

Subzone Application Instruction Sheet ⁽¹⁾

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No zone, subzone, or zone expansion may be granted unless a completed application has been received (19 U.S.C. 81a-81u; 15 CFR Part 400).

The basic requirements for foreign-trade zone applications are found in the regulations of the Foreign-Trade Zones Board (15 CFR Part 400), including Sections 400.24, 400.25 and 400.26. (See also, Section 400.31.) Application guidelines are available on the FTZ Board web site: <http://www.trade.gov/ftz>.

Corporations submitting applications must be qualified to apply for a zone grant of authority under the laws of the state in which the zone is to be located. Usually applicants are state and local agencies or public type corporations. Port authorities and economic development agencies are the most prevalent. Zone projects should be coordinated at the state level, so that they are consistent with state economic development plans.

Zones are intended to provide a special Customs-related service to the business community, giving them greater flexibility in the Customs phase of their international competitiveness. An objective of the zone program is to encourage commercial and industrial operations in the United States that would otherwise have been conducted abroad for Customs reasons, including export activity. Zones should help create employment, not simply divert it from one region of the country to another.

Most zones are part of larger facilities that include warehouse/ distribution and industrial park space. Projects should be consolidated to provide zone procedures at a single or limited number of locations. Zones can be authorized only for sites that are in or near U.S. Customs ports of entry. (See, 19 CFR Part 101, for a list of such ports.) When it is possible for a firm to use zone procedures only at its own plant, designation as an adjunct to a general-purpose zone (subzone) can be considered. Subzones can be approved only when a public benefit resulting in a positive economic effect is demonstrated. These facilities need not be in Customs port of entry areas if the firm involved signs an agreement with the U.S. Customs Service regarding examination of merchandise and automated inventory control procedures.

If an application involves areas located in a state where inventory is subject to personal property taxation, the economic impact section of the application (See, 15 CFR 400.24(d)(4)(v) and 400.25 (a)(3)(x)) should contain a

statement regarding the views of appropriate local officials with respect to the impact of the tax exemption that would result from proposed zone activity.

The Foreign-Trade Zones Board has no authority to finance zone projects. Its approval is in the form of a grant of authority (license) for operating a facility under foreign-trade zone procedures. The application must describe how the zone project is to be financed (Exhibit 3). Capital costs are associated with Customs security requirements, and zones are operated under the day-to-day supervision of the U.S. Customs Service. The local port director of Customs should be contacted as zone plans are being developed.

Economic and financial viability should be important factors to applicants, and they are among the factors considered by the Board. Applications should not be submitted until there is convincing evidence of a need for zone services. Though a zone will normally help attract some types of new business activity, an application cannot be based on mere expectations. Letters of intent from firms that are expected to be the first zone users should be included in the application (Exhibit 4).

Applicants may submit drafts of their applications to the FTZ Staff, which can provide comments and technical assistance in interpreting the Board's regulations.

Foreign-Trade Zones Board
U.S. Department of Commerce
1401 Constitution Avenue, N.W., FCB 4100W
Washington, D.C. 20230
(202) 482-2862

FTZ Staff
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1. These comments are for the general guidance of communities and persons considering zone projects. They are intended to supplement the legal provisions of the Foreign-Trade Zones Act (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board Regulations (15 CFR Part 400), and the Regulations of the U.S. Customs Service on Foreign-Trade Zones (19 CFR Part 146).

Application for Special-Purpose Subzone

These guidelines put the requirements of the FTZ Regulations into a relatively simple structure. A sample completed application on our web site gives an idea of the type of information needed for each item. If you have questions, contact the FTZ Board staff at (202) 482-2862.

To help us review your application as quickly as possible, please indicate the question/item number at the beginning of each response. The FTZ Regulations place the burden of proof on the applicant, so please respond to each item completely based on the information available to you. Note that for industry/market information, you may rely on your expert knowledge of the industry in addition to traditional, published resources.

APPLICATION LETTER including Executive Summary

1. The core of the subzone application is the required letter from the FTZ grantee transmitting the application and its exhibits – namely, the rest of the information outlined in this guideline – to the FTZ Board. The letter from the grantee should identify your company and summarize the subzone sites, proposed FTZ activity, and why approval of that activity would be beneficial for the United States overall. The letter must be currently dated and signed by an authorized officer of the grantee corporation.

ECONOMIC JUSTIFICATION

Company, Sourcing, Market, and Industry Information:

2. Explain in detail why approval of a FTZ manufacturing subzone for your company would be beneficial overall to the United States.
3. Describe problems, challenges or strengths facing your company and the U.S. industry. (For example, have production, employment, and operating profits been falling or rising? Have there been changes in the cost of raw materials? Also address any other relevant factors.)
4. List total employment company-wide and total employment at your proposed subzone.
5. How has your company's and plant's employment changed in the last 5 years?
6. Will FTZ-related savings likely lead to increased, stable, or decreased employment at your proposed subzone? Explain.
7. Briefly describe the specific manufacturing activity which you are seeking to conduct under FTZ procedures. (As explained at the end of these guidelines, you will provide more detailed information relating to your requested FTZ manufacturing authority in a "Products and Components" attachment.)
8. Discuss why your operation cannot be accommodated in your area's public FTZ facilities.
9. Does your company have other plants (in the U.S. or overseas) that conduct the same activity or similar activity? If yes to either, please list the other plants' locations and explain.

10. For the products you want to produce under FTZ procedures, list the percentages (or percent ranges) by value of: U.S. materials = _____%; foreign materials = _____%; and value added at your facility (labor, profit, overhead, etc.) = _____%. (U.S. materials + foreign materials + value added = 100%)
11. Are the components that you purchase from abroad also available from U.S. suppliers (if yes, why are you unable to obtain those components domestically)? Explain.
12. Will FTZ -related savings affect your company's purchasing patterns? Explain.
13. What is the current annual production capacity at the plant for which you are seeking FTZ authority? Are there any planned capacity changes? (Indicate the units of measure used.)
14. What is your company's current share of the U.S. market for the type of products you want to make under FTZ procedures?
15. List your major competitors in the U.S. market and their approximate U.S. market shares.
16. Are your competitors producing in the U.S. or abroad? Explain and give specific examples.
17. What is imports' share of the U.S. market for the type of products you want to make under FTZ procedures?
18. Has imports' share of the U.S. market changed in the past 5-10 years? How? Why?
19. How would approval of your proposed manufacturing under FTZ procedures affect your domestic competitors?
20. Are the purchasing patterns of competing domestic manufacturers similar to your company's?
21. If you are granted authority to manufacture under FTZ procedures, would the other U.S. manufacturers be likely to seek access to zone procedures? Explain.
22. What are the competitive factors in your industry? Any other factors unique to your industry?
23. What percent of your production of the products you want to make under FTZ procedures is sold to export markets?
24. Do you know your approximate share of the world-wide market for the products you want to make under FTZ procedures? If yes, list it.
25. List your major competitors in the world market and their approximate world market shares.
26. Briefly describe your company's background and current situation (including annual sales value or other indicator(s) of company's size and scope of operations).
27. Please list the main internet address(es) for information about your company and product(s).
28. Are you aware of any studies or reports that have been done recently regarding your industry or industry sector? If yes, please list the titles and authors/publishers below – you do not need to submit the studies/reports with the application. Note: The FTZ Staff may later ask for your assistance in obtaining a copy of these publications as part of the Staff's case-related research.

FTZ-Related Savings:

29. What are the total estimated annual FTZ-related savings associated with the proposed subzone activity you are describing in this application?

30. Provide the percentage breakdown for your total estimated FTZ savings into the following categories: Logistical/Paperwork; Inverted Tariff; Exports; Duty Deferral; and Scrap/Waste.

31. Provide any additional explanation or special features of the above savings that may be relevant to the review or implementation of zone procedures (e.g., formulas, Customs rulings, scrap as percentage of imported product).

32. Provide an estimated cost figure for operating your proposed subzone each year. (Components of your annual operating cost could include record keeping/inventory control, fees to the zone grantee, etc.)

33. A small number of states (e.g., Texas, Ohio) assess local taxes on business inventories. The Foreign-Trade Zones Act allows states to exempt merchandise from such taxes in FTZs. Does your state have an inventory tax or "personal property tax" for which collections will be affected by your proposed FTZ manufacturing authority? If yes:

a. Explain and give an estimated amount for projected annual FTZ-related savings:

AND

b. Attach correspondence from the affected parties (e.g., local school board) indicating their views on the impact of your proposed activity.

SITE DESCRIPTION(S)

34. Give each site of your proposed subzone an identifying number and then list the site's address, acreage, existing buildings (including their functions), square footage of enclosed space, existing and planned activities at the site, and any planned expansions.

35. For each site, you must provide in a "Legal Descriptions" attachment the appropriate legal description (with labels tying each description to the relevant site number).

36. Is your proposed subzone "adjacent" to a U.S. Customs and Border Protection port of entry, or have you discussed with CBP an alternative oversight procedure? Explain.

Environmental Impact:

37. For your proposed subzone site(s), indicate local zoning and status of any applications for construction approvals.

38. Are there any land use issues relating to your proposed site(s)? Will the use of FTZ procedures change the physical aspects of the plant or its operation? If yes, explain.

39. Is FTZ status or the use of FTZ procedures a requirement or a precondition for the proposed activity or construction at the plant? If yes, explain.

MAPS

Items required for a "Maps" attachment:

- 40. Provide a local/state map indicating the location of the subzone site(s).
- 41. For each site of your proposed subzone, you must provide a detailed street map.
- 42. For each subzone site, you must provide a detailed drawing of that site showing zone boundaries in red with dimensions.

OPERATION AND FINANCING

- 43. Do you own each of the sites listed above for your proposed subzone? (If no, provide a "Site Ownership" attachment with documentation demonstrating your right to use the sites in question.)
- 44. Describe the physical security measures that you will use for your subzone sites.
- 45. Do you commit to work with Customs & Border Protection, as appropriate, to meet future CBP requirements for its automated systems (e.g., ACS, ACE)?

LEGAL AUTHORITY FOR APPLICATION

- 46. Submit one of the of following two alternatives:
 - a. Provide a reference to an application from the same grantee within the last five years which included copies of: 1) the state's enabling legislation and 2) pertinent sections of the zone grantee's charter or organization papers (with evidence of current standing for grantees that are non-public corporations). Indicate there has been no change in those documents since submission of the earlier application.

OR

- b. In an attachment called "Legal Authority for Application," include: 1) a recently certified copy of the state enabling legislation regarding FTZs and 2) pertinent sections of the zone grantee's charter or organization papers, along with evidence of current standing for grantees that are non-public corporations.
- 47. In the "Legal Authority for Application" attachment, include a recently certified copy of a resolution authorizing the grantee official to sign the application.

PRODUCTS AND COMPONENTS

- 48. Describe in detail the specific manufacturing activity – including the main products and components – which you are seeking to conduct under FTZ procedures.
- 49. Pursuant to the definition of "primary" components below, do you have components/inputs that are subject to antidumping ("AD") or countervailing duty ("CVD") duties? Are any of the components subject to quantitative restrictions (quotas)? Are you

aware of any other trade-related issues affecting any of the components? If yes to any of these questions, explain.

Instructions for "Products and Components" attachment:

In a "Products and Components" attachment, you will list the "scope" of finished products and imported components/inputs that you propose for manufacturing under FTZ procedures. There are two categories of scope that you may include in your application -- the primary scope and an optional secondary scope:

Your primary scope should include: 1) the range of finished products and foreign-status components which your company plans to use in manufacturing under FTZ procedures and 2) finished products and foreign-sourced components that you believe that there is a significant likelihood that your company will need to use for FTZ manufacturing. For each primary finished product, provide an item description, 6-digit HTSUS number, and current U.S. duty rate. For each primary input, provide the same information plus an indication of which finished product(s) the input is used for.

You may also provide information in your "Products and Components" attachment to establish a secondary scope of authority for products and foreign-status components for which your company has no current manufacturing plans but which it may ultimately need to use in manufacturing under FTZ procedures. The intent of allowing a secondary scope is to give companies short-term flexibility to react quickly to new marketplace opportunities. As such, you would be able to use products and components from your secondary scope, but you should notify the FTZ Board once this activity becomes significant. Depending on the circumstances, an application for "expansion of authority" could be needed. In the absence of an expansion application, products and components listed in the secondary scope should not account for a significant amount of your company's FTZ-related savings.

A commitment to self monitor your company's use of the secondary scope by including the following language will facilitate processing of your application as well as reduce the potential need for FTZ Board and CBP monitoring of any approved activity:

"The applicant understands that the finished products and components listed in its secondary scope: 1) are not items for which the company currently has definite plans for manufacturing under FTZ procedures and 2) may not constitute a significant amount of the company's overall FTZ savings (unless the company has submitted an application to the FTZ Board to expand its primary scope to include the products and components at issue)."

For a secondary scope, the applicant should provide the following information for any finished products and components: item description, 4-digit HTSUS number, and current U.S. duty rate.