

CECW-M  Engineer Regulation 15-2-2	Department of the Army U.S. Army Corps of Engineers Washington, DC 20314-1000	ER 15-2-2  30 July 1982
	Board, Commissions, and Committees  FOREIGN-TRADE ZONES -- ESTABLISHMENT, OPERATION, MAINTENANCE, AND ADMINISTRATION	
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DEPARTMENT OF THE ARMY  
US Army Corps of Engineers  
Washington, D.C. 20314

ER 15-2-2

DAEN-CWM  
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Regulation  
No. 15-2-2

30 July 1982

Boards, Commissions, and Committees  
FOREIGN-TRADE ZONES  
ESTABLISHMENT, OPERATION, MAINTENANCE, AND ADMINISTRATION

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1. Purpose. This regulation prescribes the responsibilities of the Corps of Engineers relating to the establishment, operation, maintenance, and administration of foreign-trade zones in the United States.
2. Applicability. This regulation is applicable to all Corps of Engineers Divisions and Districts concerned with matters involving foreign-trade zones and the Board of Engineers for Rivers and Harbors.
3. References.
  - a. Foreign-Trade Zones Act, Public Law 397, 73d Congress, approved 18 June 1934 (19 U.S.C 81a-81u), as amended by Public Law 566, 81st Congress, approved June 17, 1950.
  - b. Title 15 - Department of Commerce, Chapter IV - Foreign-Trade Zones Board, Part 400 - General Regulations Governing Foreign-Trade Zones in the United States, with Rules of Procedure (15 C.F.R. Part 400). Copies of these regulations may be obtained from the Resident Member, Board of Engineers for Rivers and Harbors, Kingman Building, Fort Belvoir, Virginia 22060.
  - c. Memorandum, dated 6 April 1982, from the Secretary of the Army, subject, Appointment of the Resident Member of the Board of Engineers for Rivers and Harbors to the Committee of Alternates of the Foreign-Trade Zones Board.
4. Definition. A foreign-trade zone is an inclosed area considered outside the customs territory of the United States. It is located in or near a United States Customs port of entry and is operated as a public utility by qualified corporations under Customs supervision. 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 procedure and payment of duties are not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption. Quota restrictions do not normally apply to foreign goods in zones. Domestic goods moved into a zone for export are considered exported upon entering the zone. Typically, a foreign-trade zone is a fenced-in area with a general warehouse-type building or buildings and access to all modes of transportation. Space is available for leasing to firms for authorized zone activity. Some zones have industrial park characteristics, or are located within such facilities and have lots on which zone users can construct their own facilities. Authority for establishing these zones is granted by the Foreign-Trade Zones Board. The executive secretariat of the Board is located within the U.S. Department of Commerce, Washington, D.C.

This regulation supersedes ER 15-2-2 dated 1 March 1976.

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5. Organization and Duties.

a. Foreign-Trade Zones Board. The Board consists of the Secretary of Commerce, the Secretary of the Treasury, and the Secretary of the Army. The Secretary of Commerce is Chairman and Executive Officer of the Board. In general, the Board establishes rules and regulations as may be necessary to establish and operate foreign-trade zones, and may grant to qualified corporations the privilege of establishing zones, subject to applicable statutory and regulatory conditions.

b. Executive Secretary. The Executive Secretary is in charge of the Board's headquarters office, and attends to the administrative affairs of the Board.

c. Committee of Alternates. Board members have designated alternates to serve on a Committee of Alternates. The alternate for the Secretary of Commerce is Chairman of the Committee. The Assistant Secretary of the Army (Civil Works) is the first alternate for the Secretary of the Army and the Resident Member of the Board of Engineers for Rivers and Harbors is the second alternate. The Committee of Alternates has the following duties:

(1) Review and prepare all matters for presentation to the Board.

(2) Hold such hearings and rehearings as may be directed by the Chairman of the Board.

(3) Perform all other duties assigned by the Board except those which are specifically imposed by law on the Board.

d. Examiners Committee. This three-member Committee consists of an Examiner (Chairman) from the Department of Commerce, appointed by the Executive Secretary; the appropriate Regional Commissioner of Customs; and the District Engineer within whose District a proposed zone is located. An Examiners Committee is constituted to investigate the application of a qualified corporation to establish or substantially modify a foreign-trade zone, and reports its findings to the Board. In the course of the investigation, the Examiners Committee may hold a public hearing on the application. The Customs and Army members will each prepare a brief technical report, usually of one to two pages. This brief report will be attached as an appendix to the main report that is prepared for the committee by the chairman.

e. Resident Representative. The District Director of Customs, in whose district a foreign-trade zone is located, is in local charge of the zone as the resident representative of the Board.

6. Responsibilities of the Corps of Engineers.

a. A District Engineer has the following responsibilities with respect to foreign-trade zones within his District:

(1) Serves on an Examiners Committee appointed by the Executive Secretary of the Foreign-Trade Zones Board. As a member of that committee, the District Engineer will advise the Committee on the adequacy of the type of construction proposed, any apparent zoning or building code violations, the need for, or lack of, appropriate construction permits, and whether or not the proposed construction is within the legally approved foreign-trade zone boundary. He will also make a general determination regarding the environmental impact of zone construction. As a member of the Examiners Committee, the District Engineer may consult directly with the Executive Secretary.

(2) Inspects the initial construction and subsequent major alterations of a foreign-trade zone to enforce compliance with the terms of the grant. Inspection will usually be of a general nature to determine if the construction is in accordance with the approved plan and in compliance with items in (1) above. This inspection will be conducted after construction has been completed. However, if preliminary inspections or consultations are necessary they should be held at the discretion of the District Engineer. The District Engineer will be advised by the Executive Secretary or the Resident Representative as to the need for inspections other than those conducted as part of the Examiners Committee review and after completion of construction. Costs of inspection will be paid to the District Engineer by the applicant. The District Engineer will carry such funds in a special deposit account in accordance with existing law and regulations.

(3) Advises the Resident Representative, when called on by that official, in matters of operation, maintenance, and administration of a foreign-trade zone.

b. The Resident Member, Board of Engineers for Rivers and Harbors, has the following responsibilities with respect to foreign-trade zones:

(1) Serves as second alternate member on the Committee of Alternates.

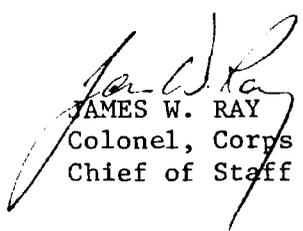
(2) Serves as the Secretary of the Army's representative on the Committee of Alternates and acts on the Secretary's behalf on all nondiscretionary matters involving foreign-trade zones.

(3) Reviews information on applications and other matters before the Foreign-Trade Zones Board for the Secretary of the Army and the Assistant Secretary of the Army (Civil Works). Provides a report with recommendations for action to the Assistant Secretary of the Army on controversial applications or policy matters requiring the discretionary authority of the Secretary.

(4) Provides information and guidance to the District Engineer, through the Division Engineer, on foreign-trade zone activities. Contact with the District Engineer will be made after notification from the Executive Secretary that an application is pending and an examiners committee is being appointed.

FOR THE COMMANDER:

1 Appendix  
APP A - Memo, SA, dtd  
6 Apr 82

  
JAMES W. RAY  
Colonel, Corps of Engineers  
Chief of Staff

APPENDIX A



SECRETARY OF THE ARMY  
WASHINGTON

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30 Jul 82

6 April 1982

MEMORANDUM FOR RESIDENT MEMBER, BOARD OF ENGINEERS  
FOR RIVERS AND HARBORS, U. S. ARMY  
CORPS OF ENGINEERS

SUBJECT: Appointment of the Resident Member of the  
Board of Engineers for Rivers and Harbors  
to the Committee of Alternates of the For-  
eign-Trade Zones Board

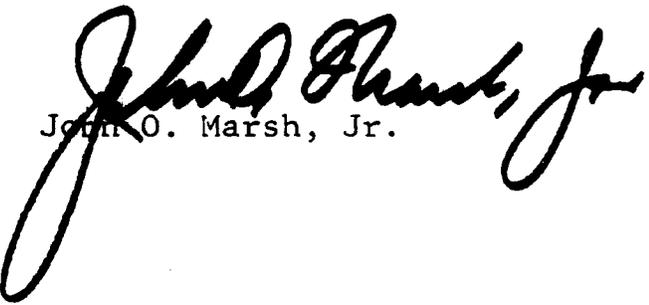
The Foreign Trade Zones Act, 48 Stat. 998, establishes the Secretaries of Commerce, Treasury and Army as coequal members of the Foreign Trade Zones Board. The Board, however, has functioned with the Departments of Commerce and Treasury having the major responsibilities involving matters of policy for establishment and operation of the zones. Department of the Army functions have primarily been associated with providing technical assistance in engineering and construction rather than matters of Army policy.

In an effort to maximize Government efficiency and to better draw on the construction expertise of the Resident Member in connection with Foreign-Trade Zones Board matters, I hereby appoint you and your successors to serve as the Secretary of the Army's representative on the Committee of Alternates of the Foreign-Trade Zones Board and authorize you as Resident Member to act on the Secretary's behalf on all nondiscretionary matters involving Foreign Trade Zones. By this appointment, I relieve the Assistant Secretary of the Army for Civil Works of his former duties in this regard. It is my belief that it is in furtherance of Government purposes to minimize the involvement of the Secretary of the Army or his staff in ministerial matters and to permit the Resident Member to act directly on the Secretary's behalf on subjects particularly within the Resident Member's area of knowledge and expertise, such as technical engineering or construction proposals in connection with Foreign Trade Zones applications.

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Nothing in this document shall be construed as relieving the Assistant Secretary of the Army for Civil Works of any responsibility for discretionary matters involving the Foreign-Trade Zones Board under previous delegations of authority. Controversial Foreign Trade Zones applications, matters involving Department of the Army policy, or an exercise of the discretion of the Secretary of the Army, will continue to require the Secretary's attention, and should be referred to the Assistant Secretary of the Army for Civil Works with a complete report for necessary action. You should coordinate directly with the Deputy Assistant Secretary of the Army for Civil Works in the event you have a question as to the need for my personal involvement in a case.

  
John O. Marsh, Jr.

cc:  
Executive Secretary  
Foreign-Trade Zones Board