

Expansion of General-Purpose Zone Application Instruction Sheet ^(U)

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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 Reorganization/Expansion of Existing FTZ

General Information Section

These guidelines are for all reorganization/expansion applications. (Each modified or new site will also require a separate "Site Specific Section (for a Modified/New Site)"). If you have questions, contact the FTZ Staff at (202) 482-2862.

INSTRUCTIONS

General: Please provide your response directly below each question (leave the question - including its identifying number or letter - in place). Your application must have a justification for each modified or new site. The FTZ Regulations place the burden of proof on the applicant.

Submission of Draft Application: We advise all applicants to send us a draft of their application. By using our simplified application guidelines, you enable our staff to more quickly review the application and provide comments. We are happy to receive drafts via e-mail to expedite the feedback process.

Adjacency Requirement: The FTZ Act and Regulations require each zone site to be within or adjacent to a U.S. Customs and Border Protection (CBP) port of entry (as listed and defined in part 101 of the CBP Regulations - 19 CFR '101.3). That requirement can be satisfied if the zone site is: 1) within the limits of a CBP port of entry or 2) within 60 statute miles or within 90 minutes' driving time from the outer limits of the boundaries of a CBP port of entry, as verified by the CBP port director.

Sites versus Parcels: A "site" is comprised of one or more parcels of land that share an identity (for example: parcels that are within a single industrial park or port/airport complex). If parcels do not share an identity, then they should be treated as separate sites.

Site Numbering: Use new numbers for wholly new sites. For example, if your FTZ no longer has a Site 2, do not use number 2 for a new site - use the next number in the sequence of unused numbers. However, modification of an existing site can use the number the site has already been assigned.

Local Tax Exemptions: A small number of states (such as TX, KY, AZ, OH) and Puerto Rico assess taxes on business inventories. The FTZ Act allows states to exempt merchandise in international commerce from such taxes in FTZs. If your state has a tax for which collections will be affected by your FTZ proposal, you must attach to your application: 1) documentation that explains the specific local taxes that will be affected and 2) for each site in your proposal, correspondence from the affected parties (such as a local school board) indicating their views on the impact of your proposed activity.

Format of Final Version of Application: Hard copies of the final version of your application should be submitted in a three-ring binder or stapled (not spiral-bound). Use of a three-ring binder - if the application is too thick to be stapled - greatly facilitates replacement of pages, when necessary.

Number of Copies: The FTZ Regulations require an original and eight copies of the application.

Filing Fees: The FTZ Regulations dictate a \$1,600 filing fee for reorganization/expansion applications. Your check should be made payable to "U.S. Department of Commerce ITA."

APPLICATION LETTER

1. The core of the application is a letter from the grantee that summarizes the application and transmits the full application (these guidelines and attachments) to the FTZ Board. The letter should summarize the authority being requested, the proposed zone sites and facilities, and how the proposed sites would meet a demonstrated need for FTZ services. The letter must be currently dated and signed by an authorized officer of the grantee corporation (see item number 14 under "Legal Authority for the Application" below) and should bear the corporate seal.

STATUS OF ZONE and PROPOSED MODIFICATIONS TO EXISTING SITES

2. For each current FTZ site, provide on a site-by-site basis the information, including whether the site - in part or whole - no longer requires FTZ status. For each site that you are modifying (rather than deleting), also complete the separate "Site Specific Information (for a Modified/New Site)" section of the application guidelines.
 - a. Site number.
 - b. Current acreage.
 - c. Percent of site currently used for activity under FTZ procedures.
 - d. Description of current activity at site (including role of FTZ status) and/or activation plans for site.
 - e. When was the site approved? Does it have a time limit (if yes, explain)?
 - f. Do you wish to delete or modify the site through this request?

GENERAL JUSTIFICATION FOR MODIFIED/NEW SITES (IF PROPOSED)

Only complete this section if you are proposing to modify (rather than delete) existing FTZ sites or proposing to add new sites. Note that this section contains questions that establish a framework - in the site-specific questions (Site Specific Section (for a Modified/New Site), you will apply that framework to each modified or new site.

3. Discuss in detail the need for modified/new sites to provide FTZ services to the community, including specific expressions of interest from proposed zone users. Explain why the current configuration of your zone is unable to meet businesses' needs for FTZ

services. Explain the link between the need for FTZ services at the proposed sites and the level of international trade in the community.

4. Describe in detail the grantee's process for selecting the modified or new sites, including the criteria applied in that process and how those criteria relate to the local economic development plans (Question 6 below asks for more detail on those plans). Indicate the public entities involved in the site-selection process, and their meetings and documents related to the site-selection process.
5. Describe the local economy's strengths and weaknesses, in general, including established and emerging industries and particular challenges.
6. Address how modified/new sites are tied to local/state/regional economic development plans (including military base conversion, enterprise zone, empowerment zone, brownfield re-use).
7. Explain the anticipated economic impact, direct and indirect, of the modified/new zone sites.
8. Describe the marketing plans for your modified/new sites.

TABLE LISTING ENTIRELY NEW SITES (IF PROPOSED)

9. For any new (rather than modified) sites, provide a table with the information below.
 - a. Site Number and Proposed Acreage
 - b. Basic Description of Site (name of industrial park, etc.)
 - c. Street Address for Site

GENERAL INFORMATION FOR MODIFIED/NEW SITES (IF PROPOSED)

These questions request certain general information about modified/new sites you may be proposing. (There is also a "Site Specific Information (for a Modified/New Site)" to complete for each such site.)

CBP Automated Systems Requirements:

10. Do you commit to working with Customs and Border Protection, as appropriate, to meet future CBP automated-systems requirements (such as ACS or ACE)?

Environmental Impact:

11.
 - a. Are there land use issues relating to your modified/new sites? Will the use of FTZ procedures change the physical aspects of the sites? Is FTZ status or the use of FTZ procedures a requirement or a precondition for future activity or construction at the sites? If yes to any of these three questions, also explain your answer.
 - b. Are you aware that FTZ status would not exempt any site or party (like FTZ operators or users) from any federal, state or local environmental requirements?

General Map(s):

12. In a "General Map(s)" attachment, provide one or more maps showing: 1) the modified/new sites in a regional context and 2) the modified/new sites in relation to your existing FTZ sites.

OTHER APPLICATION REQUIREMENTS

Legal Authority for the Application:

13. Submit one of the following two alternatives ("a" or "b"):
- a. In an attachment called "Legal Authority for Application," 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. Indicate there has been no change in those documents since submission of the earlier application.
 - b. In an attachment called "Legal Authority for Application," include: 1) a certified copy of the state enabling legislation regarding FTZs and 2) pertinent sections of the zone grantee's charter or organization papers.

Note: If the application involves one of the small number of grantees that are non-public corporations, it also will need to include evidence of the corporation's current legal standing.

14. In the "Legal Authority for Application" attachment, include a certified copy of a resolution authorizing the grantee official to sign the application letter. The resolution should indicate the nature of the application and specify how the application would affect each of the sites involved.

Site Specific Information (for a Modified/New Site)

This second section of the application is only needed for a modified/new site. This section should be filled out separately for each modified/new site. Attach documents needed for Items N through R directly behind the copy of this section for each site. For instructions, see the "General Information Section".

- A. Indicate the site's distinct identifying number: _____. This number should tie to your table for Question #2 or Question # 9 in the "General Information Section") of this application.
- B. List the site's address, including the jurisdiction in which the site falls (town, city, county):
- C. List the site's proposed acreage _____ and sq. ft. of existing enclosed space _____.
- D. If applicable, explain how the site will incorporate part of an existing permanent or temporary site.

- E. This site is (check one) ____ within or ____ adjacent (see "Instructions" for explanation) to the following CBP port of entry:
- F. Briefly describe how this site met the grantee's site selection criteria (which you described in your answer to Question # 4 the "General Information Section") of this application).
- G. Briefly explain why this site is needed to provide FTZ services to your community:
- H. Indicate the type of site (port, industrial park, warehouse complex), its current zoning, and status of any applications for construction approvals. (Note: Sites with inappropriate zoning - such as agricultural, retail, or residential - should not be included in a FTZ application.)
- I. Briefly describe the transportation infrastructure serving the site, including its ties to the broader regional/national transportation system:
- J. Describe the site's existing and planned buildings (incl. functions), existing and planned activities, whether the site is master planned, and stage of development/timetable for completion of plans:
- K. How many companies currently occupy the site?
- L. Will space at the site be available to multiple businesses at the site under public utility principles (under uniform rates and conditions)? Explain.
- M. Briefly describe the physical security measures that will be used for the proposed site:
- N. Who owns the site? (If you do not own the site, attach documentation showing the property owner's concurrence to include the site in your FTZ proposal.) Attach each of the documents listed below (items O through R). Note that if the legal description for a site encompasses a larger area than that site, your maps for the site must show sufficient detail to enable the FTZ Board and your local CBP port officials to understand the exact boundaries of the proposed site.
- O. The appropriate legal description (with label tying the description to the site number).
- P. A detailed street map with the FTZ site's proposed boundaries in red.
- Q. A detailed site plan (survey/drawing) showing existing structures and site boundaries in red with dimensions.
- R. Letters of interest from firms considered prime prospects for use of this particular site.