

## FOREIGN-TRADE ZONES ACT

### 19 USC CHAPTER 1A – FOREIGN-TRADE ZONES TITLE 19 – CUSTOMS DUTIES; CHAPTER A1 – FOREIGN-TRADE ZONES

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### **Sec. 81a. Definitions**

When used in this chapter -

- (a) The term "Secretary" means the Secretary of Commerce;
- (b) The term "Board" means the Board which is established to carry out the provisions of this chapter. The Board shall consist of the Secretary of Commerce, who shall be chairman and executive officer of the Board, and the Secretary of the Treasury;
- (c) The term "State" includes any State, the District of Columbia, and Puerto Rico;
- (d) The term "corporation" means a public corporation and a private corporation, as defined in this chapter;
- (e) The term "public corporation" means a State, political subdivision thereof, a municipality, a public agency of a State, political subdivision thereof, or municipality, or a corporate municipal instrumentality of one or more States;
- (f) The term "private corporation" means any corporation (other than a public corporation) which is organized for the purpose of establishing, operating, and maintaining a foreign-trade zone and which is chartered under special Act enacted after June 18, 1934, of the State or States within which it is to operate such zone;
- (g) The term "applicant" means a corporation applying for the right to establish, operate, and maintain a foreign-trade zone;
- (h) The term "grantee" means a corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted;
- (i) The term "zone" means a "foreign-trade zone" as provided in this chapter.

### **Sec. 81b. Establishment of zones**

- (a) Board authorization to grant zones  
The Board is authorized, subject to the conditions and restrictions of this chapter and of the rules and regulations made thereunder, upon application as hereinafter provided, to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States.

- (b) Number of zones per port of entry  
Each port of entry shall be entitled to at least one zone, but when a port of entry is located within the confines of more than one State such port of entry shall be entitled to a zone in each of such States, and when two cities separated by water are embraced in one port of entry, a zone may be authorized in each of said cities or in territory adjacent thereto. Zones in addition to those to which a port of entry is entitled shall be authorized only if the Board finds that existing or authorized zones will not adequately serve the convenience of commerce.
- (c) Preference to public corporations  
In granting applications preference shall be given to public corporations.
- (d) Ownership of harbor facilities by State  
In case of any State in which harbor facilities of any port of entry are owned and controlled by the State and in which State harbor facilities of any other port of entry are owned and controlled by a municipality, the Board shall not grant an application by any public corporation for the establishment of any zone in such State, unless such application has been authorized by an Act of the legislature of such State (enacted after June 18, 1934).

**Sec. 81c. Exemption from customs laws of merchandise brought into foreign trade zone**

- (a) Handling of merchandise in zone; shipment of foreign merchandise into customs territory; appraisal; reshipment to zone  
Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in this chapter, be brought into a zone and may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, or be manufactured except as otherwise provided in this chapter, and be exported, destroyed, or sent into customs territory of the United States therefrom, in the original package or otherwise; but when foreign merchandise is so sent from a zone into customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise: Provided, That whenever the privilege shall be requested and there has been no manipulation or manufacture effecting a change in tariff classification, the appropriate customs officer shall take under supervision any lot or part of a lot of foreign merchandise in a zone, cause it to be appraised and taxes determined and duties liquidated thereon. Merchandise so taken under supervision may be stored, manipulated, or manufactured under the supervision and regulations prescribed by the Secretary of the Treasury, and whether mixed or manufactured with domestic merchandise or not may, under regulations prescribed by the Secretary of the Treasury, be exported or destroyed, or may be sent into customs territory upon the payment of such liquidated duties and determined taxes thereon. If merchandise so taken under supervision has been manipulated or manufactured, such duties and taxes shall be payable on the quantity of such foreign merchandise used in the manipulation or manufacture of the entered article. Allowance shall be made for recoverable and irrecoverable

waste; and if recoverable waste is sent into customs territory, it shall be dutiable and taxable in its condition and quantity and at its weight at the time of entry. Where two or more products result from the manipulation or manufacture of merchandise in a zone the liquidated duties and determined taxes shall be distributed to the several products in accordance with their relative value at the time of separation with due allowance for waste as provided for above: Provided further, That subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles, the growth, product, or manufacture of the United States, on which all internal-revenue taxes have been paid, if subject thereto, and articles previously imported on which duty and/or tax has been paid, or which have been admitted free of duty and tax, may be taken into a zone from the customs territory of the United States, placed under the supervision of the appropriate customs officer, and whether or not they have been combined with or made part, while in such zone, of other articles, may be brought back thereto free of quotas, duty, or tax: Provided further, That if in the opinion of the Secretary of the Treasury their identity has been lost, such articles not entitled to free entry by reason of noncompliance with the requirements made hereunder by the Secretary of the Treasury shall be treated when they reenter customs territory of the United States as foreign merchandise under the provisions of the tariff and internal-revenue laws in force at that time: Provided further, That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of -

- (1) the draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and
- (2) the statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder. Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615(f) of section [1201](#) of this title: Provided further, That no operation involving any foreign or domestic merchandise brought into a zone which operation would be subject to any provision or provisions of section [1807](#), chapter 15, chapter [16](#), chapter 17, chapter [21](#), chapter 23, chapter [24](#), chapter 25, chapter [26](#), or chapter 32 of the Internal Revenue Code if performed in customs territory, or involving the manufacture of any article provided for in paragraphs 367 or 368 of section [1001](#) of this title, shall be permitted in a zone except those operations (other than rectification of distilled spirits and wines, or the manufacture or production of alcoholic products unfit for beverage purposes) which were permissible under this chapter prior to July 1, 1949: Provided further, That articles produced or manufactured in a zone and exported therefrom shall on subsequent importation into the customs territory of the United States be subject to

the import laws applicable to like articles manufactured in a foreign country, except that articles produced or manufactured in a zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the second proviso of this section may, on such importation, be entered as American goods returned: Provided, further, That no merchandise that consists of goods subject to NAFTA drawback, as defined in section [3333\(a\)](#) of this title, that is manufactured or otherwise changed in condition shall be exported to a NAFTA country, as defined in section [3301\(4\)](#) of this title, without an assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of its exportation (or if the privilege in the first proviso to this subsection was requested, an assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of its admission into the zone) and the payment of the assessed duty before the 61st day after the date of exportation of the article, except that upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid or owed to the NAFTA country on the article, the customs duty may be waived or reduced (subject to section 508(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1508(b)(2)(B))) in an amount that does not exceed the lesser of (1) the total amount of customs duties paid or owed on the merchandise on importation into the United States, or

- (2) the total amount of customs duties paid on the article to the NAFTA country: Provided, further, That, if Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, with the exception of drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, no article manufactured or otherwise changed in condition (except a change by cleaning, testing or repacking) shall be exported to Canada during the period such Agreement is in operation without the payment of a duty that shall be payable on the article in its condition and quantity, and at its weight, at the time of its exportation to Canada unless the privilege in the first proviso to this subsection was requested.

- (b) Applicability to bicycle component parts  
The exemption from the customs laws of the United States provided under subsection (a) of this section shall not be available on or before December 31, 1992, to bicycle component parts unless such parts are reexported from the United States, whether in the original package, as components of a completely assembled bicycle, or otherwise.
- (c) Articles manufactured or produced from denatured distilled spirits withdrawn free of tax from distilled spirits plant; products unfit for beverage purposes
  - (1) Notwithstanding the provisions of the fifth proviso of subsection (a) of this section, any article (within the meaning of section [5002\(a\)\(14\)](#) of title 26) may be manufactured or produced from denatured distilled spirits which have been withdrawn free of tax from a distilled spirits plant (within the meaning of section [5002\(a\)\(1\)](#) of title 26), and articles thereof, in a zone.

- (2) Notwithstanding the provisions of the fifth proviso of subsection (a) of this section, distilled spirits which have been removed from a distilled spirits plant (as defined in section [5002](#)(a)(1) of title 26) upon payment or determination of tax may be used in the manufacture or production of medicines, medicinal preparation, food products, flavors, or flavoring extracts, which are unfit for beverage purposes, in a zone. Such products will be eligible for drawback under the internal revenue laws under the same conditions applicable to similar manufacturing or production operations occurring in customs territory.
- (d) Foreign trade zones  
In regard to the calculation of relative values in the operations of petroleum refineries in a foreign trade zone, the time of separation is defined as the entire manufacturing period. The price of products required for computing relative values shall be the average per unit value of each product for the manufacturing period. Definition and attribution of products to feedstocks for petroleum manufacturing may be either in accordance with Industry Standards of Potential Production on a Practical Operating Basis as verified and adopted by the Secretary of the Treasury (known as producibility) or such other inventory control method as approved by the Secretary of the Treasury that protects the revenue.
- (e) Production equipment
  - (1) In general  
Notwithstanding any other provision of law, if all applicable customs laws are complied with (except as otherwise provided in this subsection), merchandise which is admitted into a foreign trade zone for use within such zone as production equipment or as parts for such equipment, shall not be subject to duty until such merchandise is completely assembled, installed, tested, and used in the production for which it was admitted.
  - (2) Admission procedures  
The person who admits the merchandise described in paragraph (1) into the zone shall, at the time of such admission, certify to the Customs Service that the merchandise is admitted into the zone pursuant to this subsection for use within the zone as production equipment or as parts for such equipment and that the merchandise will be entered and estimated duties deposited when use of the merchandise in production begins.
  - (3) Entry procedures  
At the time use of the merchandise in production begins, the merchandise shall be entered, as provided for in section 484 of the Tariff Act of 1930 (19 U.S.C. 1484), and estimated duties shall be deposited with the Customs Service. The merchandise shall be subject to tariff classification according to its character, condition, and quantity, and at the rate of duty applicable, at the time use of the merchandise in production begins.
  - (4) Foreign trade zone  
For purposes of this subsection, the term "foreign trade zone" includes a subzone.

### **Sec. 81d. Customs officers and guards**

The Secretary of the Treasury shall assign to the zone the necessary customs officers and guards to protect the revenue and to provide for the admission of foreign merchandise into customs territory.

### **Sec. 81e. Vessels entering or leaving zone; coastwise trade**

Vessels entering or leaving a zone shall be subject to the operation of all the laws of the United States, except as otherwise provided in this chapter, and vessels leaving a zone and arriving in customs territory of the United States shall be subject to such regulations to protect the revenue as may be prescribed by the Secretary of the Treasury. Nothing in this chapter shall be construed in any manner so as to permit vessels under foreign flags to carry goods or merchandise shipped from one foreign trade zone to another zone or port in the protected coastwise trade of the United States.

### **Sec. 81f. Application for establishment and expansion of zone**

- (a) Application for establishment; requirements  
Each application shall state in detail -
  - (1) The location and qualifications of the area in which it is proposed to establish a zone, showing (A) the land and water or land or water area or land area alone if the application is for its establishment in or adjacent to an interior port; (B) the means of segregation from customs territory; (C) the fitness of the area for a zone; and (D) the possibilities of expansion of the zone area;
  - (2) The facilities and appurtenances which it is proposed to provide and the preliminary plans and estimate of the cost thereof, and the existing facilities and appurtenances which it is proposed to utilize;
  - (3) The time within which the applicant proposes to commence and complete the construction of the zone and facilities and appurtenances;
  - (4) The methods proposed to finance the undertaking;
  - (5) Such other information as the Board may require.
- (b) Amendment of application; expansion of zone  
The Board may upon its own initiative or upon request permit the amendment of the application. Any expansion of the area of an established zone shall be made and approved in the same manner as an original application.

### **Sec. 81g. Granting of application**

If the Board finds that the proposed plans and location are suitable for the accomplishment of the purpose of a foreign trade zone under this chapter, and that the facilities and appurtenances which it is proposed to provide are sufficient it shall make the grant.

### **Sec. 81h. Rules and regulations**

The Board shall prescribe such rules and regulations not inconsistent with the provisions of this chapter or the rules and regulations of the Secretary of the Treasury made hereunder and as may be necessary to carry out this chapter.

### **Sec. 81i. Cooperation of Board with other agencies**

The Board shall cooperate with the State, subdivision, and municipality in which the zone is located in the exercise of their police, sanitary, and other powers in and in connection with the free zone. It shall also cooperate with the United States Customs Service, the United States Postal Service, the Public Health Service, the Immigration and Naturalization Service, and such other Federal agencies as have jurisdiction in ports of entry described in section [81b](#) of this title.

### **Sec. 81j. Cooperation of other agencies with Board**

For the purpose of facilitating the investigations of the Board and its work in the granting of the privilege, in the establishment, operation, and maintenance of a zone, the President may direct the executive departments and other establishments of the Government to cooperate with the Board, and for such purpose each of the several departments and establishments is authorized, upon direction of the President, to furnish to the Board such records, papers, and information in their possession as may be required by him, and temporarily to detail to the service of the Board such officers, experts, or engineers as may be necessary.

### **Sec. 81k. Agreements as to use of property**

If the title to or right of user of any of the property to be included in a zone is in the United States, an agreement to use such property for zone purposes may be entered into between the grantee and the department or officer of the United States having control of the same, under such conditions, approved by the Board and such department or officer, as may be agreed upon.

### **Sec. 81l. Facilities to be provided and maintained**

Each grantee shall provide and maintain in connection with the zone -

- (a) Adequate slips, docks, wharves, warehouses, loading and unloading and mooring facilities where the zone is adjacent to water; or, in the case of an inland zone, adequate loading, unloading, and warehouse facilities;
- (b) Adequate transportation connections with the surrounding territory and with all parts of the United States, so arranged as to permit of proper guarding and inspection for the protection of the revenue;
- (c) Adequate facilities for coal or other fuel and for light and power;
- (d) Adequate water and sewer mains;

- (e) Adequate quarters and facilities for the officers and employees of the United States, State, and municipality whose duties may require their presence within the zone;
- (f) Adequate enclosures to segregate the zone from customs territory for protection of the revenue, together with suitable provisions for ingress and egress of persons, conveyances, vessels, and merchandise;
- (g) Such other facilities as may be required by the Board.

#### **Sec. 81m. Permission to others to use zone**

The grantee may, with the approval of the Board, and under reasonable and uniform regulations for like conditions and circumstances to be prescribed by it, permit other persons, firms, corporations, or associations to erect such buildings and other structures within the zone as will meet their particular requirements: Provided, That such permission shall not constitute a vested right as against the United States, nor interfere with the regulation of the grantee or the permittee by the United States, nor interfere with or complicate the revocation of the grant by the United States: And provided further, That in the event of the United States or the grantee desiring to acquire the property of the permittee no good will shall be considered as accruing from the privilege granted to the zone: And provided further, That such permits shall not be granted on terms that conflict with the public use of the zone as set forth in this chapter.

#### **Sec. 81n. Operation of zone as public utility; cost of customs service**

Each zone shall be operated as a public utility, and all rates and charges for all services or privileges within the zone shall be fair and reasonable, and the grantee shall afford to all who may apply for the use of the zone and its facilities and appurtenances 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 and the cost of maintaining the additional customs service required under this chapter shall be paid by the operator of the zone.

#### **Sec. 81o. Residents of zone**

- (a) Persons allowed to reside in zone  
No person shall be allowed to reside within the zone except Federal, State, or municipal officers or agents whose resident presence is deemed necessary by the Board.
- (b) Rules and regulations for employees entering and leaving zone  
The Board shall prescribe rules and regulations regarding employees and other persons entering and leaving the zone. All rules and regulations concerning the protection of the revenue shall be approved by the Secretary of the Treasury.
- (c) Exclusion from zone of goods or process of treatment  
The Board may at any time order the exclusion from the zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety.

- (d) Retail trade within zone  
No retail trade shall be conducted within the zone except under permits issued by the grantee and approved by the Board. Such permittees shall sell no goods except such domestic or duty-paid or duty-free goods as are brought into the zone from customs territory.
- (e) Exemption from State and local ad valorem taxation of tangible personal property  
Tangible personal property imported from outside the United States and held in a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, shall be exempt from State and local ad valorem taxation.

### **Sec. 81p. Accounts and recordkeeping**

- (a) Manner of keeping accounts  
The form and manner of keeping the accounts of each zone shall be prescribed by the Board.
- (b) Annual report by grantee  
Each grantee shall make to the Board annually, and at such other times as it may prescribe, reports on zone operations.
- (c) Report to Congress  
The Board shall make a report to Congress annually containing a summary of zone operations.

### **Sec. 81q. Transfer of grant**

The grant shall not be sold, conveyed, transferred, set over, or assigned.

### **Sec. 81r. Revocation of grants**

- (a) Procedure for revocation  
In the event of repeated willful violations of any of the provisions of this chapter by the grantee, the Board may revoke the grant after four months' notice to the grantee and affording it an opportunity to be heard. The testimony taken before the Board shall be reduced to writing and filed in the records of the Board together with the decision reached thereon.
- (b) Attendance of witnesses and production of evidence  
In the conduct of any proceeding under this section for the revocation of a grant the Board may compel the attendance of witnesses and the giving of testimony and the production of documentary evidence, and for such purpose may invoke the aid of the district courts of the United States.
- (c) Nature of order of revocation; appeal  
An order under the provisions of this section revoking the grant issued by the

Board shall be final and conclusive, unless within ninety days after its service the grantee appeals to the court of appeals for the circuit in which the zone is located by filing with the clerk of said court a written petition praying that the order of the Board be set aside. Such order shall be stayed pending the disposition of appellate proceedings by the court. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Board and it shall thereupon file in the court the record in the proceedings held before it under this section, as provided in section [2112](#) of title 28. The testimony and evidence taken or submitted before the Board, duly certified and filed as a part of the record, shall be considered by the court as the evidence in the case.

#### **Sec. 81s. Offenses**

In case of a violation of this chapter, or any regulation under this chapter, by the grantee, any officer, agent or employee thereof responsible for or permitting any such violation shall be subject to a fine of not more than \$1,000. Each day during which a violation continues shall constitute a separate offense.

#### **Sec. 81t. Separability**

If any provision of this chapter or the application of such provision to certain circumstances be held invalid, the remainder of this chapter and the application of such provisions to circumstances other than those as to which it is held invalid shall not be affected thereby.

#### **Sec. 81u. Right to alter, amend, or repeal chapter**

The right to alter, amend, or repeal this chapter is reserved.