FOREIGN TRADE ZONES
U.S. Customs and Border Protection
Procedures and Requirements

WHAT IS A FOREIGN-TRADE ZONE?

A foreign-trade zone (zone) is a designated site licensed by the Foreign-Trade Zones Board (Board) at which designated procedures may be used prior to formal entry occurring. Duty-free treatment is accorded items that are re-exported and duty payment is deferred on items sold in the U.S. market, thus offsetting advantages available to overseas producers who compete with producers located in the United States. Subzones are special-purpose zones, usually at manufacturing plants. A site which has been granted zone status may not be used for zone activity until separately approved for activation by local U.S. Customs and Border Protection (CBP) officials. The zone remains under the supervision of CBP. Zone sites and facilities remain within the jurisdiction of local, state or federal governments or agencies.

WHY WERE FOREIGN-TRADE ZONES ESTABLISHED?

- To encourage and expedite United States participation in international trade. Foreign goods may be admitted to a zone without being subject to duties or certain excise taxes.

- To defer payment of duties until goods are entered into the commerce of the United States.

Under zone procedures, the usual entry procedures and payment of duties are not required on foreign merchandise until an entry is made on the merchandise for domestic consumption. Domestic goods admitted in zone-restricted status, (for storage, destruction or export) are considered exported when admitted to the zone for other government agency requirements, excise tax and drawback purposes.

Authorization to operate as a zone is granted by the Board to qualified public or private entities (port authorities, city/county economic developers). In a general-purpose zone, the grantee usually has an operator who operates the zone. Operators can sublet to tenants, called users. In a subzone environment, the user and operator are usually the same.

Authority for establishing zones is granted by the Board under the Foreign-Trade Zone Act of 1934, as amended (19 USC 81a-81u). The Boards regulations are published in 15 CFR Part 400. CBP regulations governing the zone operations are published in 19 CFR Part 146. The Foreign-Trade Zones Manual may be viewed at **http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/cargo_control/ftz/ftzmanual.ctt/FTZManual2.pdf.**

ADVANTAGES OF USING FOREIGN-TRADE ZONES

The financial benefits are:

Duty Deferral

Duty and federal excise tax are paid only when merchandise is transferred from a zone to the Customs territory of the U.S. or transferred to a NAFTA country (Canada and Mexico).

Duty Elimination

Goods may be imported into, and then exported from, a zone without the payment of duty and excise taxes except to certain countries (NAFTA), in which case any applicable duty and excise tax will be levied. Goods may also be imported into, and subsequently destroyed in a zone without the payment of duty and excise taxes.

Inverted Tariff Relief

Inverted tariff relief occurs when imported parts are dutiable at higher rates than the finished product into which they are incorporated. For example, the duty rate on an imported muffler for an automobile is 4.5 percent if imported directly into the U. S, commerce. However, if that muffler is brought into a zone and incorporated into an assembled automobile, the duty rate on the finished automobile, including the muffler, is 2.5 percent.

Ad Valorem Tax Exemption

Merchandise imported from outside the United States and held in a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and merchandise produced in the United States and held in a zone for exportation, either in its original form or altered by any of the above methods, is exempt from State and local ad valorem taxes.

Other benefits:

No Time Constraints on Storage

Merchandise may remain in a zone indefinitely, whether or not it's subject to duty.

Satisfy Exportation Requirements

Merchandise entered into the U.S. on an entry for warehousing, temporary importation under bond, or for transportation and exportation may be transferred to a zone from the Customs territory to satisfy a legal requirement to export the merchandise. For instance, merchandise may be taken into a zone in order to satisfy an exportation requirement of the Tariff Act of 1930, or an exportation requirement of any other Federal law insofar as the agency charged with its enforcement deems it advisable. Exportation may also fulfill requirements of certain state laws. Items admitted to a zone to satisfy exportation requirements must be admitted in zone restricted status – meaning they are only for direct export, immediate export, and transportation and export.

Security and Insurance Costs
Customs security requirements and federal criminal sanctions are deterrents against theft. This may result in lower insurance costs and fewer incidents of loss for cargo imported into a zone.

ROLE OF THE FOREIGN-TRADE ZONE BOARD STAFF

- Review applications to establish or alter the boundaries of zones;
- Recommend approval of any zone or subzone application, which is in the public interest.
- Regulate the administration of zones;
- Inspect and examine the premises, operations or accounts of the zone grantees and operators.
- Revoke the grant of any zone for willful and repeated violations of the Foreign-Trade Zone Act after due notice and a hearing.

The Executive Secretary is the chief operating official of the Board.

ROLE OF CUSTOMS AND BORDER PROTECTION

- Regulatory control over merchandise moving to or from a zone.
- Ensure that all revenue is properly collected.
- Ensure adherence to the laws and regulations governing the merchandise.
- Ensure that merchandise has not been overtly or clandestinely removed from the zone without proper permits.
- The Office of Regulations and Rulings, Office of Trade, CBP Headquarters, provides legal interpretations of the applicable status, regulations and procedures.

ROLE OF THE PORT DIRECTOR

- Oversees the zone as the Board representative.
- Responsible for the supervision of the activities, including admission, operation and transfer of merchandise.
- Reviews port policy and comments on applications.

- Approves the activation of the zone before any merchandise is admitted.
- Approves discretionary requirements.
- Requires an adequate FTZ Operator's Bond.
- Assesses penalties and liquidated damages.
- Initiates suspension of a zone, zone site or zone activity, if necessary.
- Recommends to the Board that the privilege of establishing, operating and maintaining a zone or subzone be revoked, if necessary.

FREQUENTLY ASKED QUESTIONS

What are the types of Foreign-Trade Zones?

There are two types of zones: General Purpose Zones and Subzones. General purpose zones are usually located in an industrial park, on raw land or in port complexes whose facilities are available for use by the general public.

Subzones are sites sponsored by a general purpose zone grantee on behalf of an individual firm or firms. Subzones are single-purpose sites for operations that cannot be feasibly moved to, or accommodated in, a general purpose zone; e.g., oil refineries, automobile manufacturers.

What may be placed in an FTZ?

Any foreign or domestic merchandise not prohibited by law, whether dutiable or not, may be admitted to a zone.

Conditionally admissible merchandise is merchandise subject to permits or licenses, or that must be reconditioned to bring it into compliance with the laws administered by various Federal agencies before entering the United States. Because zones are considered outside the Customs territory, requirements that would otherwise apply to imported merchandise are suspended as long as the merchandise remains in the zone. An example of conditionally admissible merchandise is a substance subject to the Toxic Substances Control Act (15 USC 2601 et seq.) which has not received approval by the Environmental Protection Agency for use in the United States. However, merchandise that is illegal, i.e. child pornography, items made by slave labor, may not be imported under any circumstances.

Some Federal agencies regulate storage and handling in the United States of certain types of merchandise, such as explosives. Depending on the nature of the requirements and the particular characteristics of the zone, such merchandise may be excluded. Most agencies that license importers or issue importation permits may block admission of merchandise that is not licensed or permitted into a zone.

The Board may exclude from a zone any merchandise that in its judgement is detrimental to the public interest, health, or safety. The Board ensures that zones are not used to violate other trade laws of the United States.

What operations may be conducted in an FTZ?

Foreign and domestic merchandise permitted in a zone may be stored, sold, exhibited, broken-up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, otherwise manipulated, destroyed, or manufactured. On the other hand, machinery and equipment that is imported for use within a zone is not exempt from the payment of duty. Such equipment and supplies may include, but are not limited to: office furniture, machines, and equipment; construction machinery and materials; manufacturing machinery and equipment, tooling, and supplies; packaging machinery and equipment; food to be eaten in the zone and water and fuel that do not become part of a zone product.

What may not be done in an FTZ?

In specific cases, the Board may prohibit or restrict any activity in a zone in order to protect the public interest, health, or safety. All manufacturing is reviewed in terms of government policy and its net economic effect.

Many products subject to an internal revenue tax may not be manufactured in a zone. These products include alcoholic beverages, products containing alcoholic beverages (except domestic denatured distilled spirits), perfumes containing alcohol, tobacco products, firearms and sugar. In addition, the manufacture of clocks and watch movements is not permitted in a zone.

Retail trade is prohibited in zones, unless conducted under a permit issued by the zone grantee and approved by the Board. Retail trade is then allowed only for the sale of domestic goods, or goods brought from the Customs territory following a regular Customs entry on which any applicable duties and/or taxes have been paid.

How is merchandise admitted into a zone?

Merchandise does not achieve zone status until a permit is given by the port director for its admission (except in the case of domestic status merchandise for which no permit is required), and the zone operator signs for receipt of the merchandise into the zone.

Customs and Border Protection Form 214 Application

Merchandise may be admitted into a zone after application has been made on a Customs Form 214 (CBPF214), "Application for Foreign Trade-Zone Admission and/or Status Designation," or its electronic equivalent, and a permit is issued by the port director. The application for admission is submitted to the port director, including a statistical copy on CBPF 214A to be transmitted to the Bureau of Census, unless the applicant has made arrangements for the direct transmittal of statistical information to that agency. The form will be signed by the zone operator, unless a separate individual or blanket approval has been given.

Application for admission may be made only by the person with the right to make entry. Right to make entry will be determined according to the provisions of Section 484(a) (19USC 1484(a)) Tariff Act, Customs Directive 099 3530-002, and other pertinent Service-wide instructions. However, a Customs broker or zone operator may prepare and/or file the application on behalf of the person with the right to make entry, if a proper power of attorney is on file.

The CBPF214 will be presented to the location designated by the port director within a port of entry. CBP will review the application and supporting documentation for completeness and to determine whether the application may be approved without a physical examination of the merchandise. CBP approves permits of admission for most low-risk shipments without examination.

CBP may examine merchandise to be admitted to a zone to:

- Determine if the goods are admissible to the zone.

- Determine the true liability of the zone operator for merchandise received in a zone under its bond.

- Reduce the need for further examination of the merchandise if it is later transferred to Customs territory, in the same condition, for consumption or into a warehouse.

- Ensure full compliance with all applicable laws and regulations.

After document review and physical examination, as appropriate under the above provisions, the port director shall issue a permit for the admission of merchandise to a zone.

Direct Delivery

Direct delivery allows for the delivery of merchandise into a zone without prior application and approval on a CBPF 214. The operator, meeting all the requirements outlined below, shall file a written application with the appropriate port director at least 30 days before the special procedure is to become effective. The application will describe the merchandise to be handled or processed and the kind of operation which it will undergo in the zone (19 CFR 146.39).

Criteria to be met for direct delivery approval:

- The merchandise is not restricted or of a type which requires CBP examination or documentation review before or upon its arrival at the zone, (example, quota/visa merchandise).

- The merchandise to be admitted to the zone, and the operations to be conducted in the zone, are known well in advance, are predictable and stable over the long term, and are relatively fixed in variety by the nature of the business conducted at the site.

- The operator is the owner or purchaser of the goods.

<u>What documents are needed for admission?</u>
The following documents must accompany the CBPF 214:

- Commercial Invoice - The applicant shall submit two copies of an examination invoice meeting the requirements of Subpart F, Part 141 CR, for any merchandise, other than domestic status merchandise for which no permit is required, to be admitted into a zone. The notation on the invoice of tariff classification and value required by Section 141.90 CR need not be made, unless the merchandise is to be admitted in privileged foreign status.

- Evidence of Right to Make Entry - The applicant for admission shall submit a document similar to that which would be required as evidence of the right to make entry for merchandise pursuant to Section 141.11 or 141.12 CR and CD 099 3530-002.

- Release Order – CBP officers (CBPOs) shall not authorize any merchandise for delivery to a zone until a release order has been executed by the carrier which brought the merchandise to the port, unless the merchandise is released back to that same carrier for delivery to the zone.

- Application to Unlade - For merchandise unladen in the zone directly from the importing carrier, the application on CBPF 214 shall be supported by an application to unlade on CBPF 3171.

- Other Documentation - The port director may require additional information or documentation as needed to examine the merchandise under CBP selective processing criteria, or to determine whether the merchandise is admissible to the zone. This includes documentation such as export certificates for certain steel products and machine tools under voluntary restraint and information needed for selectivity processing such as importers' and manufacturers' numbers.

<u>How is merchandise removed from a zone for U.S. consumption?</u>
Normal entry, classification and appraisement procedures covering foreign merchandise entering the U.S. commerce are used.

<u>What are the four types of zone status?</u>
Privileged Foreign Status (PF): Prior to any manipulation or manufacturing in the zone that would change the tariff classification, the port director will, if requested by the importer, give imported merchandise privileged foreign status. The merchandise is classified and appraised and duties and taxes are determined, but not collected, as of the

date the application is filed, (First Proviso, Sec.3 (a) FTZA). Under this provision, the importer chooses to have the merchandise classified, for tariff purposes, as what it is at the time privilege is granted, rather than what it becomes at a later date.

Zone-Restricted (ZR) Status is given to merchandise brought into to a zone from the Customs Territory for the purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors) or storage. The merchandise is considered exported and cannot be returned to the Customs territory for consumption unless the Board rules specifically that its return is in the public interest. Zone-restricted status merchandise may not be manipulated, manufactured, processed or assembled in a zone.

Nonprivileged Foreign (NPF) Status is a residual category for foreign merchandise that does not have privileged or ZR status. Articles in NPF status are classified and appraised in their condition at the time of transfer to the Customs territory and NAFTA countries.

Domestic Status is available for merchandise that is:

- Wholly grown, produced or manufactured in the U.S. on which all revenue taxes, if applicable, have been paid.

- Previously imported merchandise on which all duties and internal revenue taxes have been paid.

- Merchandise that was previously admitted into the U.S. free of duty.

Articles of Mixed Status: Since manipulation and manufacturing may be permitted in a zone, a shipment of articles transferred to the Customs territory may be made up of merchandise that is privileged and nonprivileged, whether foreign and/or domestic status. The articles are appraised according to that status of the merchandise of which they are composed, or from which derived, as explained above. Merchandise in PF status is classified in its condition at the time of that privilege was granted. PF status merchandise has a fixed classification rate previously established at the time of request.

Where is additional information available?

The Executive Secretary of the Board is located in the U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482-2862. The website address is **http://ia.ita.doc.gov/ftzpage/info/ftzstart.html.**

For answers to specific questions, contact the local CBP port director where the zone is located. Additional information can be found on the CBP website at www.cbp.gov.

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