UPDATE: EVOLVING FTZ PROGRAM ENVIRONMENT
(August 7, 2026)

The following will provide you with our views on a significantly changed U.S. FTZ program. Despite the myriad of issues identified below, we continue to achieve remarkable success for our clients in the new FTZ Board environment and continue to encourage new FTZ status as appropriate.

FTZ BOARD STAFFING CHANGES

The FTZ Act of 1934 initially focused on encouraging U.S. warehousing and was amended in 1950 to permit production/manufacturing creating and sustaining U.S. investment and jobs. Recent federal staffing changes and perspectives have affected the program.

- Following federal staffing actions, five of the ten FTZ Board staff members and the individual overseeing the FTZ program in the Secretary of Commerce’s office left their positions last year.
- Three temporary staff members from the Commerce Department’s AD/CVD group were subsequently transitioned to the FTZ Board.

HISTORICALLY HIGH FTZ BOARD ACTIVITY

At the same time, FTZ Board Application activity is at the highest level in the program’s history.

- In 2024, 307 cases were filed.
- In 2025, 497 staff cases were filed.
- As of July 31, 2026, 471 cases have been filed so far this year.

EXTENDED FINAL ACTION TIMELINES

FTZ Board final action timelines have increased.

- In 2024, FTZ Board final actions generally occurred promptly.
- In 2025, the average time for Production Notifications from first publication in the Federal Register to final approval was 199 days, with several Applications exceeding 300 days.
- In 2026, the average time for Production Notifications from first publication in the Federal Register to final approval is 114 days (owing to quicker denials and restrictions) with several Applications much longer and one being 321 days.

INTERIM PROCESSING DEVELOPMENTS

The FTZ Board discontinued the routine use of the “Interim Production Authority” procedure, which had frequently been used since 2010 to allow firms to immediately begin FTZ production

- A recent Interim Production approval was granted for one of our clients.

EVOLVING FTZ BOARD APPLICATION REQUIREMENTS

In 2010, to encourage small and medium-size businesses to utilize the FTZ program, a simple online “fill in the blank” process was structured for all Applications at the Board and filing fees were generally eliminated. The change radically simplified the process and reduced the cost of preparing Applications. Applications were approved promptly.

- We are currently filing one or two Applications/Production Notifications with the Board each day.

- Data requirements for new Applications and Production Notifications have expanded and continue to evolve. Current Production Notification requirements are substantially more detailed than the online Application form and historical filing requirements. There are up to thirty (30) additional data requirements depending on industry and applicable Trade Remedies. Applications must now present a detailed convincing case explaining why FTZ Production Authority is necessary.
- Applications may now require substantial confidential business information, including formulas, profit margins, and manufacturer's names/countries, which was not requested in the past. Two versions - "Public" and "Business Proprietary" - must be submitted to maintain business confidentiality. However, in a recent Federal Register notice, fifty-three (53) different company supplier names were listed for the same chemical.
- Submissions now commonly receive multiple rounds of questions and requests for revisions by the FTZ Board staff.
- Existing FTZs should carefully examine their approved Scope of Authority to confirm that the prior approvals cover new inputs to determine whether new Production Notification Applications are necessary. The Board relies on the written description of the approved scope rather than the associated HTS number, which provides room for "interpretations."
- Because the Scope of Authority information available on the FTZ Board website may not fully reflect all prior approvals, we have developed a comprehensive new methodology based on our client Applications.

FTZ BOARD LIMITED TIME APPROVALS

Some recent Production Notification approvals are being issued for limited time frames, including one-year and two-year periods.

- In one instance the one-year approval for new products is for the expansion of an existing lithium-ion battery FTZ.

FTZ BOARD APPROVAL CONDITIONS/REJECTIONS

Some Production Notifications have been approved subject to additional conditions. Recently, seven (7) Production Notifications for Section 232 Steel/Aluminum Derivatives were approved with a requirement that exports first be subject to Customs entry, potentially eliminating duty drawback and traditional FTZ export benefits.

- Subsequently, a Production Authorization involving Section 232 steel was approved with no such export duty payment restriction. The reason appears to be the significant difference in the quality of the Application.

Production Notifications are being rejected if the Board determines that there is insufficient information provided, additional questions are not answered in a timely manner, or the Board does not support any use of the FTZ Program.

FTZ BOARD PHARMA 232 DEVELOPMENTS

The July 30 CBP CSMS message on Pharma 232 requires PF status at admission. In 2025 and 2026, pharma APIs were excluded and NPF status and duty inversion in FTZs were in effect. The PF requirement materially limits the FTZ benefits anticipated under the announced federal framework linking tariff relief to reductions in medicine costs and commitments to new domestic investment by requiring MFN Tariffs to be paid on foreign-origin API not on Tariff-free pharmaceutical finished products. We are making significant efforts to seek to secure the written guidance to once again allow Non-Privileged Foreign (NPF) status for APIs at FTZ admission for qualified firms.

FTZ BOARD SCOPE OF AUTHORITY AUDITS

Several months ago, the FTZ Board and CBP Port personnel conducted detailed on-site FTZ Board Scope of Authority audits of six existing operations in one city. The audits reviewed all foreign non-duty paid merchandise and finished merchandise to confirm there was no merchandise not approved by the Board. CBPF 214s and Customs entries were requested and audited. Compliance issues were identified. We expect at least one more city to be chosen this year for FTZ Board Scope of Authority visits.

CBP PORT STAFFING

There is a serious reduction in the number of CBP Officers at Ports resulting in significant time delays for all purposes.

EXPANDED CBP AUDIT ACTIVITY

CBP Headquarters has initiated one day, unannounced, more comprehensive FTZ on-site audits including HTS, value, origin, etc. with up to 10 CBP Officers. We were told that all CBP Ports have been directed to conduct at least three such audits per year.

EVOLVING FTZ MANAGEMENT REQUIRMENTS

FTZ management complexity continues to increase as most FTZ software and Customs brokers are not equipped to effectively manage the constant Tariff changes.

- There are many delays in CBPF 214 and Entry filing.
- Significant liquidated damages cases have been issued with little or no mitigation.
- CBP FTZ Operator and Importer Bond amounts must be significantly increased.
- The number of bonded carriers has declined because of increased CBP bond requirements.

A recent survey of AAEI member FTZs concluded:

- 67% experienced FTZ audits with negative findings
- 87% suffered negative financial impacts because of poor software

We are continuing to expand our staffing to support the necessary scale to effectively support the extraordinary growth and restrictions of the U.S. Foreign-Trade Zone program.

Please contact your Miller & Company attorney if you would like to discuss how these developments may affect your FTZ operations.

This update is intended for general informational purposes only and does not constitute legal advice for any particular company, facility, transaction, or matter.