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U.S. Foreign-Trade Zones Board

Overview for CBP: Alternative Site Framework (ASF)



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The Structure of the FTZ Board

- FTZ Board (FTZB) is comprised of Commerce and Treasury departments.
- FTZB has long delegated to Executive Secretary (staff director) authority to approve “minor boundary modifications” (MBMs).
- CBP has advisory role to FTZB, including local CBP providing comments on all requests for new FTZ sites.



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The “What” and “Why” of the ASF:

What?

- FTZB adopted an optional alternative “framework” to manage FTZ sites – codified in 15 CFR 400.2(c).
- ASF gives participating zones great flexibility to use a much simpler, faster MBM procedure to designate locations where companies are ready to use FTZ.
- A grantee can seek to participate in ASF by applying to FTZB to “reorganize” its zone under ASF.



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Why?

- The traditional site framework (TSF) had become outmoded. The designation of new FTZ locations for users under the TSF imposed a major burden on applicants, took a long time, and consumed too many government resources.
- TSF's limitations for MBMs often led to only temporary MBM site approvals and required "swapping" of acreage (which could revert later). A record-keeping nightmare!



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Why? (cont.)

- Too many unused FTZ sites (often designated for speculative reasons). Too little relationship between sites' FTZ designations and actual use. Number of speculative sites – not tied to specific users – made it hard for CBP to project resources needed for oversight.
- The ASF looked to address all of these shortcomings through a ground-up rethink: Grantee reframes FTZ to focus on serving broad area, can get simple MBMs for actual needs, and essentially all sites get “sunset” limits that remove designation if unused in 3 to 5 years.



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Key Points:

- Purpose of ASF: Enable a zone to use simple MBM process for future site designations after detailed, public process – including input from CBP – to approve ASF “service area” for the zone.
- Under ASF – as under TSF – FTZ space can only be designated or modified through FTZB or FTZ Staff action (with concurrence of local CBP).
- FTZ Staff consulted with grantees and others to develop ASF to be flexible (for users), focused (for govt. oversight), and predictable (benefits everyone).



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Key Points (cont.):

- CBP HQ concurred on the ASF concept as part of FTZB considering whether to adopt the ASF.
- There is no change to CBP operator/site activation procedures under the ASF.
- ASF does not change grantee/operator structure. Activation of site still requires that specific site first be approved by FTZB or Staff (with local CBP concurrence) and that grantee concur on activation.



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Terms and Concepts:

- “Service Area” is the geographic area where grantee wants to be able to propose sites for specific users.
 - Most commonly will be named counties, with grantee writing to each county in proposed Service Area at application stage.
 - Entire proposed Service Area must meet the ordinary FTZ adjacency requirement (within 60 miles/90 minutes’ driving time of the CBP port of entry limits).
 - Defining Service Area up front eliminates need for full FTZ Board processes (versus MBM action by FTZB staff) when new potential zone users appear and need FTZ designation quickly.



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- A “Magnet” site is one selected by grantee based on ability to attract multiple potential FTZ operators/users.
 - Designated only via FTZ Board action.
 - Akin to traditional FTZ site (industrial park, port facility, etc.) designated in advance – essentially speculatively – to attempt to draw FTZ operators/users.
 - Magnet sites are not the true focus of the ASF, and the ASF sets a general goal of six or fewer Magnet sites per grantee.



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Example of Magnet Site (outlined in red)





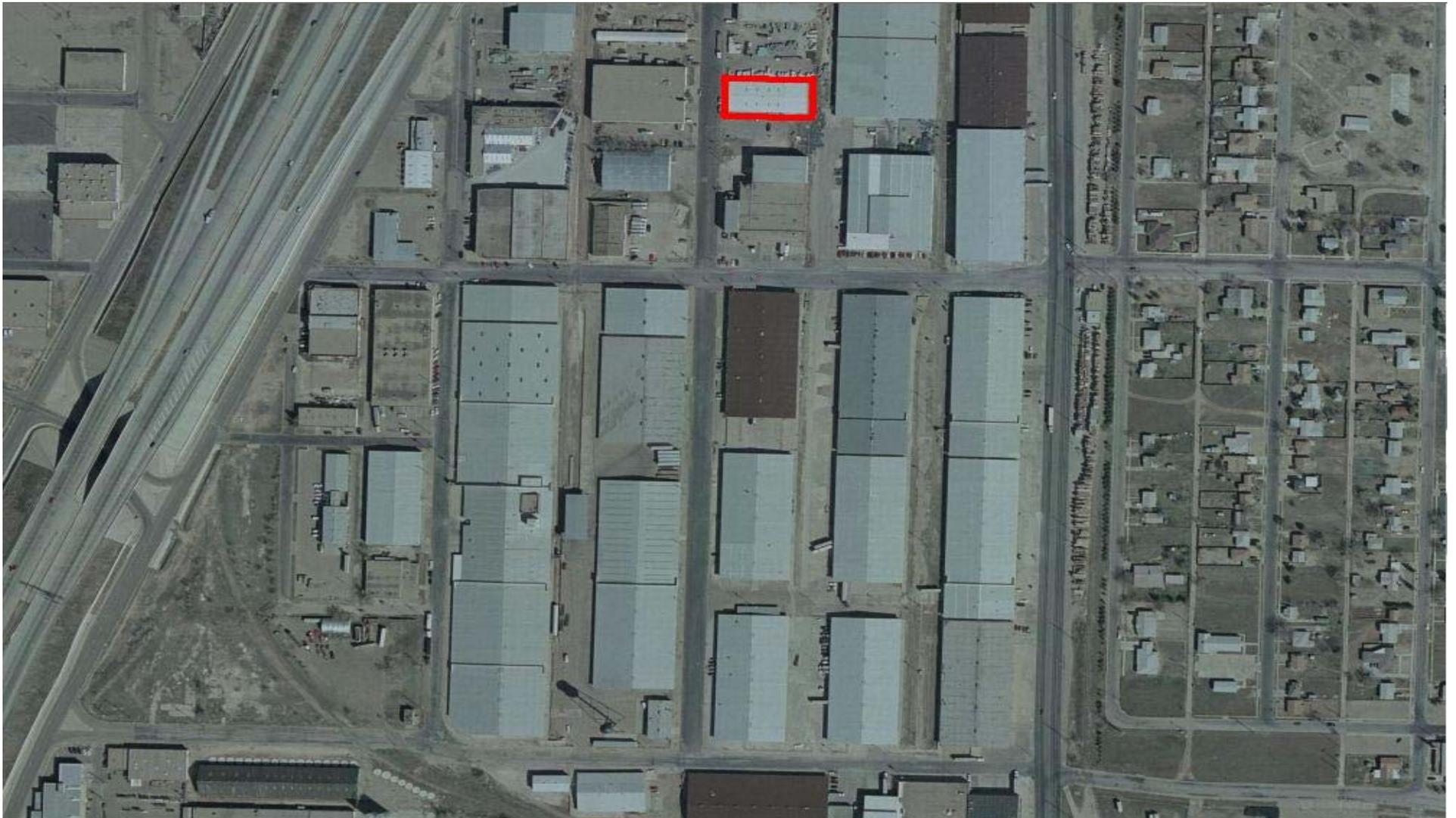
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- A “Usage-Driven” site (can also be termed a “subzone”) is designated for a company to conduct FTZ activity.
 - Can be designated by FTZB staff via simplified MBM (with no swapping of acreage required) – with local CBP concurrence.
 - Designation tied to a named company and limited to the space needed for that company’s use.
 - If the company vacates its designated Usage-Driven site, the FTZ designation automatically terminates. (A new Usage-Driven MBM would need to be done if a subsequent occupant of the space wanted to use FTZ procedures.)



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Example of Usage-Driven Site (outlined in red)





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- “Activation Limit” is cap on amount of space that can simultaneously be in CBP “activated” status.
 - ASF includes standard 2,000-acre activation limit for each zone – which had long been standard FTZB practice for large zones.
- Ongoing “Sunset” tests remove unused sites.
 - Standard five-year sunset period for Magnet sites (applicant can request longer sunset on case-specific basis but request must be justified; possible waiver of sunset for one site).
 - Three-year sunset period for all Usage-Driven sites.



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- “Sunset” tests (cont.).
 - Sunset deadline for each Magnet site extended for add’l. five years based on activation during the sunset period.
 - Sunset deadline for each Usage-Driven site extended for add’l. three years based on admission of foreign-status mdse. for *bona fide* customs purpose during sunset period.
 - FTZB web site lists all sites of each FTZ, including each site’s sunset date.
- Grantee may bring any number of existing FTZ sites into the ASF as Magnet sites. Sunset tests (with five-year default period) automatically remove sites not used during that initial “transitional” phase.



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Application Process:

- To participate in ASF, a grantee must apply to FTZB to “reorganize” its zone under ASF.
- Simple application format with four possible application sections to complete:
 - Part One: Standard Info. Required
 - Part Two: Info. on Subzone/Usage-Driven Site (if applicable)
 - Parts Three and Four: General and Site-Specific Info. on New/Modified Magnet Site (if applicable)
- As with other types of applications, FTZB decisions take into account the comments from local CBP.



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Application Process (cont.)

- **It is essential for local CBP to address in their comments to the FTZB whether:**
 - **the entirety of the proposed Service Area meets the adjacency requirement; AND,**
 - **CBP could actually serve Usage-Driven FTZ sites across the zone's proposed Service Area.**
- In a few parts of the country, closely clustered CBP Ports of Entry may lead to grantees proposing partially overlapping Service Areas. A major consideration for FTZB is whether the overlap would cause problems for CBP's oversight of the zones.



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The Bottom Line: A FTZ program that's both more flexible and more focused.

- By enabling Usage-Driven site process – with CBP's concurrence on proposed Service Area and again for each proposed new site – across each approved Service Area, the ASF dramatically simplifies and accelerates designation of sites for companies with real FTZ needs.
- At same time, the ASF is resulting in far fewer unused, speculative FTZ sites through the “use-it-or-lose-it” sunset limits that will apply to virtually all sites.