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FOREIGN-TRADE ZONES AND TRUMP TARIFFS: OPTIONS FOR LOCAL ECONOMIC DEVELOPERS

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AMERICAN PLANNING ASSOCIATION - ECONOMIC DEVELOPMENT DIVISION

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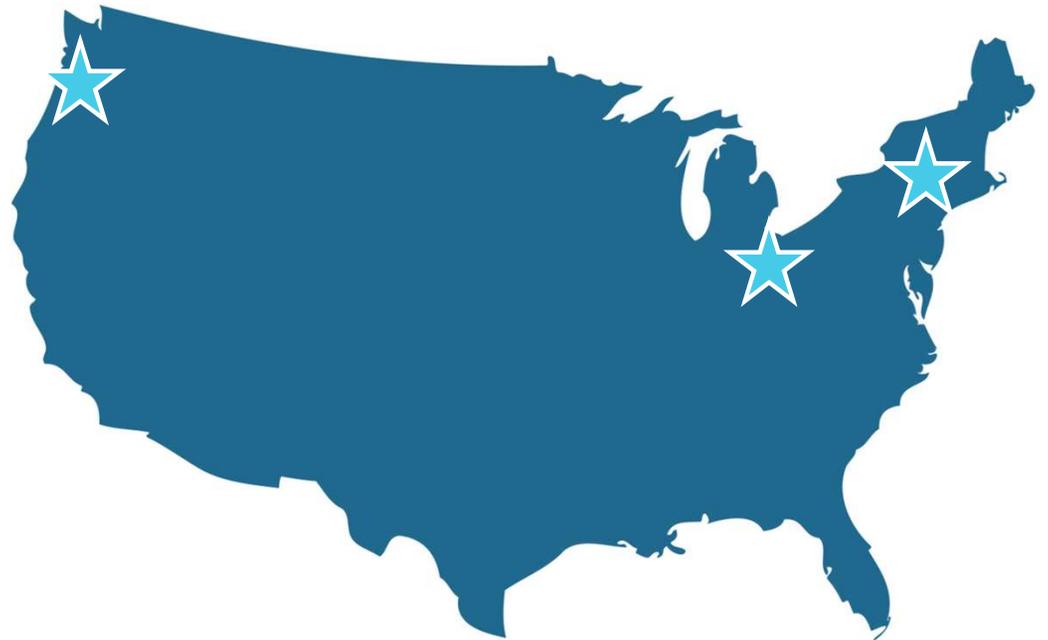
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IN THIS PRESENTATION...

- Background and Overview of the Foreign-Trade Zone Program in the United States
- How an FTZ Benefits US Businesses
- Designating an FTZ
- Questions and Answers



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BACKGROUND AND OVERVIEW

FOREIGN-TRADE ZONES AND TRUMP TARIFFS: OPTIONS FOR LOCAL ECONOMIC DEVELOPERS

DUTIES AND TARIFFS

- Terms are used interchangeably.
 - Duty is the TAX PAID on an import. Tariff is the SCHEDULE OF DUTIES imposed.
- The ability to enact tariffs lies with Congress – specifically the House.
- The ability to negotiate treaties lies with the President.
 - The President has the ability to negotiate trade agreements as a result.
- The President does not have the inherent ability to set tariffs and duties.
- BUT Congress has provided the President some limited abilities to take certain actions in trade.

CURRENT TRADE ENVIRONMENT

- During the last Presidential campaign, candidate Donald Trump raised concern with a \$500 billion trade deficit.
- By 2018, President Trump started to exercise his authority to take actions on trade as authorized by two key acts:
 - Trade Expansion Act of 1962
 - Section 232: Allows the President to impose tariffs based on threats to national security.
 - Applied to imports of steel and aluminum in March 2018
 - Trade Act of 1974
 - Section 201: Investigate domestic industries claims of injury or threat of injury due to expanding imports.
 - Applied to washing machines and solar panels in January 2018
 - Section 301: Designed to eliminate unfair foreign trade practices that adversely affect U.S.
 - Applied to Chinese goods in March 2018

WHAT IS A FOREIGN-TRADE ZONE?

- A Foreign-Trade Zone (FTZ) is a site that is legally considered outside of the United States for the Customs purpose of duties. Goods may be brought into the site duty-free and without formal Customs entry.
- Created by the ***U.S. Foreign-Trade Zones Act of 1934***
 - New Deal legislation and in response to the Smoot-Hawley Tariff Act (Tariff Act of 1930)
 - Maintain and create jobs and investment in the United States



FOREIGN-TRADE ZONES – BY THE NUMBERS

- All **50** states plus Puerto Rico have established FTZs
- Over **3,300** companies use FTZs
- Approximately **420,000** people are employed at facilities operating with FTZ status
- Over **\$610 billion** of annual trade activity
- Exports from FTZs are over **\$76 billion**

WHO ARE THE PLAYERS?

- Foreign-Trade Zones Board -- Secretary of Commerce and the Secretary of Treasury. These officials or their designee are empowered to issue to appropriate applicants the Grant of Authority to establish, maintain and operate FTZ projects.
- Foreign-Trade Zones Board Staff -- Officials in the Department of Commerce, International Trade Administration responsible for overseeing the administration of Foreign Trade Zones. The Executive Secretary heads up this office.
- Port Director of Customs and Border Protection (CBP) -- Customs official with responsibility for overseeing the activation and operations of zone projects within his customs port of entry.

WHO ARE THE PLAYERS?

- Grantee – Entity to whom the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted.
- Operator – Entity that operates a zone or subzone under the terms of an Agreement with the Grantee.
- User – Entity using a zone or subzone for storage, handling, or processing of merchandise

WHO SHOULD BE IN A FOREIGN-TRADE ZONE?

- Any company that is engaged in **importing** is a potential candidate.
- Company will likely need to realize annual savings of \$50,000 to \$100,000 to cover the cost of implementing an FTZ.
 - Software
 - Security
 - Support (consultant, bonds, attorney)
- Initial implementation can seem like a huge hurdle, but change can be beneficial in the long run.





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FTZ BENEFITS

FOREIGN-TRADE ZONES AND TRUMP TARIFFS: OPTIONS FOR LOCAL ECONOMIC DEVELOPERS

FTZ BENEFITS

- Company must be an importer
- Duty Savings Benefits
 - Deferral
 - Reduction
 - Elimination
- Other Benefits
 - Direct Delivery
 - Weekly Entry



DUTY DEFERRAL

1

Duties are not paid until goods enter the U.S. Customs stream of commerce, postponing the payment of duties until the goods physically leave the FTZ site

2

No time limit to how long goods can remain in the FTZ

3

Can mix foreign and domestic sourced merchandise

DUTY REDUCTION

- Applies to manufacturing or assembly in the FTZ
- Requires Production Authority approval from FTZ Board
- Can reduce the duty on foreign components that have a higher duty rate than the finished good

Car radios have an 8% duty rate
Cars have a 2.5% duty rate

Radios are admitted into the FTZ and become a part of the car.
What leaves the FTZ is a car, dutiable at 2.5%
This reduces the duty liability on each radio by 5.5%.

DUTY ELMINATION

1

Re-exporting - If the goods never enter the U.S. Customs stream of commerce, no duty is ever paid

2

Can avoid applying for duty drawback

3

Can also avoid duties on scrap or defective goods

DIRECT DELIVERY

- No delays with clearing Customs even after hours
- Goods delivered directly to the facility even if paperwork has not been filed with Customs
- Requires pre-approval from Customs

WEEKLY ENTRY

Paperwork Reduction

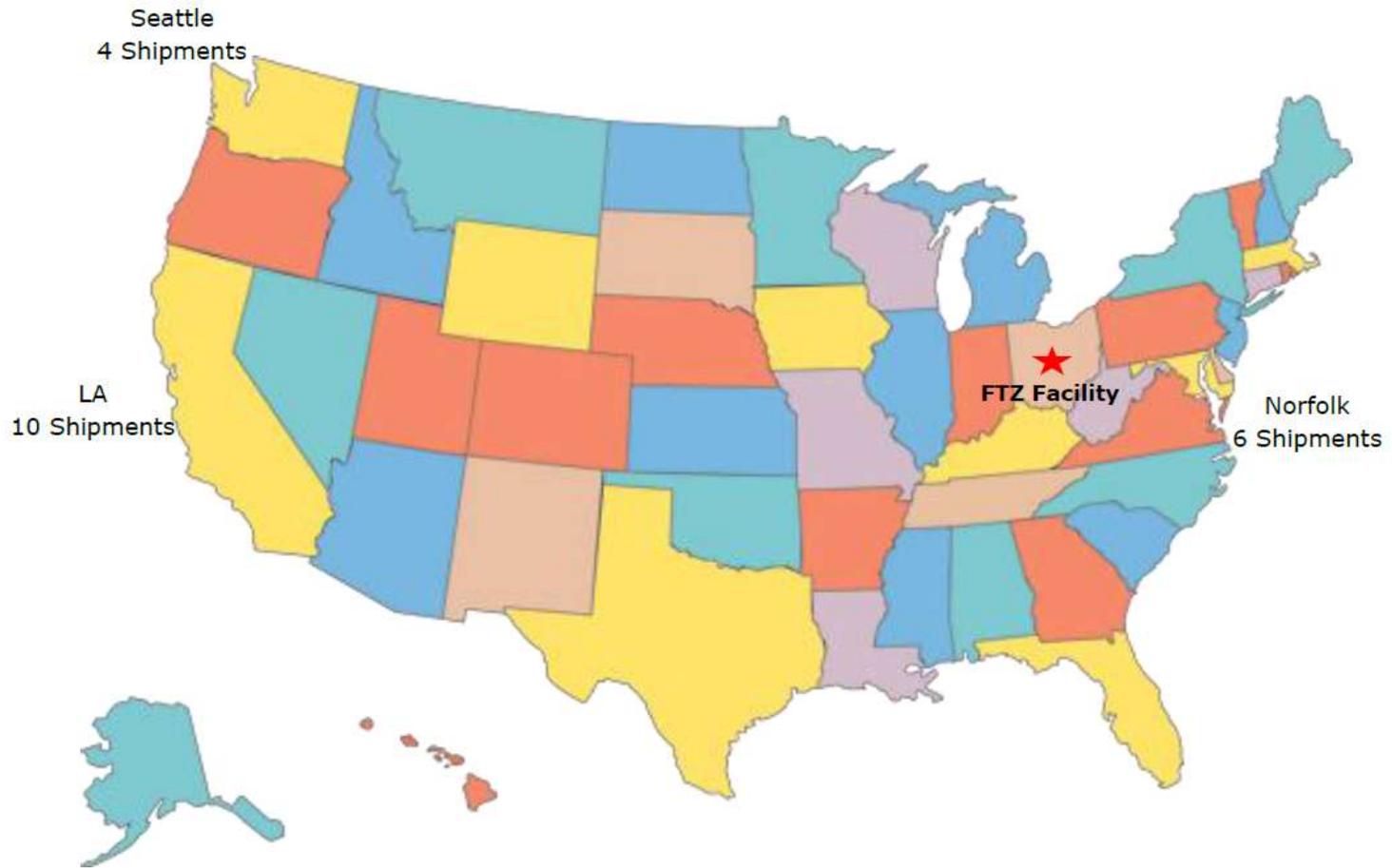
Brokerage Fee Reduction

Merchandise Processing Fee (MPF) Reduction

Harbor Maintenance Fee Paid Quarterly

Requires pre-approval from Customs

Weekly Entry Example



Weekly Entry Example

Non-FTZ Scenario

- All 20 shipments are entered into U.S. stream of commerce at the port of unloading – Broker will file 20 separate entries.
- Each of the 20 shipments is subject to a MPF payment
 - 20 shipments x \$498 MPF = \$9,960 per week

Weekly Entry Example

FTZ Scenario

- No separate consumption entries at port of unlading. Merchandise moves in bond on IT.
- No MPF payment per shipment. One entry per week, maximum of \$498.
 - $\$9,960 - \$498 = \$9,462$ per week
 - $\$9,462 \times 52 = \$492,024$ per year

CONSIDERATIONS

- Quotas/Safeguards
 - U.S. quota/safeguard restrictions do not apply to merchandise admitted to zones, though quotas/safeguards will apply if and when the merchandise is subsequently entered into U.S. commerce.
 - Quota/Safeguard merchandise may be stored in an FTZ so that when the quota opens, the merchandise may be immediately shipped into U.S. Customs territory.
- Supply Chain Advantages
 - An increasing number of firms are making use of the ability to transfer merchandise from one zone to another. Because the merchandise is transported in-bond, Customs duties may be deferred until the product is removed from the final zone for entry into U.S. Customs territory.
- Sensitive Items/Trade Remedies
 - In some states that have a personal property tax, goods in an FTZ may not be subject to state and local ad valorem taxes. The goods are considered in international commerce.

TYPES OF USERS

WAREHOUSE/DISTRIBUTION OPERATORS

in millions

- Top 15 Foreign-Status Products Received in U.S. FTZs

-FTZ Board 2016 Annual Report

Vehicles	27,152
Consumer Electronics	14,408
Consumer Products	14,256
Electrical Machinery	8,097
Oil/Petroleum	6,728
Machinery/Equipment	6,570
Textiles/Footwear	6,441
Other Electronics	4,839
Pharmaceuticals	3,894
Other Metals/Minerals	3,845
Vehicle Parts	2,412
Beverages/Spirits	794
Plastic/Rubber	630
Food Products	496
Optical, Photographic and Medical Instruments	458

TYPES OF USERS

PRODUCTION OPERATORS

in millions

- Top 15 Foreign-Status Products Received in U.S. FTZs

-FTZ Board 2016 Annual Report

Oil/Petroleum	54,517
Vehicle Parts	14,571
Consumer Electronics	13,490
Pharmaceuticals	8,669
Machinery/Equipment	6,933
Chemicals	1,947
Aircraft/Spacecraft	1,119
Electrical Machinery	881
Other Metals/Minerals	647
Other Electronics	602
Consumer Products	519
Optical, Photographic and Medical Instruments	452
Plastic/Rubber	344
Textiles/Footwear	163
Iron/Steel	135



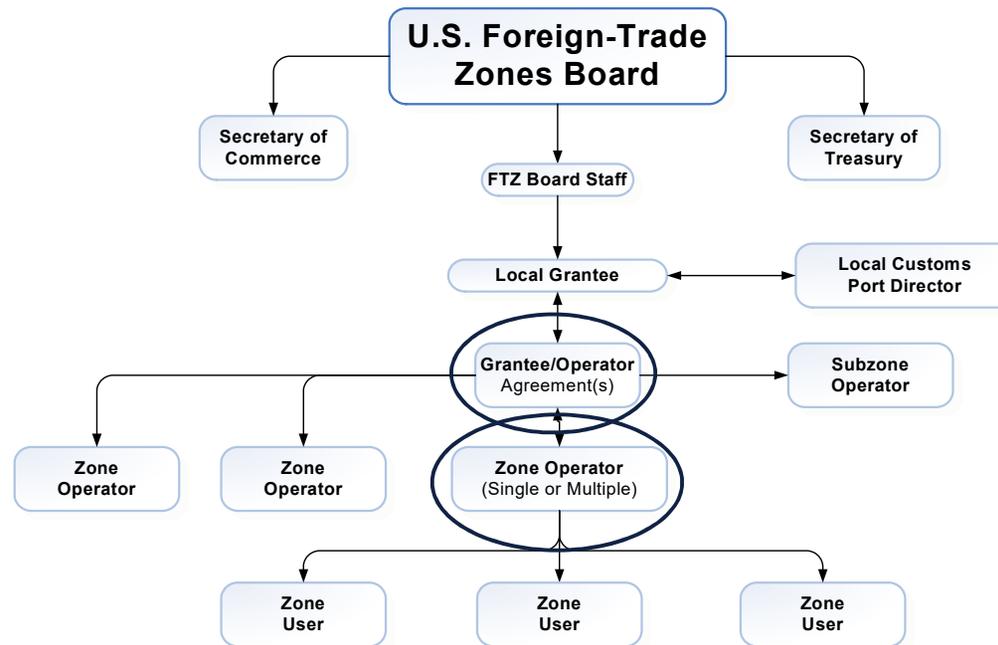
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OBTAINING FTZ DESIGNATION

FOREIGN-TRADE ZONES AND TRUMP TARIFFS: OPTIONS FOR LOCAL ECONOMIC DEVELOPERS

ROLES



GRANT OF AUTHORITY - GRANTEE

- Establishing a new FTZ
 - Usually a public agency or Economic Development authority
 - Zones must operate like a public utility
 - 60/90 rule
 - ASF vs. TSF
 - TSF – Limited number of fixed sites
 - ASF – Fixed sites and flexibility to serve companies within service area

GRANT OF AUTHORITY - GRANTEE

- Need to establish legal authority for new zone:
 - State Legislation
 - Applicant's charter
 - Grantee Resolution
- Economic need for proposed FTZ
- Define the service area and document support from jurisdictions
- Tax considerations
- Filing fee (\$3,200) and timing

SITING A FTZ – GENERAL CONSIDERATIONS

- Foreign-Trade Zones need to be supported by land use policies that allow for the site's activity.
 - Sites with incompatible zoning such as agricultural, retail, or residential are not eligible for FTZ designation. If the use is subject to a special use permit or other special conditions, you'll need to disclose that in the application.
 - Obtaining a zoning confirmation letter from the local government responsible for land use regulations to confirm that the proposed FTZ user's activity is permitted or permitted with conditions.
- FTZ sites are generally located near key transportation assets
 - Sea, rail, road, and air
- Warehousing FTZ vs. Manufacturing FTZ users
 - Intensity of the use will vary based on the individual company.

CBP ROLE

- CBP responsible for enforcement and day-to-day monitoring of activity
- CBP is consulted on every application for zone or zone activity
- Movement of goods is reported to CBP
- Goods within zone and zone records are subject to spot checks and verifications at any time
- After a zone is approved by FTZB, zone operate must activate with CBP

HOW TO ESTABLISH AN FTZ SITE - OPERATOR

- Contact the local Grantee
- Application – An application for designation must be filed with the FTZ Board by the local Grantee.
- Distribution vs. Production – Process and timing implications
- Production Notification – If the HTS number changes in the production process, then the company must submit a Production Notification to the FTZ Board. Depending on the product, the company may be required to submit a Production Authority Application to the FTZ Board.
- Activation – This is the security process with local US Customs.

TYPES OF DESIGNATION

Types of sites (ASF)

- Magnet Site – Land or an industrial park designated in advance to attempt to draw FTZ operators/users.
- Usage-Driven Site/Subzone – Designation for a company within a Grantee's Service Area. (ASF) Subzone can have multiple sites
- Subzone - Designation for a company who is outside a Grantee's service area.

GENERAL PROCESS – NEW ASF SUBZONE

Grantee is a general resource/promoter of the zone

- Application submitted by Grantee
- Information needed
 - Site information
 - Summary of activity and company information
 - Map
 - Concurrence from CBP
 - Letters regarding tax impact (if applicable)
- No FTZ Board fee
- No comment period, 30-day time period (Non-production only)
- Grantee may require agreement between company and operator
- Grantee may require fees

GRANT OF AUTHORITY

- Establishing a new FTZ
 - State enabling legislation
 - Grantee Applicant's charter, resolution, and application letter
 - Letter of intent to use the zone for any sites included in the application
 - Right-to-use letters for sites not owned by the Grantee Applicant
 - Map of zone site(s) and detailed site plans of proposed FTZ sites
 - Filing fee: \$3,200
- Expanding existing
 - Similar to above, fees vary based on type of FTZ and type of modification

SITING A FTZ

- Foreign-Trade Zones need to be supported by land use policies that allow for the site's activity.
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HOW TO ESTABLISH A FTZ

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- Application – An application for designation must be filed with the FTZ Board by the local Grantee.
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TYPES OF DESIGNATION

Traditional Site Framework

- General Purpose Zone– Land or an industrial park usually designated in advance to attempt to draw FTZ operators/users.
- Subzone – Designation for one company at a specific site.

Alternative Site Framework

- Magnet Site – Land or an industrial park designated in advance to attempt to draw FTZ operators/users.
- Usage-Driven Site/Subzone – Designation for a company within a Grantee's Service Area.
- Subzone - Designation for a company who is outside a Grantee's service area.

WORKING WITH A FTZ GRANTEE

You do not need to know the details of the FTZ program

- Is the company an importer?
- Know the local Grantee

ADDITIONAL RESOURCES

- US Foreign-Trade Zones Board
 - <https://enforcement.trade.gov/ftzpage/index.html>
- US Customs and Border Protection: FTZ Manual
 - <https://www.cbp.gov/document/guides/foreign-trade-zones-manual>
- National Association of Foreign-Trade Zones
 - www.naftz.org
- Your Local FTZ
 - <https://enforcement.trade.gov/ftzpage/letters/ftzlist-map.html>

QUESTIONS?

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