

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.

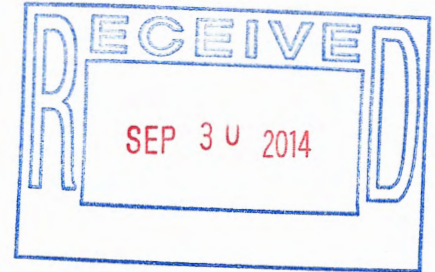
Complaints about a grantee’s compliance with statutory and regulatory requirements related to public utility and uniform treatment – including rate or charge amounts/formulas, a grantee assessing a rate or charge amount/formula that does not appear in its zone schedule, and a grantee not affording uniform 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.



September 24, 2014

Andrew McGilvray
Executive Secretary
Foreign Trade Zones Board
U.S. Department of Commerce
1401 Constitution Ave., NW, Room 21013
Washington, D.C. 20230



Re: Foreign-Trade Zone No. 77 Zone Schedule

Dear Mr. McGilvray:

Attached please find the proposed Zone Schedule for Foreign-Trade Zone No. 77 covering Memphis and Shelby County, Tennessee. We apologize for the delay and appreciate your patience in this matter.

The proposed Zone Schedule will be reviewed and approved by the Memphis City Council in the next few weeks.

If you have any questions or comments please contact Reid Dulberger, President of the Economic Development Growth Engine for the City of Memphis and County of Shelby, Tennessee ("EDGE"), the Zone Site Administrator. You may reach Mr. Dulberger by calling (901) 341-2101 or RDulberger@Growth-Engine.org.

Thank you.

Cordially,

A handwritten signature in black ink, appearing to read "A C Wharton, Jr.", with a long, sweeping flourish extending to the right.

A C Wharton, Jr.

c: Kathleen Boyce
Reid Dulberger

ZONE SCHEDULE

Foreign-Trade Zone No. 77

Memphis and Shelby County, Tennessee

Grantee

City of Memphis, Tennessee

Zone Administrator

Economic Development Growth Engine (EDGE)

Industrial Development Board of the

City of Memphis and County of Shelby, TN

Effective: January 1, 2015

**FOREIGN-TRADE ZONE NO. 77
MEMPHIS, TENNESSEE**

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ACRONYMS USED IN THIS DOCUMENT

ASF	Alternative Site Framework—way to manage zone sites rather than the “Traditional” Framework
CBP	U. S. Customs and Border Protection of the Department of Homeland Security, sometimes referred as “Customs”
CFR	Code of Federal Regulations
FTZ	Foreign-Trade Zone
USC	United States Code

**FOREIGN-TRADE ZONE NO. 77
MEMPHIS, TENNESSEE**

SECTION I –INTRODUCTION AND OVERVIEW

GRANT OF AUTHORITY

The City of Memphis was granted authority by the Foreign-Trade Zones Board by Board Order No. 0189, dated April 2, 1982, to establish, maintain and operate General-Purpose Zone No. 77. Enabling legislation authorizing the creation of the Memphis Foreign-Trade Zone (FTZ) is provided in the Tennessee Code, Title 7, Chapter 85: Foreign Trade Zones and the City of Memphis Charter, Part I, Article 77, Sec. 867.3: Foreign Trade Zone. On February 29, 2012, an expansion and reorganization of the Memphis FTZ under the Alternative Site Framework of the Foreign-Trade Zones Board was approved by Board Order No. 1817 to expand the Zone Service Area to include all of Shelby County, Tennessee.

ADMINISTRATION

As a zone administrator for the City of Memphis, Grantee of FTZ No. 77, the Economic Development Growth Engine (EDGE) for Memphis and Shelby County is responsible for the administration of all aspects of the Memphis FTZ No. 77 including: the adoption of a Zone Schedule; execution of FTZ agreements with Zone and Subzone Operators; the filing of applications for zone expansions and boundary modifications; submission of the Annual Report to the Foreign-Trade Zones Board; FTZ education; and marketing of the Memphis FTZ. The Memphis FTZ was established under the “public utility” principles of the federal statute creating FTZs and continues to ensure that all zone operators, users and interested parties receive uniform treatment under like circumstances.

CONTACT INFORMATION

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SECTION II -- INTERNAL RULES, REGULATIONS & POLICIES OF FTZ NO. 77

1. This Zone Schedule is published in accordance with the requirements set forth in U. S. Code 15 CFR § 400.44(b) and outlines the rules and regulations, rates and charges for Memphis FTZ No. 77. It supersedes previous schedules of the Memphis FTZ No. 77.
2. Pursuant to 15 CFR 400.42 and 400.43, the rates and charges for services with the Zone shall be fair and reasonable, and the Grantee shall afford uniform treatment under like conditions to all users. The Foreign-Trade Zones Board (FTZ Board) shall determine whether the rates and charges are fair and reasonable.
3. All requests and applications to the FTZ Board will be reviewed by the Grantee and all entities will be afforded uniform treatment with respect to the handling of the request by the Grantee. These requests include but are not limited to: application for authority to establish a Usage-Driven, Magnet or a Subzone site; applications for production authority; and zone activation concurrence. Should the Grantee determine to sponsor the application, it will be the obligation of the applicant to prepare the application, including any filing fees assessed by the FTZ Board.
4. All requests and applications to the FTZ Board shall either be submitted by the Grantee or shall include a letter of transmittal or concurrence from the Grantee. All requests to CBP shall include a letter of transmittal or concurrence from the Grantee.
5. Pursuant to 19 USC 81o(c), no merchandise, operation or process of treatment will be permitted in the Zone that is detrimental to the public interest, health and safety.
6. All persons conducting business within FTZ No. 77 must strictly conform to the Foreign-Trade Zones Act, FTZ Board regulations, CBP regulations, this Zone Schedule and all other applicable federal, state and local laws, rules and regulations. All Memphis FTZ No. 77 Zone Operators are required to sign a Grantee-Operator Agreement that outlines the terms and conditions of operating an FTZ site in Shelby County, Tennessee. By signing the Grantee-Operator Agreement, the operator accepts and assumes all and complete responsibility for the operation, management and maintenance of the zone site.
7. The Grantee is responsible for preparing and filing with the FTZ Board an Annual Report summarizing all zone activity from January 1 through December 31 of each year. The report shall be filed by March 31 of each year pursuant to current requirements of the FTZ Board. By February 28 of each year, all Operators shall submit to the Grantee, through the Online FTZ Information System (OFIS), the data and information required to complete the Annual Report.
8. The Grantee reserves the right to cancel the rights of an applicable Zone participant under specified circumstances which include non-payment of fees and default of the Grantee-Operator Agreement.

SECTION III - PRINCIPAL REGULATIONS & AGREEMENTS GOVERNING ZONES

Foreign-trade zones operate under the Foreign-Trade Zones Act and two sets of regulations: Foreign-Trade Zones Board and U. S. Customs and Border Protection along with other federal, state and local requirements for business operations. Below is a list of these documents along with other regulations and information required for the legal operation of FTZs:

- FTZ Act of 1934 (19 U.S.C. 81a-81u)—established the FTZ Board to license and regulate FTZs. <http://ia.ita.doc.gov/ftzpage/19uscftz/ch1a.html>
- FTZ Board regulations (15 CFR Part 400)—sets out rules, regulations and activities of the FTZ Board in administering the FTZ program. <http://ia.ita.doc.gov/ftzpage/grantee/regs.html#400.1>
- Customs laws and regulations (19 CFR Part 146)--
<http://ia.ita.doc.gov/ftzpage/FTZNEW/19cfr146.html>
- Customs Manual--Zone Operators, users and grantees must be knowledgeable about all of the regulations governing FTZs and U. S. Customs and Border Protection has developed a Customs Manual that compiles all of the FTZ regulatory information as a guide to aid in the day-to-day operations of an FTZ. <http://www.cbp.gov/document/guides/foreign-trade-zones-manual>
- Harmonized Tariff Schedule of the United States (HTSUS)—Published by the U. S. International Trade Administration, the HTSUS is used in the classification of imported merchandise for rates of duty and statistical purposes. <http://www.usitc.gov/tata/hts/bychapter/index.htm>
- Other Federal Laws—Since the FTZ Act specifically excludes, under certain circumstances, only the application of Customs laws, most other federal laws are applicable in zones, such as those affecting public health, immigration, labor, welfare, and income tax.
- State and Local Laws and Regulations—Generally, State and local laws are applicable in zones, except to the extent that they are preempted by Federal laws or the Constitution.
- Grantee-Operator Agreement--This document is an agreement between the Grantee and the Zone/Subzone Operator that outlines the terms and conditions of zone operations within Shelby County, Tennessee.

SECTION IV – ZONE FEES, CHARGES & RATES FOR FTZ NO. 77

The Grantee reserves the right to change or waive any fee or charge contained herein, if, in the Grantee's determination, it is in the best interest of the welfare of the community to do so. All fees are non-refundable and are to be paid prior to the Grantee's sponsorship or submission of request. Administrative fees do not include any applicable FTZ Board fees.

ANNUAL FEES

The Annual Fee is due on the **first business day of January of each year**. For a new Operator, it is payable upon the first day of site activation for approved FTZ use, and annually thereafter in accordance with the Grantee-Operator Agreement.

Activated Usage-Driven, Magnet or Subzone Site Operator	\$9,000
Non-activated Magnet, Usage-Driven or Subzone Site	\$1,500

APPLICATION & OTHER FEES

Application for Usage-Driven, Magnet or Subzone Sponsorship **\$8,000**
Fee covers the costs associated with the Grantee's review of the Operator's prepared application, obtaining the necessary approvals and resolutions for the zone, submitting designation application to the FTZ Board, negotiation of the Grantee-Operator Agreement and support required for the application process. The fee does not include preparation of the actual application.

Application for Production Authority or Change in Scope of Operations **\$5,000**
An additional application is required by the FTZ Board to apply for new or expanded production authority. If authority is being requested for a new site, this fee will be added to the Usage-Driven, Magnet or Subzone designation application fee. This fee covers the costs associated with the Grantee's review of the prepared application. Fee does not cover the development of the application.

Grantee Activation or Deactivation Concurrence **\$2,000**
Fee covers the Grantee expenses for the preparation and processing of the concurrence letter to CBP and the necessary support required in the activation or deactivation process. The fee is due prior to the Grantee's submission of the activation or deactivation letter to CBP.

OTHER FEES AND CHARGES

Any other fees, charges, or expenses incurred by Grantee for the purpose of obtaining FTZ Board approval and/or CBP approval on behalf of client, and not specifically listed herein, will be assessed on a case by case basis following consultation with Grantee for services requested.

Late Fee **\$100 per day**
In the event that sufficient data for the Grantee to compile its Annual Report to the FTZ Board has not been received by February 28, a late fee in the amount of \$100 per calendar day will be charged beginning on March 1 until the necessary information has been received by the Grantee and all accrued late charges have been paid in full. The late fee charged pursuant to this paragraph is apart from and in

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Memphis FTZ No. 77 Zone Schedule

addition to the obligation to reimburse the Grantee for any fine imposed upon Grantee for a late or incomplete Annual Report.

A late fee may be assessed for failure to provide any required reports or for lack of payment of any charges or fees associated with FTZ status. Failure of full payments may result in suspension by Grantee of all FTZ activity for the Operator.

In the event Grantee's staff time or out-of-pocket costs exceed what is normal and customary to process similar requests, the Grantee reserves the right to charge the applicant/operator, upon reasonable notice, an additional amount in addition to the applicable fees identified in this Zone Schedule in consideration of such excess administrative or out-of-pocket costs.

APPENDIX: FTZ DEFINITIONS

Activation - Once a zone or subzone site is approved by the FTZ Board, an application must be made to the local CBP office, with the concurrence of the FTZ grantee, to operate the zone/subzone site (or portion thereof) under FTZ procedures. This CBP process is known as activation and generally includes background checks, a written procedures manual, posting a bond with CBP, as well as a review of the security of the site(s) and the inventory control methods.

Admit, Admission - The U.S. Customs and Border Protection terms describing the shipment of merchandise **into** U.S. foreign-trade zones under CBP supervision (19 CFR 146.1).

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.

Articles Consumed - Interpretation of the FTZ Act holds that all materials to be consumed in manufacturing or processing operations within a zone must first be entered for consumption with duties paid.

Deactivation - A previously activated general purpose zone 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 origin/duty paid - Describes merchandise that is mainly of domestic origin but also includes foreign-origin merchandise on which customs entry and duty payments have been made prior to admission to the zone site.

Domestic status - Used synonymously with Domestic origin/duty paid (see above). 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.

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.

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Memphis FTZ No. 77 Zone Schedule

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

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

Forwarded - The category of merchandise that is shipped from or forwarded from zone sites after release by CBP. This category includes merchandise that is forwarded 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 - A document issued by the Board that authorizes a zone grantee to establish, operate and maintain a zone, subject to limitations and conditions. The authority to establish a zone includes the responsibility to manage it.

Inactive - A general-purpose zone 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 - 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 - 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 modification is a proposed change to a zone that requires action by the FTZ Board; a minor modification is a proposed change to a zone that may be authorized by the Executive Secretary.

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.

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

Production - 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.

Service Area - The jurisdiction(s) within which a grantee proposes to be able to designate sites via minor boundary modifications under the ASF.

Subzone - A site (or group of sites) established for a specific use.

Usage-Driven Site - A site tied to a single operator or user under the ASF.

Zone Grantee - The corporate recipient of a grant of authority for a zone project. The term "grantee" means "zone grantee" unless otherwise indicated.

Zone 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.

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) - 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 airport 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 - A party using a zone under agreement with a zone operator.

This Zone Schedule was prepared for the City of Memphis, Grantee of FTZ No. 77 and EDGE, Zone Administrator by Mercuro and Pearson Studio, LLC d/b/a MAP Studio. MAP Studio provides consultant services to the Memphis FTZ No. 77.

Prepared by:

MAP Studio, LLC, 601 East Drive, Memphis, Tennessee 38112901-323-7770

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