

## **IMPORTANT INFORMATION ABOUT ZONE SCHEDULES**

This zone schedule is being made available pursuant to 15 CFR 400.44(e), which states: “The Board shall make copies of zone schedules available on its Web site.”

Availability of this zone schedule on the FTZ Board’s website does not imply that the FTZ Board has approved any rate/charge, policy or other content of this zone schedule. In particular, while the FTZ Board staff intends to conduct spot checks over time, zone schedules are not reviewed for compliance with the public utility requirement (19 U.S.C. 81n, 15 CFR 400.42) prior to making the zone schedules available via the Board’s website.

Pursuant to 15 CFR 400.44(b)(4), a grantee may not assess any specific rate or charge for which the amount – or formula for calculating the amount – does not appear in the zone schedule that the grantee has submitted to the FTZ Board.

Complaints about a grantee’s compliance with statutory and regulatory requirements related to public utility and uniform treatment – including rate or charge amounts/formulas, a grantee assessing a rate or charge amount/formula that does not appear in its zone schedule, and a grantee not affording uniform treatment under like conditions – may be presented to the FTZ Board under 15 CFR 400.45 (which also allows for complaints to be made on a confidential basis, if necessary).

Questions or concerns may be addressed to the FTZ Board staff at (202) 482-2862 or [ftz@trade.gov](mailto:ftz@trade.gov).



## **Zone Schedule Cochise County Foreign-Trade Zone 139**

750 E. Bartow Drive, Suite 16  
Sierra Vista, AZ 85635  
[www.svedf.org](http://www.svedf.org) | 520-458-6948

Effective: May 28, 2014

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## **Introduction, Overview, Rules, Policies and Regulations Introduction**

The Grantee of Foreign-Trade Zone No. 139 recognizes that the Foreign-Trade Zone program is an economic development tool whose value is to help mitigate foreign competition's advantages and to employ more Americans.

The Grantee is committed to maintaining Foreign-Trade Zone No. 139 as a public utility, available to any organization which exhibits a strong business case for foreign-trade zone activity and is committed to becoming an activated site.

Determination of support for a proposed Foreign-Trade Zone site will be made on the basis of:

(1) The site being within 60 miles or 90 minutes driving time from the outer limits of the Customs District as identified in zone's ASF Service Area and (2) A need for Foreign-Trade Zone services is demonstrated through: (a) the commitment of an incoming or existing business to distribution and/or production through Foreign-Trade Zone operations, (b) the consent of the property owner to the Foreign-Trade Zone designation of the site, and (c) the property owner and operator complete property and/or operating agreements with the Grantee. Foreign-Trade Zones, located in or near customs ports of entry, are secure areas under supervision of U.S. Customs and Border Protection (CBP) that are considered outside the customs territory of the United States for the purposes of duty payment.

## **Overview & Authority**

The Sierra Vista Economic Development Foundation holds the Grant of Authority for Foreign-Trade Zone No. 139, which now serves a large portion of Cochise County in Southeastern Arizona. This zone was originally established on March 13, 1987 as a 4.3 acre parcel of land and was reorganized under the Alternate Site Framework through the Foreign-Trade Zone Board on May 23, 2013 to encompass the large area it now services.

## **Zone Regulations, Rules and Policies**

The rules, regulation and rates of this Zone Schedule shall apply to subzones, magnet sites, usage-driven sites and all other involved parties within FTZ No. 139. The effective date of this schedule is set forth on the cover page.

The Grantee shall, in its sole discretion, interpret the rates, regulations or services of this schedule and determine the applicability of any of its provisions. The Grantee reserves the right to waive or prorate any fee, if it is for the greater prosperity of the zone.

Activation Operator agrees to seek and obtain approval of activation of the Site pursuant to U.S. Customs and Border Protection Regulations at 19 CFR Part 14, no later than one (1) year after the execution of the operator agreement, and prior to initiating any foreign-trade zone-related operations.

Operator shall give the FTZ No. 139 written notice prior to submitting the application for activation. The operator shall also furnish FTZ No. 139 with a copy of Customs' letter or notice activating the site.

**Annual Reports** Operator agrees to use the Online FTZ Information System ("OFIS"), as required by the FTZ Board, for submitting annual report data. The data in the annual report should be for the previous calendar year ending December 31st. The report must be submitted to the Grantee by March 1.

**Application** In accordance with the Foreign-Trade Zones Board Regulations at 15 CFR Part 400, the Grantee must make application to the Foreign-Trade Zones Board for any and all requests to establish or modify a zone. The Grantee must also sponsor applications for production notifications.

**Fees Assessed in Section 2** do not include actual preparation of Applications, Activations, Modifications or Annual Reports.

**Grantee Liability** The grant of authority, per se, shall not be construed to make the zone Grantee liable for violations by zone participants. The role of the zone Grantee under the FTZ Act and the Board's regulations is to provide general management of the zone and to ensure that the reasonable needs of the business community are served.

**Landowner Agreements** Before an application for site designation is sent to the Foreign-Trade Zones Board, landowners will be required to send a letter to the Grantee that states that the applicant is authorized to establish a zone on the property.

**Location of Zones** Zone sites are to be located within 60 statute miles or 90 minutes' driving time, as determined or concurred upon by CBP. Non- ASF subzones located outside the 60 miles/90 minutes driving time from the outer limits of the CBP port of entry may alternatively qualify to be considered adjacent if the applicant works with the CBP Port Director to ensure that proper oversight measures are in place.

**Major Boundary Modification** Major Boundary Modifications, that is those that require FTZ Board approval, shall be assessed new Application, Activation and Annual fees.

**Minor Boundary Modifications** Minor Boundary Modifications, that is those that can be administratively approved by the FTZ staff, shall be assessed rates as shown in Section 2.

**Operator Agreements** Before site activation with U.S. Customs and Border Protection, the Operator will be required to sign a Zone Site Operator Agreement. By signing this agreement, the operator accepts and assumes all and complete responsibility for, the operation, management, and maintenance of the Site.

**Prohibited Uses** 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.

**Public Utility** Each zone shall be operated as a public utility, and all rates and charges for all services or privileges within the zone shall be fair and reasonable. A rate or charge may be imposed on zone participants to recover costs incurred by or on behalf of the Grantee for the performance of the Grantee function. Rates or charges may not be tied to the level of benefits derived by zone participants.

**Retail Trade** Retail trade is prohibited in activated areas of zones, except that (1) sales or other commercial activity involving domestic, duty-paid, and duty-free goods may be conducted within an activated area of a zone under a permit issued by the zone Grantee and approved by the Board, and (2) no permits shall be necessary for sales involving domestic, duty-paid or duty-free food and non-alcoholic beverage products sold within the zone or subzone for consumption on premises by individuals working therein.

**Right of Entry** Operator shall allow authorized representatives of the Foreign-Trade Zones Board, U.S. Customs and Border Protection, authorized United States government officials, Sierra Vista Economic Development Foundation staff, and any authorized representative of FTZ No. 139 to enter the site at any time during Operator's normal hours of operation.

**Uniform Treatment** A Grantee shall afford to all who may apply, to make use of or participate in the zone uniform treatment, under like conditions.

**Zone Restricted Merchandise** Merchandise, the importation of which is prohibited by law on grounds of public policy or morals, or any merchandise which is excluded from a zone by order of the Foreign-Trade Zones Board. Also, books urging treason or insurrection against the U.S. and obscene pictures. Also, certain operations involving the following merchandise are prohibited in zones: tobacco, cigars, cigarettes and cigarette papers and tubes, firearms, distilled spirits, alcohol, wine and beer, sugar, watch movements.

**Zone Schedule** No element of a zone schedule, including any amendment to the zone schedule, may be considered to be in effect until it is submitted to the FTZ Board Executive Secretary. A complete copy of the zone schedule shall be freely available for public inspection at the offices of the zone Grantee and any operator offering FTZ services to the user community. The Board shall make copies of zone schedules available on its Web site.

## Rates/Charges/Fees Assessed for Foreign-Trade Zone No. 139

All fees are non-refundable and are to be paid prior to the Grantee's sponsorship or submission of request. The Operator/User is responsible for obtaining and preparing all required documents associated with said request.

### Usage Driven Site (defined below)

- A. Application for Usage Driven Site (ASF Minor Boundary Modification) .....\$4,000**  
Fee covers the cost associated with the Grantee's review of the User's prepared application, obtaining the necessary approvals and resolutions for the zone, negotiation of the User's Operating Agreement and the support required for the application process. The fee does not cover the development of the application itself.
- B. Application for Production Authority within Usage Driven Site .....\$2,000**  
Fee covers the cost associated with the Grantee's review of the prepared application (fee does not cover the development of the application).
- C. Grantee Activation Concurrence .....\$2,000**  
Fee covers the Grantee expenses for the preparation and processing of the concurrence letter to US. Customs Service, and the necessary support required in the activation process.

### Magnet Site (defined below)

- A. Application for Magnet Site or associated ASF Minor Boundary Modification .....\$5,000**  
Fee covers the cost associated with the Grantee's review of the prepared application (fee does not cover the development of the application).
- B. Application for Production Authority per Operator/User within Magnet Site .....\$2,000**  
Fee covers the cost associated with the Grantee's review of the prepared application (fee does not cover the development of the application).
- C. Grantee Activation Concurrence .....\$2,000**  
Fee covers the Grantee expenses for the preparation and processing of the concurrence letter to U.S. Customs Service, and the necessary support required in the activation process.

### Subzone Site

- A. Application for Subzone Site under the Traditional Site Framework or associated Major Boundary Modification .....\$10,000**  
Fee covers the cost associated with the Grantee's review of the User's prepared application, obtaining the necessary approvals and resolutions for the zone, negotiation of the User's Operating Agreement and the support required for the application process. The fee does not cover the development of the application itself.

**B. Application for Subzone Site under the Alternative Site Framework or associated Minor Boundary Modification Framework .....\$5,000**

Fee covers the cost associated with the Grantee's review of the User's prepared application, obtaining the necessary approvals and resolutions for the zone, negotiation of the User's Operating Agreement and the support required for the application process. The fee does not cover the development of the application itself.

**C. Application for Manufacturing/Production Authority within Subzone .....\$2,000**

Fee covers the cost associated with the Grantee's review of the prepared application (fee does not cover the development of the application).

**D. Grantee Activation Concurrence .....\$2,000**

Fee covers the Grantee expenses for the preparation and processing of the concurrence letter to US. Customs Service, and the necessary support required in the activation process.

**Annual Fees**

**A. Activated Usage Driven Site User, Magnet Site User, or Subzone User ..... \$8,000**

**B. Non-activated Usage Driven, Magnet Site or Subzone User ..... \$4,000**

**C. Non-Activated Magnet Site Property Owner ..... \$1,000**

The Grantee is legally required to annually provide to the Foreign-Trade Zones Board an Annual Report within sixty (90) days after the close of the federal government calendar year (which runs January 1 through December 31). In the event that the Grantee does not file the Foreign-Trade Zones Board Annual report in the prescribed time frame, the Grantee may be subject to a fine for the late filing, or the incomplete filing of their annual report.

Every activated operator is required to provide to the Grantee an annual report of foreign-trade zone activity in the format required by the Foreign-Trade Zones Board, no later than March 1 of each year, in order to enable the Grantee to fulfill their legal obligations to the Foreign-Trade Zones Board.

An additional fee of \$100 per calendar day will be invoiced if the data is not provided by the March 1st deadline. In addition, should the Grantee be fined for the late or incomplete filing of the Foreign-Trade Zone Annual report due to the un-timeliness of data received from an operator, those fines will be invoiced in addition to the late fees.

Payment of late fees and/or accommodating penalties is expected within thirty (30) days of invoice date. Failure of payment may result in the suspension by the Grantee of foreign-trade zone activity for the operator.



**3. Information on a Public Operator**

Not used.

**4. Rates/Charges Assessed by Public Operator**

Not used.

## **Appendix A**

### **Definitions**

**Act** means the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u).

**Activation Fee** covers Grantee expenses for providing the Grantee Concurrence Letter to Customs, and any necessary Grantee support required in the Customs Activation process.

**Activation Limit** is the size of the physical area of a particular zone or subzone authorized by the Board to be simultaneously in activated status with CBP pursuant to 19 CFR 146.6. The activation limit for a particular zone/subzone is a figure explicitly specified by the Board in authorizing the zone (commonly 2,000 acres) or subzone or, in the absence of a specified figure, the total of the sizes of the approved sites of the zone/subzone.

**Adjacency** According to Section 400.21, zone sites must be within 60 miles or 90 minutes driving time of a U.S. Customs and Border Protection Port of Entry. Non- ASF subzones located outside the 60 miles/90 minutes driving time from the outer limits of the CBP port of entry may alternatively qualify to be considered adjacent if the applicant works with the CBP Port Director to ensure that proper oversight measures are in place.

**Alternative Site Framework (ASF)** An optional approach to designation and management of zone sites allowing greater flexibility and responsiveness to serve single-operator/user locations. The ASF was adopted by the Board as a matter of practice in December 2008 (74 FR 1170, January 12, 2009; correction 74 FR 3987, January 22, 2009) and modified by the Board in November 2010 (75 FR 71069, November 22, 2010).

**Annual Fee** covers Grantee expenses for oversight of the Subzone project and submission of the Annual Report to the Board.

**Annual Reports** Each operator's report to its zone's grantee is due by the deadline set by the grantee, March 1 (with the grantee then submitting its report to the FTZ Board by March 31). The FTZ Zone Site Operator must submit to the Grantee an annual report for the calendar year ending December 31st containing data required by the Board and Customs. All such statements shall be signed by appropriate officials, certifying the accuracy of the reports. All reports will need to be submitted via the Online FTZ Information System (OFIS). Operators can indicate if their data are considered "business proprietary," in which case any public reports generated based on that data will only indicate ranges into which the data fall.

**Application Fee** covers Grantee expenses for obtaining the necessary approvals and resolutions for the zone, submission of the zone Application to the Foreign-Trade Zones Board, preparation and processing of the Operations Agreement and any necessary support required in the Application process.

**Board** means the Foreign-Trade Zones Board, which consists of the Secretary of the Department of Commerce (chairman) and the Secretary of the Treasury, or their designated alternates.

**Board Order** is a type of document that indicates a final decision of the Board. Board Orders are generally published in the Federal Register after issuance.

**CBP** means U.S. Customs and Border Protection.

**CPB Regulations** Foreign-Trade Zone No. 139 is subject to regulations of the U.S. Customs and Board Protection, as defined in 19 CFR Part 146.

**Deactivation** A previously activated usage-driven or subzone site which no longer has local CBP authorization for activity under FTZ procedures.

**Deleted** A site or portion of a site that once held zone status, but has been removed from the zone through an administrative minor modification by the FTZ Board staff or an FTZ Board application process.

**Domestic Status** Used synonymously with Domestic origin/duty paid. Domestic status is the customs status (19 CFR 146.43) for domestic origin and duty paid foreign origin zone merchandise.

**Entry for Consumption** The term that describes the general customs process of filing the appropriate CBP documents (including duty evaluation) that allows merchandise to be brought into the commerce of the U.S. (19 CFR 141). With respect to foreign-trade zones, this process occurs when merchandise is shipped from the zone into U.S. commerce.

**Executive Secretary** is the Executive Secretary of the Foreign-Trade Zones Board.

**Exports** The category of merchandise that is forwarded from zone sites to destinations in foreign countries.

**Foreign-Trade Zone (FTZ or Zone)** includes one or more restricted-access sites, including subzones, in or adjacent (as defined by Sec. 400.11(b)(2)) to a CBP port of entry, operated as a public utility (within the meaning of Sec. 400.42) under the sponsorship of a zone Grantee authorized by the Board, with zone operations under the supervision of CBP.

**Foreign Status** Describes zone merchandise admitted to a zone site under CBP supervision that is normally of foreign origin. Such merchandise is admitted to zone sites without being subject to formal customs entry procedures and payment of duties, unless and until the foreign merchandise enters customs territory for domestic consumption. Foreign status merchandise is further categorized by CBP as either Non-Privileged Foreign or Privileged Foreign.

**Foreign-Trade Zones Board** Consists of the Secretary of Commerce (chairman) and the Secretary of Treasury, or their designated alternates.

**Foreign Trade Zone Board Regulations** Foreign-Trade Zone No. 139 is subject to regulations of the Foreign-Trade Zone Board, as defined in 15 CFR Part 400.

**Forwarded** The category of merchandise that is shipped from zone sites after release by CBP. This category includes merchandise that is shipped to destinations in the U.S. market as well as merchandise that is exported--that is, forwarded to markets in foreign countries.

**Grant of Authority** is a document issued by the Board that authorizes a zone Grantee to establish, operate and maintain a zone, subject to limitations and conditions specified in this part and in 19 CFR Part 146. The authority to establish a zone includes the responsibility to manage it.

**Inactive** A usage-driven, magnet or subzone site that has been approved by the FTZ Board, but is not activated with CBP. No activity under FTZ procedures is occurring at an inactive site.

**Lapse Provision or Sunset Provision** A grant of authority for a zone or a subzone shall lapse unless the zone project, or subzone facility, is activated, pursuant to 19 CFR Part 146, and in operation not later than five years from the date of the Board order.

**Magnet Site** means a site intended to serve or attract multiple operators or users under the ASF.

**Merchandise Received** Involves merchandise received into activated FTZ space under FTZ procedures by foreign trade zones and subzones. It includes foreign status merchandise and domestic status merchandise.

**Modification** A major boundary modification is a proposed change to a zone that requires action by the FTZ Board; a minor boundary modification is a proposed change to a zone that may be authorized by the Executive Secretary.

**Non Privileged Status** Non-Privileged Foreign (NPF) Status - One of the customs categories of foreign status merchandise (See 19 CFR 146.42). Such merchandise is evaluated based on its condition at the time it is shipped from the zone to the U.S. market and entered for consumption by CBP.

**Operator** A corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone Grantee (or third party on behalf of the Grantee) with the concurrence of the Port Director of CBP.

**Person** includes any individual, corporation, or entity.

**Port of Entry** means a port of entry in the United States, as defined by part 101 of the customs regulations (19 CFR part 101), or a user fee airport authorized under 19 U.S.C. 58b and listed in part 122 of the customs regulations (19 CFR part 122).

**Privileged Foreign (PF) Status** One of the customs categories of foreign status merchandise (See 19 CFR 146.41). Such merchandise maintains its status based on its condition when it was admitted to the zone. Thus, when the merchandise is shipped from the zone to the U.S. market and entered for consumption by CBP, it is evaluated based on the time-of-admission condition even though it may have undergone a transformation in the zone.

**Private Corporation** means any corporation, other than a public corporation, which is organized for the purpose of establishing, operating and maintaining a zone and which is chartered for this purpose under a law of the state in which the zone is located.

**Production or Processing**, as used in this part, means activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use, or activity involving a change in the condition of the article which results in a change in the customs classification of the article or in its eligibility for entry for consumption.

**Production or Processing Fee** The fee will cover the Grantee expenses for processing the Production Notification, submission of the Request to the Board, public notice and base support services required in the approval process.

**Public Corporation** means a state, a political subdivision (including a municipality) or public agency thereof, or a corporate municipal instrumentality of one or more states.

**Service Area** means the jurisdiction(s) within which a Grantee proposes to be able to designate sites via minor boundary modifications under the ASF.

**State** includes any state of the United States, the District of Columbia, and Puerto Rico.

**Subzone Site** means a site (or group of sites) established for a specific use.

**Terminated** If a general purpose zone or subzone is no longer needed, the Grantee can request that the FTZ Board remove zone/subzone designation. Upon such action by the FTZ Board, the zone or subzone is then considered terminated.

**Traditional Site Framework (TSF)** This is the traditional format, used previous to ASF, to have an area designated a zone site. The Grantee's letter submitting the application should indicate whether the proposed subzone would be subject to the zone's approved activation limit (which would enable a 30-45 day processing time instead of 120 days). When an application has been filed, the FTZ staff publishes a notice in the Federal Register opening a public comment period. The applicant also must publish notice in a local newspaper describing the proposal. The TSF application fee to the FTZ Board for subzones not involving production activity or involving production activity with less than 3 products is \$4,000. The application fee to the FTZ Board for TSF subzones involving production activity with 3 or more products is \$6,500.

**User** A party using a zone under agreement with a zone operator.

**Usage-driven Site** means a site tied to a single operator or user under the ASF.

**Zone** means a foreign-trade zone established under the provisions of the Act and these regulations. Where used in this part, the term also includes subzones, unless the context indicates otherwise.

**Zone Grantee** is the corporate recipient of a grant of authority for a zone. Where used in this part, the term "Grantee" means "Zone Grantee" unless otherwise indicated.

**Zone Operator** is a person that operates within a zone or subzone under the terms of an agreement with the zone Grantee (or third party on behalf of the Grantee), with the concurrence of CBP.

**Zone Restricted Status** Merchandise in this status is to be exported or destroyed. Zone-restricted status merchandise can be entered into U.S. customs territory only if the FTZ Board finds that entry would be in the public interest.

**Zone Schedule** To be kept by the zone Grantee, the zone schedule includes the internal rules and regulations of the zone, as well as a statement of the rates and fees charged to zone users.

**Zone Site (Site)** means a physical location of a zone or subzone. A site is composed of one or more generally contiguous parcels of land organized and functioning as an integrated unit, such as all or part of an industrial park or air or water port facility.

**Zone Status** Merchandise can enter the zone in either domestic or foreign status. Domestic status can include foreign status goods where the duty has been paid and the goods entered for consumption. Foreign status includes privileged foreign, non-privileged foreign and zone-restricted status.

**Zone User** is a party using a zone under agreement with a zone operator.

Source: Foreign-Trade Zones Board, "Glossary of FTZ Terms":  
<http://enforcement.trade.gov/ftzpage/grantee/glossary.html>