

May 19, 2011

Mr. Andrew McGilvray  
Executive Secretary  
Foreign-Trade Zones Board  
International Trade Administration  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Room 2111  
Washington, D.C. 20230

Re: Foreign-Trade Zones Board Proposed Rule  
75 Federal Register 82340-82362, December 30, 2010  
Docket No. ITA-2010-0012, RIN 0625-AA81

Dear Mr. McGilvray:

Thank you for the opportunity to provide comments on the FTZ Board's proposed rule. This rulemaking will set the tone for the FTZ program as an economic competitiveness, job growth tool for years to come. It is imperative that the final regulations represent a balance of interests for all stakeholders.

I am very concerned about many sections in the Board's proposed rule; they were convoluted and not at all "business feasible." For that reason, I participated in the NAFTAZ's Operator/User Group's re-write of the Board's proposed rule. I support the NAFTAZ proposed re-write of the regulations; I discuss a few of the specific sections in this submission.

As the FTZ Administrator in a manufacturing subzone (Epson Portland #45F) from the application process in 2004 through to its activation in 2005, I strongly believe that the FTZ application process should be reworked so as to become as transparent as possible. Becoming an FTZ is an expensive process. Most businesses will not consider undertaking this process, especially in the current economic market, unless a clear path for significant return on their investment is demonstrated. For the process to be transparent, the standards for application and approval have to be crystal clear and applied in an equal and neutral manner.

- The NAFTAZ's proposal, Sec. 400.4 ("Authority and responsibilities of the Executive Secretary"), and 400.13 ("General conditions, prohibitions and restrictions applicable to Grants of Authority"), make provisions for the transparency that is currently missing in the process.
- Sec. 400.22 and 400.23 ("Application for subzone" and "Application for production authority"), clarify the application process, by explicit inclusion of the application content versus the FTZ Board website guidelines.

- The FTZ program itself should encourage manufacturing and / or processing activity in the United States that could, for Customs reasons, otherwise be done overseas. Epson's continued ability to create and maintain manufacturing jobs here in the U.S. is due in part to cost savings received from our FTZ operations. Again, Sec. 400.14 ("Production-activity requiring approval or reporting restrictions"), of the NAFTAZ's proposed re-write of the Board's proposed rule adds language to support expedited review of applications (thus shortening the time to approval / activation), and places an emphasis on intermediate/finished products as the definition of scope of authority versus HTS number tracking of components.
- Also included in 400.14 is a provision for interim authority to be granted by the Executive Secretary after close of public comments, again shortening the time for companies to access the benefits of the program.
- Finally, Sec. 400.14 also allows for delegation to the Executive Secretary the authority to allow activity when the same activity could be conducted under CBP bonded procedures; the sole benefit is scrap / waste savings; or the activity is similar to recent approvals by the Board. This section, as re-written by the NAFTAZ, is vital to the continued "health" and growth of manufacturing in the FTZ program.

In addition, I completely support Sec. 400.27 of the NAFTAZ's re-write, ("Burden of Proof"). This section speaks to the transparency of the application process. Anyone submitting comments evidencing negative effects should be required to provide arguments that are probative and substantial in addressing the matter in issue including any evidence of direct impact. Merely stating that a proposed Zone project has never been allowed so why should it be considered now, is not a substantial argument, nor does it provide any evidence of direct impact. Each applicant has to go through an exhaustive and expensive process to show proof that their Zone project is "in the public interest." Any negative commenter should therefore be required to show substantive proof of direct negative impact to their business. In addition, comments received after the comment period deadline should not be accepted for filing or consideration by the Examiner or the Board ( see Sec. 400.32 "Procedures for docketing application and commencement of case review"). Why set a deadline if it is to be followed by only some of the participants in the process?

I appreciate your time in full consideration of these comments.

Sincerely,



Linda Devoy  
FTZ Administrator  
Epson Portland Inc.