agree with the technical comments of the NAFTAZ as they relate to the criteria for evaluation of production activity under Sec. 400.24. Specifically, we agree that the ability to conduct the same activity outside of the U.S. with the same tariff impact and that precedence of prior Board approval should be criteria for evaluation of production activity. Both of these concepts provide more predictability to the application process for U.S. manufacturers seeking FTZ privileges.

We recommend adoption of the NAFTAZ's comments to this section.

Removal of Original Sec. 400.37 – Procedure for notification and review of production changes

We agree with the technical comments of the NAFTAZ that suggest removal of Sec. 400.37 in its entirety. Sec. 400.37 as proposed in the NPRM places an enormous continuing management effort and expense on zone users that could detrimentally impact a company's decision to undertake production activity in zones. We believe that defining scope of authority by intermediate/finished good only and requiring advance approval for new inverted tariffs effectively accomplishes the Board's need to oversee production activity changes in zones.

We recommend adoption of the NAFTAZ's comments to this section.

Sec. 400.40 Monitoring and reviews of zone operations and activity.

We agree with the technical comments of the NAFTAZ as they relate to monitoring and reviews of zone operations and activity. Specifically, we agree that reviews involving production authority should provide significant evidence of detriment to the public interest if such reviews result in a negative recommendation by the Board. We also agree



that negative findings should be based on evidence on the public record that is inconsistent with the original Examiner's Report, and that Zone Participants should be afforded opportunity to meet with the Board in such cases. Companies conducting production activity in zones typically invest significant capital to do so successfully; therefore, we believe such companies should be afforded a high burden of proof by the Board in cases of negative findings.

We recommend adoption of the NAFTAZ's comments to this section.

Sec. 400.51 Accounts, records and reports.

We agree with the technical comments of the NAFTAZ as they relate to accounts, records and reports. Specifically, we agree that data submitted by Zone Participants must be deemed business proprietary other than the data that is submitted to Congress.

We recommend adoption of the NAFTAZ's comments to this section.

Sec. 400.62 Fines, penalties and instructions to suspend activated status.

We agree with the technical comments of the NAFTAZ as they relate to fines, penalties and suspension of activated status. Specifically, we agree that violations involving production authority should be narrowly defined as failure to obtain advance approval for any new intermediate/finished good.

We recommend adoption of the NAFTAZ's comments to this section.

Sec. 400.63 Voluntary disclosure.

We agree with the technical comments of the NAFTAZ as they relate to voluntary disclosures. Specifically, we agree that parties should be allowed to perfect voluntary disclosures and that Board determinations should be issued within 60 days of perfection of a voluntary disclosure. We also agree that fines and penalties should not apply to violations that have been voluntarily disclosed and rectified.

We recommend adoption of the NAFTAZ's comments to this section.

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With over 10 years of zone manufacturing experience, Givaudan is pleased to provide its comments on the proposed regulations especially as they relate to zone production activities. We hope these comments will be seriously considered in light of the significant proposed changes to the regulations and the substantial impact that those changes will have on companies such as ours.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce R. Entwistle", is positioned below the word "Sincerely,".

Bruce R. Entwistle
Director, Supply Chain Mgmt.