

# MAINE STATE LEGISLATURE

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February 23, 1963

Mr. Edward Langlois  
General Manager  
Maine Port Authority  
Maine State Pier  
Portland, Maine

Re: Maine Port Authority, Federal  
Trade Zone, P&S Laws 1963, c. 178.

Dear Mr. Langlois:

This is in reply to your request for an opinion whether the above-cited act of the Legislature, entitled AN ACT Authorizing the Maine Port Authority to Establish Foreign Trade Zones in Maine, could apply to the establishment of such a zone at the site of Dow Air Force Base in Bangor. Inquirer recites that at the time (of legislative action), "we" had in mind the location at a seacoast port of entry. The Act contemplates establishment of such a zone at a "port of entry," without mention of airports as such.

QUESTIONS:

- (1) Does the Maine Port Authority have authorization, under P & S Laws 1963, c. 178, to establish a foreign trade zone at an airport port of entry?
- (2) Is Dow Air Force Base, specifically, a port of entry for said purpose?

ANSWERS:

- (1) In my opinion, Question 1 may be answered in the affirmative.
- (2) Quere. (But see opinion)

REASONS:

(1) The Maine Act in question is an added section, amendatory of the act of creation of the Authority (P & S Laws 1929, c. 114, under name of "Port of Portland Authority") and amendments thereto. The original act and its many amendments speak throughout in generally nautical terms as to the scope of M.P.A., and I have found no mention of airport facilities therein, though connecting railroad and highway facilities auxiliary to seaport activity have been authorized. Historically, the trend of this legislation appears to be to enlarge M.P.A.'s scope and powers, especially, perhaps, geographically. In that light, and the amendment's language, it seems reasonable to believe the Legislature was at least not adverse to enlarging M.P.A.'s authority by enactment of the instant amendment, the particular amendment to control any implied limitations of the general prior enactments, though not expressly so stated.

Legal definitions of "port" and "port of entry" examined also speak almost wholly nautically, but Webster defines port of entry". . . whether a nautical port or not . . ."

The first sentence of the fourth paragraph of the Act speaks, as before, in nautical terms, which might be taken as limiting sites to such places. It authorizes and obliges M.P.A. to establish such areas "in and around the ports, harbors and navigable tidal rivers" of the State. But in four other sections the act appears to adopt and subject itself to the Act of Congress, and regulations made thereunder, providing for establishment, operation and maintenance of such zones (U.S.C.A., Title 19, §§ 81a to 81u, and regulations.) The Maine Act taken as a whole thus appears to rebut the suggestion of limitation of sites, inasmuch as airports have been recognized as ports of entry by designative regulations under the federal act.

Examination of the legislative history of the Maine Act discloses no specific intent to limit the sites to maritime areas. While it might be noted that the sponsor and proponents of record represented maritime areas, the only objection in debate, not abandoned, successfully secured bill amendment, exempting agricultural products, based on acknowledged fear of Canadian potato imports. The objecting legislator, representing an inland international boundary potato-shipping area, presumably must have been aware of the existence of several inland ports of entry, including at least one airport, in his own constituency, which could conceivably have been contemplated

as trade zone sites, but apparently did not object to their possible inclusion. Furthermore, both he and the sponsor acknowledged that there had originally been contemplation of a non-maritime department (D.N.D.) administering the zones, but indicated that M.P.A. was shown better suited to the duty on administrative and financial grounds.

(2) I have found no specific federal designation of Dow Air Force Base as a port of entry, but airports of entry are federally recognized. U.S.C.A., Cum. Supp. 1963, list of International Airports of entry amended to October 24, 1963 does not show any Maine airports. The federal law does, under appropriate conditions, permit such zones to be located on federal property. (19 U.S.C.A. § 81b (h).) Inland foreign trade zones are recognized, § 81b (1). The Bangor-Brewer Area has been designated as a port of entry, (H.R. 9298, 2/1/43, cited in Cu. Supp. 1963). Furthermore, § 81b (b) provides to the effect that a port of entry consisting of two cities separated by water may have a zone in each or in territory adjacent thereto.

As noted above, the Maine Act authorized zones "in and around the ports, harbors and navigable tidal rivers" of the State. (Underlining mine) I would assume that whether Dow has been specifically designated or not, its location in Bangor and near the Penobscot could qualify it as a zone site "in and around" the Bangor-Brewer port of entry or "in territory adjacent thereto", by the device of maintaining the nearest dock facility on the river for technical compliance if necessary (even though this might have the effect of making the actual major facility technically auxiliary to the minor facility.)

Furthermore, procedurally, the Maine Act authorizes the Authority to apply to the Secretary of Commerce, who is chairman and executive secretary under the federal act (§81a) of the board that approves designation of ports of entry. Satisfaction of his necessity to know if the Maine Legislature has sufficiently enabled the Authority to comply with the federal law seems to be the Authority's basic problem. So it would seem likely that application, if necessary, for designation of Dow could successfully be made through him by the Authority concurrently and in connection with the application for establishing zones.

Mr. Edward Langlois

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February 23, 1965

Further exploration of these possibilities and verification of any changes in the federal law may properly be the sphere of M.P.A.'s regularly retained counsel, who has often worked with this Office.

Very truly yours,

Emery G. Beane, Jr.  
Assistant Attorney General

ESB/sll