

## 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**  
**Foreign Trade Zone #34**  
**Niagara County, New York**

**Grantee: Niagara County, New York**

Effective: January 1, 2014

## Table of Contents

	Page
1. Rules and Policies of FTZ #34	1
2. Rates/Charges Assessed for FTZ #34	

## **Rules and Policies for Foreign Trade Zone #34**

Niagara County received authority from the State of New York to apply for a Foreign Trade Zone in January, 1977. The legislation is contained in Chapter 190 of the Laws of the State of New York. On May 3, 1977, the Niagara County Legislature passed Resolution #145-77, which authorized the County to make application to the Foreign Trade Zones Board to establish a Foreign Trade Zone in Niagara County. In 1981, the County applied for and received permission to relocate the Zone to a site at the Niagara Falls International Airport. On April 21, 1992, the Niagara County Legislature passed Resolution #135-92, authorizing application for expansion of the zone to adjacent property, owned at the time by Bell Textron Corporation.

On March 21, 2000, the Niagara County Legislature passed Resolution CT-003-00, authorizing this application for expansion of general purpose Foreign Trade Zone #34 to include the Vantage International Pointe (former Inducon International Commerce Park) located at 6300 Lockport Road in the Town of Wheatfield. The current zone consists of 183 acres and encompasses two industrial multitenant buildings adjacent to the Niagara Falls International Airport and the Wheatfield Business Park (former Bell Textron plant).

### HISTORY OF THE FTZ IN NIAGARA COUNTY

Niagara County was issued a grant to establish a general purpose Foreign Trade Zone on November 29, 1977. In January of 1983, Foreign Trade Zone #34 was moved to its current site adjacent to the Niagara Falls International Airport. The Zone was activated in 1989 and consisted of 19 acres.

On April 21, 1992, the Niagara County Legislature passed resolution #135-92, authorizing application to the Foreign Trade Zones Board for expansion of the zone to its present 183 acres. That expansion included the Wheatfield Business Park complex and approximately 50 acres of vacant property on the south side of Niagara Falls Boulevard.

In 2000, to satisfy the demand for additional Foreign Trade Zone designated space, the NCIDA expanded FTZ #34 to encompass the 158 acres at the nearby Vantage International Pointe. This industrial park has historically been underutilized and underdeveloped. The Niagara County Industrial Development Agency acquired ownership of Vantage International Pointe in late 1999 and constructed a 50,000 square foot incubator/multitenant facility. The NCIDA is the owner and operator of the facility.

The NCIDA is responsible for filing all Annual Reports and Zone Schedules with the Foreign Trade Zones Board.

The NCIDA is responsible for issuance of any permits approved by the FTZ Board for Zone Users who request authorization for retail sales or other commercial activity involving domestic, duty-paid and duty-free merchandise within an activated zone.

The NCIDA will be responsible for actively marketing the benefits of operations within the Foreign-Trade Zone to all new and existing businesses within Niagara County.

The NCIDA will maintain maps and drawings of current zone boundaries for FTZ No. 34 showing approved sites and activated sites. The maps and drawings shall be available to the public.

The NCIDA will agree with all activation requests with Customs and Border Protection prior to formal Activation.

## **Existing Sites within Foreign Trade Zone #34**

### **Rainbow Industrial Suites**

2045 Niagara Falls Boulevard  
Niagara Falls, NY 14304  
50,000 square foot multitenant facility

### **Niagara Industrial Suites**

2055 Niagara Falls Boulevard  
Niagara Falls, NY 14304  
50,000 square foot multitenant facility

### **Wheatfield Business Park**

2221 Niagara Falls Boulevard  
Niagara Falls, NY 14304  
1,800,000 square foot former manufacturing facility now used as multitenant facility

### **Vantage International Pointe**

6300 Lockport Road  
Sanborn, NY 14132  
158-acre industrial park

### **Vantage Centre**

**6311 Inducon Corporate Drive**  
**Sanborn, NY 14132**  
50,000 square foot multitenant facility

### **APPLICATION AND INTERPRETATION OF FOREIGN TRADE ZONE No. 34 ZONE SCHEDULE**

The rules, rates and regulations of this Zone shall apply at Foreign Trade Zone No. 34 and any subzones and annexes unless otherwise specified. The Grantee has sole responsibility for interpretation and applicability of any of the rates, regulations or services provided according to this Zone schedule. The Grantee defers judgment on any matter involving interpretation or action by Customs and Border Protection or any other agency of the United States government to the Port Director of Customs and Border Protection with the concurrence of the FTZ Board. Where applicable, FTZ Board and CBP regulations prevail should any conflict arise with this Schedule.

### **REGULATIONS - FTZ BOARD**

Foreign Trade Zone No. 34 is regulated by the FTZ Board in Washington, D.C. according to Regulations of the Foreign Trade Zones Board as defined in the United States Code of Federal Regulations, Title 15, Chapter IV, Part 400 – Regulations of the Foreign Trade Zones Board.

### **REGULATIONS – U.S. CUSTOMS AND BORDER PROTECTION**

Foreign Trade Zone No. 34 is subject to Customs and Border Protection regulations as defined in the U.S. Code of Federal Regulations, Title 19, Chapter 1, Part 146 – Foreign Trade Zones.

### **PUBLIC UTILITY STATUS/UNIFORM STATUS**

Foreign Trade Zone No. 34 will be operated as a public utility as required by Section 14 of the FTZ Act (19 U.S.C. 81 n) and all rates and charges for all services within the Zone shall be fair and reasonable. A rate or fee may be imposed on zone participants to recover costs incurred by or on behalf of the Grantee for the performance of the Grantee function; such rate or fee must be directly related to the service provided and may incorporate a reasonable rate of return on investment. Rates or charges may not be tied to the level of benefits derived by zone participants. Likewise, pursuant to Section 14 of the FTZ Act (19 U.S.C. 81n) the County of Niagara, as Grantee, will afford to all who apply to make use or participate in the zone uniform treatment under like conditions. Treatment within a zone shall not vary depending on whether a zone participant has procured any zone-related product or service or engaged a particular supplier to provide any such product or service.

## **General Rules**

All FTZ Users utilizing the services of a General Purpose Zone Operator must enter into an Operating Agreement. Should a conflict arise between the Operating Agreement and this Schedule, the Agreement will prevail.

### **AVAILABILITY OF THE ZONE**

All rates and charges for all services and privileges within the Zone shall be fair and reasonable, and the Grantee and Operator(s) shall afford to all who may apply for the use of the Zone and its facilities uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments. Users are subject to specific rules, rates and charges of Zone Site Operator(s).

### **CHARGES**

Charges assessed by government agencies are not included in this Zone Schedule and must be taken care of by the Zone User or his agent with the appropriate government agency.

Zone charges are due and payable as they accrue. If such charges are not paid within a reasonable length of time, the Zone Operator and/or Grantee may take possession of such merchandise and remove and store same at the charge, risk, and expense of the owner and/or may sell the goods by public auction and/or pursue other remedies as allowed by law



## **RESPONSIBILITY FOR DUTY AND TAXES**

The Foreign-Trade Zones Board does not own or operate any Zones. Rather, it permits applicants to establish, operate, and maintain Zones. Niagara County Industrial Development Agency (NCIDA) on behalf of Niagara County, as Grantee, shall execute a Grantee/Operator Agreement with another party or parties for the operational management of Zone Sites. Various tenants may lease space and construct buildings in the Zone and physically run their operations in the buildings, while others may pay a Zone Operator a fee for handling their merchandise and performing related services. Operator(s) of the Zone are responsible and liable for payment of any and all duties or penalties due any agency of the Federal, State or Local government arising from use of the Zone, including liabilities on merchandise which is not accounted for to the satisfaction of the U.S. Customs Service.

## **COMMUNICATION**

Zone Operators (if any) and Zone Users shall inform the Grantee of any written or oral communications with US Customs and Border Protection and any other Federal agency that involves the merchandise held in the zone with respect to zone activity. Only the Grantee has the right to submit paperwork to the FTZ Board or Department of Commerce with respect to Foreign-Trade Zone activity. The Zone Operator(s)/User(s) shall promptly notify the Grantee of any written or oral request for information, spot check, or audit of any kind from CBP, FTZ Board or any governmental agency and of any audit or investigation commenced by any government agency which directly concerns zone operations and shall provide any letters, requests, report and investigative documentation to the Grantee.

## **CUSTOMS BOND**

Zone Operators and Sub Zone Operators must maintain a CBPF 301 Customs Bond as a guarantee for the payment of all duties and taxes and also for the payment of penalties and/or liquidated damages that may occur. The Grantee may, if deemed appropriate, require a Zone User to obtain an individual Customs bond. Bond amounts are set by the CBP Port Director based on the annual estimated duty liability of merchandise held in the Zone; minimum bond amount is \$50,000 USD.

## **GRANTEE LIABILITY**

Neither Foreign Trade Zone No. 34, the Niagara County Industrial Development Agency (NCIDA) nor the County of Niagara shall be held liable and cannot assume any responsibility for any loss or damage to freight, cargo or merchandise or other property within the Zone, or for any loss or damage arising from acts of commission or omission of Operators.

## **RECORD RETENTION**

The Operator is required to retain records for 5 years after merchandise is removed from the Zone. Records must be readily available for Customs review at the Zone Site(s).

## **Activation, Deactivation and Alteration of Zone Sites**

### **ACTIVATION**

The Foreign-Trade Zone No. 34 will assist the Operator toward activation of the Zone Site with Customs for commencement of Zone operation. When an Operator desires to activate Zone space, the Operator will complete the following:

- 1) Procedures Manual establishing how the Zone Site will be operated, in conformance with the Procedures Manual standard maintained by the Foreign Trade Zone of Niagara County .
- 2) Statement of personal history to permit the US Customs Service to perform a background check. This form must be completed on principal officers and key employees who will be involved in Zone operations.
- 3) A letter of concurrence from the Zone Grantee.
- 4) If activity is for manufacturing, a description of the proposed manufacturing activity and a copy of the Foreign-Trade Zones Board approval of this activity.
- 5) Grantee/Operator Agreement, duly executed, between the Operator and the Grantee, covering the Zone Site for which activation is sought.
- 6) Customs will conduct a security inspection of the Zone Site to ensure security systems are in place as listed in the Procedures Manual.
- 7) FTZ Operator's Bond to U.S. Customs as specified by Customs prior to activation.
- 8) A Zone Operator may be required to provide an additional bond in the name of the Grantee against any loss, or other Customs obligations or costs, attributable to operations in the Zone.

### **DEACTIVATION**

An Operator may deactivate all or a portion of a Zone Site by notifying and obtaining the approval of the Grantee pursuant to the terms of the Grantee/Operator Agreement between the Operator and the Grantee.

### **ALTERATION**

An Operator may increase or decrease the amount of activated space within an authorized Zone Site or Subzone by notifying and obtaining approval of the Grantee.

## **Merchandise Handling and Regulations**

### **GENERAL**

The Grantee may inspect Zone sites at any and all reasonable times to ascertain whether or not the covenants or conditions related to the proper use of Zone sites are being maintained.

All Zone Operators shall secure and maintain throughout the term of their Zone tenancy insurance with requirements and limits as required by the Grantee and must name the Grantee as Additional Insured. Certificates evidencing such insurance shall be provided within ten (10) business days prior to the activation of FTZ operations at the site. Appropriate insurance shall include provision for worker's compensation, vehicle liability and general liability.

If such insurance is not adequately secured and maintained, zone tenancy may be terminated by the Grantee. Zone schedule rates do not include insurance costs. No operation or process of treatment will be permitted in the Zone that, in the judgment of the FTZ Board, Grantee, or Zone Operator is detrimental to the public interest, health and/or safety except as allowed by law. Zone management reserves the right to refuse merchandise which would, in the opinion of Zone management, pose unusual or unacceptable problems or hazards.

### **SECURITY**

Persons desiring admittance to an Activated Zone shall make application to a representative of the Operator. A visitor's log will be maintained and will show the time, date, firm, person visited and in/out time. Upon admittance, visitors will be issued temporary passes that must be worn or shown upon request. Upon leaving a Zone, the temporary pass must be surrendered and any permanent pass must be shown to the appropriate representative.

Concurrent with an Activation Request to Customs, prospective Zone Operators must complete a background check of the qualifications, character and experience of key principal management/officers of the Zone. A list inclusive of each and every individual, to include full names, addresses, social security numbers, dates and place of birth and driver's license numbers must be submitted to Customs and Border Protection.

All merchandise stored within the Zone will be stored in a safe and sanitary manner. All entrances shall be left unblocked. Trash and waste shall be removed and all local, state and federal health laws shall be observed to protect public safety.

After a Zone Site has been activated, all security and safety measures required to achieve initial activation must be maintained at all times. Spot checks may be conducted by Customs and the Grantee without prior notification. Liquidated damages or notices may be assessed if security and safety measure are found to be insufficient.

No operation or process or treatment will be permitted in the Zone that, in the judgment of the Foreign-Trade Zones Board, Customs, or the Grantee, is detrimental to the public interest, health and safety. Cost of special security devices and other requirements will be the responsibility of the Operator.

## **ACTIVATION**

Pursuant to regulations of U.S. Customs and Border Protection, all or any portion of the Zone approved by the FTZ Board may be approved by the Grantee and the CBP Port Director for FTZ Operations and for the admission, handling and shipment for import or export of merchandise in Zone status. All procedures of CBP must be followed per 19 C.F.R. Section 146.6. Prior to Activation, a FTZ Procedures Manual must be developed for each General Purpose FTZ site or Subzone and submitted to the CBP Port Director. Amendments and revisions in procedures must be updated in the manual and the revised manual must be provided to CBP and to the Grantee within thirty (30) days of the affected change.

## **INVENTORY CONTROL AND RECORD KEEPING SYSTEMS**

All inventory control and recordkeeping systems employed by Operators within the Zone must meet the requirements of the U.S. Customs Service Regulations. Under the Regulations, each Operator maintains inventory records. The U.S. Customs Service is relieved of the duty of actually keeping the records, but maintains assurance of the systems' accuracy by selective examinations of merchandise, and spot checks and audits of Zone facilities. Each system must be capable of producing the following:

- Accurate and timely reports and documents as required by Customs Regulations.
- Accounting for all merchandise in its care, custody, and control.
- Identification of shortages and surpluses of merchandise in the Zone in sufficient detail to determine the quantity, description, Tariff classification, Zone status, and value of the missing or excess merchandise.
- Audit trail of Customs forms, from admission through manipulation, manufacture, destruction or transfer of merchandise from the Zone by a Customs authorized inventory method.
- All information necessary to make entry for merchandise being transferred to the Customs territory.

## **INVENTORY PROCEDURES**

Zone Operator(s) are responsible for establishing and maintaining Inventory Control Systems acceptable to the U.S. Customs Service and the Zone Grantee for all merchandise in their care, custody, and control.

## **MERCHANDISE PERMITTED IN A ZONE/RETAIL EXCLUSIONS/OTHER**

Foreign and domestic merchandise, except as specifically prohibited by law, may, without being subject to the Customs laws of the United States, except as otherwise provided in the Act and regulations made hereunder, be brought into a zone.

No retail trade --defined as sales or offers to sell goods or services to individuals for personal use-- shall be conducted within a Zone except under permits issued by the Grantee and approved by the FTZ Board.

No person shall be allowed to reside within a zone except Federal, State or municipal officers or agents whose resident presence is deemed to be necessary.

Zone Users within a General Purpose Zone are required to utilize the designated Zone Operator for their particular site unless a prior agreement is made with the Grantee

## **Fee Schedule**

The following fees are charged by the Niagara County Industrial Development Agency. **The Grantee reserves the right to change or waive any fee or charge contained herein if, in the Niagara County Industrial Development Agency's determination, it is in the best interest of the welfare of the community to do so.** Any fees enumerated herein shall be due and payable exclusive of any additional fee(s) required by the FTZ Board, Customs Border Patrol, and/or any other entity. The below-stated fees do NOT include fees associated with the actual preparation of the application. The fees cover Grantee expenses in obtaining the necessary approvals/resolutions and Customs Concurrence letters, preparation and processing of the Operations Agreements and any necessary support required in the approval and activation process, including the oversight and submission of the Annual Report to the Foreign Trade Zones Board through the Online FTZ Information System (OFIS).

### **Application / Processing Fees**

#### **GENERAL PURPOSE ZONES**

APPLICATION FEE FOR EXPANSION OF GENERAL PURPOSE ZONE TO INCLUDE ADDITIONAL PROPERTY: \$4,000

ACTIVATION FEE (PER SITE/USER): \$4,000

DE-ACTIVATION FEE (PER SITE/USER) : \$ 1,000

ANNUAL FEE TO GRANTEE (in addition to any fee(s) listed above):

The Annual Fee will cover Grantee expenses for oversight of the General Purpose Zone project and submission of the Annual Report to the Foreign Trade Zones Board.

The initial annual fee is payable as follows:

One-half (1/2) upon execution of the Grantee/Operator Agreement

One-half (1/2) upon Customs approval of activation

Then, annually on the anniversary date of activation by Customs, the fee is payable as described in the Grantee/Operators agreement and annually for each subsequent year the facility remains activated.

ACTIVE SITE \$ 2,000

INACTIVE SITE \$ 1,500

#### **USAGE DRIVEN AND MAGNET SITES**

APPLICATION FEE: \$5,000

ACTIVATION FEE (PER SITE): \$ 1,500

ANNUAL FEE TO GRANTEE (in addition to any fee(s) listed above):

The Annual Fee will cover Grantee expenses for oversight of the General Purpose Zone project and submission of the Annual Report to the Foreign Trade Zones Board.

The initial annual fee is payable as follows:

One-half (1/2) upon execution of the Grantee/Operator Agreement

One-half (1/2) upon Customs approval of activation

Then, annually on the anniversary date of activation by Customs, the fee is payable as described in the Grantee/Operators agreement and annually for each subsequent year the facility remains activated.

ACTIVE SITE \$2,000

INACTIVE SITE \$1,500

## **SUB-ZONES**

SUB-ZONE APPLICATION FEE: \$6,000

FEE FOR EXPANSION OR CHANGE OF SCOPE AT EXISTING SITE: \$3,000

ACTIVATION FEE (PER SITE): \$ 1,500

ANNUAL FEE TO GRANTEE (in addition to any fee(s) listed above):

The Annual Fee will cover Grantee expenses for oversight of the General Purpose Zone project and submission of the Annual Report to the Foreign Trade Zones Board.

The initial annual fee is payable as follows:

One-half (1/2) upon execution of the Grantee/Operator Agreement

One-half (1/2) upon Customs approval of activation

Then, annually on the anniversary date of activation by Customs, the fee is payable as described in the Grantee/Operators agreement and annually for each subsequent year the facility remains activated.

ACTIVE SITE: \$ 2,000

INACTIVE SITE \$ 1,500

The above-stated fees are not refundable. All fees are payable by the applicant to the Grantee prior to the submission of an application. Failure to pay will result in the withholding of the requested application. Fees must be paid within 30 days of the date of invoice.

### **Other Fees & Charges Not Otherwise Stated**

Additional Grantee assistance. Any additional assistance or interface required with the Board, Customs, or any other governmental agency on procedures or operations within the foreign-trade zone will be provided by the Grantee on an hourly rate basis of \$100/Hr.

Customs and Border Protection agency fees. Merchandise processing fees will be paid by the Operator at the zone site. Additionally, all other fees and charges assessed by Customs for services provided to the affected zone site will be invoiced to the Operator of that site. The Grantee is not liable or responsible for Customs fees or charges. Zone Operators are also responsible for other fees such as other government agency fees, customs fines, penalties or liquidated damages affecting zone merchandise or zone activities.

Legal expenses. Applicant, Zone/Subzone Operator agrees to pay, or cause to be paid, all legal expenses and costs which Grantee incurs in conjunction with, or arising out of, any of the services provided in this fee schedule.

Miscellaneous Fees. Any other fees, charges, or expenses incurred by Grantee for the purpose of obtaining Foreign Trade Zone Board approval and/or U.S. Customs & Border Protection approval on behalf of client, and not specifically listed herein, shall be the responsibility of the applicant.

Services of other government agencies. Charges for services of other government agencies should be arranged for and paid by the Operator who requires the use of such services. Under no circumstances will the Grantee be liable or responsible for any other government agencies' fees or charges.

**Fines, Penalties and Liquidated Damages**

U.S. Customs Service fines, penalties, or liquidated damage claims affecting Zone merchandise or Zone activities will be paid by the Operator of the affected Zone Site. The same is true of any other fines, penalties, or liquidated damage claims by other government agencies concerning operations at the Zone Site. Under no circumstances will the Grantee be liable or responsible for any fines, penalties, forfeiture or liquidated damage claims.