

**CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. _____**

**SUBJECT: ESTABLISHMENT, MAINTENANCE AND OPERATIONS OF
CUSTOMS FACILITIES AND WAREHOUSES**

Introduction. This CAO implements Sections 301, 303 and 307, Chapter 2, Title III, and Sections 801, 803, 804, 805, 806, 807, and 810, Chapter 2, Title VIII, in relation to Section 204 and other relevant sections of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Section 1. Scope. This CAO applies to all types of Customs Facilities and Warehouses (CFWs) listed in the CMTA and those that may be created by the Secretary of Finance, upon the recommendation of the Commissioner pursuant to Section 803 of the CMTA.

Section 2. Objectives.

- 2.1.** To provide the guidelines for the establishment, operation, supervision, and control of CFWs for purposes of protecting government revenues and imported goods stored therein.
- 2.2.** To provide the guidelines for the operation of Terminal Operators with Permit to Operate from other government agencies for customs purposes.
- 2.3.** To provide a system of temporary storage and accounting of imports in case of abandoned, overstaying and forfeited goods.
- 2.4.** To define the rights and corresponding obligations of operators of CFWs.
- 2.5.** To establish a compliance rate structure for CFW operators on customs warehousing laws and regulations and provide penalties for violations thereof.
- 2.6.** To develop and maintain a CFW management system making full use of information and communications technology.

Section 3. Definition of Terms. For purposes of this CAO, the following terms are defined as follows:

- 3.1. Abandoned or Overstaying Goods** — for purposes of this CAO, shall refer to goods covered by the following:

- a. When the owner, importer, or consignee of the imported goods expressly signifies in writing to the District Collector the intention to abandon the same; or
- b. When the owner, importer, consignee, or interested party after due notice, falls to file the goods declaration within the prescribed period in Section 407 of the CMTA; provided, that the term goods declaration shall include provisional or incomplete goods declaration deemed valid by the Bureau as provided in Section 403 of the CMTA.
- c. Having filed such goods declaration, the owner, importer, consignee or interested party after due notice, fails to pay the assessed duties, taxes and other charges thereon, or, if the regulated goods failed to comply with Section 117 of the CMTA, within fifteen (15) days from the date of final assessment: Provided, That if such regulated goods are subject of an alert order and the assessed duties, taxes and other charges thereof are not paid within fifteen (15) days from notification by the Bureau of the resolution of the alert order, the same shall also be deemed abandoned; or
- d. Having paid the assessed duties, taxes and other charges, the owner, importer or consignee or interested party after due notice, fails to claim the goods within thirty (30) days from payment.
- e. When the owner or importer fails to claim goods in customs bonded warehouses within the prescribed period.¹

Goods are considered abandoned pursuant to the above conditions when a Decree of Abandonment is issued by the District Collector.

3.2. Authority to Operate — shall refer to the authority given by the Bureau allowing persons, natural or juridical, to establish and operate a CFW, without prejudice to existing contracts entered into by terminal facility operators with other government regulatory agencies, such as but not limited to the Philippine Ports Authority (PPA), Subic Bay Metropolitan Authority (SBMA), Phividec Industrial Authority (PIA), Cebu Ports Authority (CPA) granted under existing laws.

3.3. Certificate of Authority — shall refer to a document issued by the Bureau to persons, natural or juridical, duly authorized to operate an Off-Dock or Off-Terminal CFW.

¹ cf. CMTA, Title XI, Chapter 6, Section 1129.

- 3.4. Certificate of Registration** – shall refer to a document issued by the Bureau to persons, natural or juridical, duly authorized to operate a terminal facility.
- 3.5. Customs Premises** – shall include customs offices, facilities, warehouses, ports, airports, wharves, infrastructure and other areas within the customs districts over which the Bureau shall have exclusive control, direction and management for customs purposes.²
- 3.6. Customs Facilities and Warehouses (CFW)** — shall refer to facilities for temporary storage of goods established and authorized by the Bureau pursuant to Title VIII, Chapter 2 of the CMTA. These include container yards, container freight stations, seaport temporary storage warehouses, airport temporary storage warehouses and other premises for customs purposes.
- 3.7. Dangerous goods or hazardous goods** — shall refer to solids, liquids, or gases that can harm people, other living organisms, property, or the environment.³
- 3.8. Extension or Additional Warehouse** — shall refer to a separate CFW facility granted by the Bureau to an already duly authorized CFW operator to optimize capacity and efficiency in its operations.⁴
- 3.9. Goods** — shall refer to articles, wares, merchandise and any other items which are subject of importation or exportation.⁵
- 3.10. Goods Declaration** — shall refer to a statement made in the manner prescribed by the Bureau and other appropriate agencies, by which the persons concerned indicate the procedure to be observed in the application for the entry or admission of imported goods and the particulars of which the customs administration shall require.⁶
- 3.11. Importation** — shall refer to the act of bringing in of goods from a foreign territory into Philippine territory, whether for consumption, warehousing, or admission.⁷

² cf. CMTA, Title III, Chapter 2, Section 303.

³ cf. International Maritime Dangerous Goods (IMDG) Code.

⁴ cf. CAO No. 1-2009, Title II, Section 2.16.

⁵ CMTA, Title I, Chapter 2, Section 102 (x).

⁶ CMTA, Title I, Chapter 2, Section 102 (y).

⁷ CMTA, Title I, Chapter 2, Section 102 (z).

3.12. Lodgement — shall refer to the registration of a goods declaration with the Bureau.⁸

3.13. Perishable Goods — shall refer to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense.⁹

3.14. Physical Security Infrastructure — shall refer to an infrastructure or system built to secure and monitor the premises, storage and production areas of CFWs including the safety of personnel¹⁰ based on internationally accepted safety standards and best practices.

3.15. Security — shall refer to any form of guaranty, such as a surety bond, cash bond, standby letter of credit or irrevocable letter of credit, liability insurance issued by an insurance company authorized by the Insurance Commission and with the Bureau of Customs named as Joint Assured, which ensures the satisfaction of an obligation to the Bureau.¹¹

3.16. Transfer Note — shall refer to a document that accompanies the transfer or transit of imported articles from the terminal facility to a CFW and serves as proof of delivery or receipt of the articles at its intended destination duly acknowledged on its face by the District Collector or his duly authorized representative. This is formerly known as "boat note". This is also commonly referred to as "Special Permit to Transfer".

3.17. Unauthorized Removal or Delivery of Goods — shall refer to the act of removing, transferring or disposing of goods stored in CFWs without proper authority from the Bureau.

3.18. Wharves — shall refer to the continuous structures built parallel to along the margin of the sea or alongside river-banks, canals or waterways where vessel may lie alongside to receive or discharge cargo, embark or disembark passenger, or lie at rest.¹²

⁸ CMTA, Title I, Chapter 2, Section 102 (dd).

⁹ CMTA, Title I, Chapter 2, Section 102 (gg).

¹⁰ cf. Revised Kyoto Convention, Chapter 2, E26/F17.

¹¹ cf. CMTA, Title I, Chapter 2, Section 102 (mm).

¹² Presidential Decree 857, Article III, Section 3 (o).

Section 4. General Provisions.

4.1. Establishment of Off-Dock and Off-Terminal Customs Facilities and Warehouses. When the business of the port and trade requires such facilities, the District Collector, subject to the approval of the Commissioner, shall designate and establish customs facilities and warehouses for the storage of imported goods or for other special purposes.

4.2. Supervision and Control over Customs Facilities and Warehouses. All customs facilities and warehouses, including their expansion, extensions and additional facilities shall be considered as part of customs premises subject to the supervision and control of the District Collector who shall impose such conditions as may be deemed necessary for the protection of government revenue, and of the goods stored therein.¹³

The Bureau, however, shall not be liable for any loss or damage of the goods stored in any customs facility warehouse¹⁴, without prejudice to applicable provisions of law on loss of or damage to property.

4.3. Existing Contracts Entered Into By Terminal Facility Operators With Other Government Regulatory Agencies.

Existing contracts of private operators with concerned government agencies and regulatory bodies, such as but not limited to the Philippine Ports Authority (PPA), Subic Bay Metropolitan Authority (SBMA), Phividec Industrial Authority (PIA), Cebu Ports Authority (CPA) and their respective affiliates and subsidiaries, including the powers and privileges already granted by virtue of such contracts, shall not be impaired or adversely affected in the exercise of the supervisory functions of the District Collector and the implementation of the CMTA of the Bureau.

4.4. Types of Customs Facilities and Warehouses (CFW).

4.4.1. Container Yard. It is a facility duly authorized to accept and store container vans, laden or empty, intended for international shipping for storage within the period allowed under customs laws, rules and regulations. A container yard may be established either within the seaport or off-dock, as may be allowed under customs laws, rules, and regulations.

¹³ CMTA, Title VIII, Chapter 2, Section 806, 1st sentence.

¹⁴ cf. CMTA, Title VIII, Chapter 2, Section 806, 2nd sentence.

- 4.4.2. Container Freight Station.** It is a facility duly authorized to accept and store containers containing consolidated shipments, for temporary storage, examination, stripping, stuffing, and other related activities as may be allowed under customs laws, rules, and regulations. A container freight station may be established either within the seaport or off-dock, as may be allowed under customs laws, rules, and regulations.
- 4.4.3. Seaport Temporary Storage Warehouse.** It is a customs facility established within the seaport premises or off-dock for purposes of storage, examination, stripping, stuffing, or safekeeping of imported goods.
- 4.4.4. Airport Temporary Storage Warehouse.** It is a customs facility established within the airport premises or off-terminal for purposes of storage, examination, stripping, or safekeeping of imported goods.
- 4.4.5. Inland Container Depot (ICD).** It is a self-contained customs premises which is part of a terminal facility situated at inland ports away from the sea ports and equipped for handling or temporary storage of containers, both empty or laden, where all the activities related to clearance of goods for home consumption, warehousing, temporary admission, re-exportation, temporary storage for onward and outright exportation and transshipment take place.
- 4.5. Designated Areas for Abandoned, Overstaying and Forfeited Goods within the CFW.** For proper accounting and inventory, CFWs shall designate special areas for temporary storage of abandoned, overstaying and forfeited goods.
- 4.6. Other Premises Used for Customs Purposes.** For the protection of government revenues and the prevention of entry of contrabands, CFWs shall extend to examination areas, cold storage, wharves, infrastructure and other premises where goods subject to customs clearance may be stored, examined, or disposed. Customs control over these premises shall be without prejudice to the general powers of the local government units (LGUs), the Philippine Coast Guard (PCG) and law enforcement agencies in the exercise of their respective functions.
- 4.7. Issuance of Authority to Operate.** The Bureau shall be responsible for the issuance of an Authority to Operate CFWs, including the imposition of different sets of requirements for their

establishment, maintenance and operation, setting forth the rights and obligations of operators, and the penalties and sanctions for violation of these rules.

Operators of terminal facilities with existing contracts granted by the Philippine Ports Authority and other port authorities shall be authorized to operate as CFW, provided they comply with the additional requirements and conditions as may be imposed by the Bureau for the effective exercise of jurisdictional control over ports, airports and terminal facilities.

Only authorized CFW operators shall be allowed to handle and store imported goods that are immediately discharged from arriving aircrafts, vessels or other means of operational transport.

4.8. Registration of CFWs. All CFWs granted with Authority to Operate shall be registered with the BOC's Customs Profile Recording System (CPRS) as warehouse operator.

4.9. Creation or Dissolution of CFWs. The Secretary of Finance may, upon the recommendation of the Commissioner, create or dissolve certain types of warehouses subject to consultation with the National Economic and Development Authority (NEDA) and the Department of Trade and Industry (DTI) based on prevailing economic circumstances.¹⁵ This shall be without prejudice to existing contracts of private operators with the appropriate government agencies.

4.10. Assignment of Personnel. In pursuit of its supervisory and control functions over customs premises, the District Collector shall assign customs personnel¹⁶ to monitor and implement control measures for customs purposes, in accordance with its existing organizational structure and staffing pattern.

Section 5. Off-Dock and Off-Terminal CFWs. Off-dock and off-terminal CFWs duly established shall be considered as extension of the port subject to the supervision and control of the District Collector.

¹⁵ CMTA, Title VIII, Chapter 2, Section 803, 2nd par.

¹⁶ cf. CAO No. 1-2009, Title IV, Section 4.7.

5.1. Application for Establishment.

5.1.1. Application. All applications for the establishment of an off-dock and off-terminal CFW shall be filed with the District Collector who has territorial jurisdiction over the location of the off-dock CFW, describing the proposed premises, location, capacity and purpose.

5.1.2. Documentary Requirements. Any person or firm desiring to establish and operate an off-dock and off-terminal CFW shall submit the following documents:¹⁷

- a.** Securities and Exchange Commission Articles of Incorporation, Department of Trade and Industry Certificate of Business Registration, Bureau of Internal Revenue Certificate of Registration and Mayor's Permit (if not yet filed under the Client Profile Registration System-CPRS);
- b.** Location and layout of facility, including machineries, equipment as applicable (including lease contract or title to the property);
- c.** Audited Financial Statements for the last two (2) years immediately preceding the date of application;
- d.** Manual of web-based inventory management system;
- e.** Lay-out of the proposed customs facility for use of customs personnel complement; and
- f.** Lay-out for the designated examination area and non-intrusive inspection equipment facility.

5.1.3. Security Requirements. An applicant must likewise have written and verifiable procedures on the following:¹⁸

- a.** Security procedures for service providers and vendors;
- b.** Container security integrity and breach detection measures (e.g. container storage and seals);
- c.** Physical access controls (e.g. security personnel, employee ID system, searches, visitors or vendors verification);
- d.** Personnel security (e.g. pre-employment verification, background checks);
- e.** Procedural security (e.g. cargo control, shipping and receiving, container opening and release);
- f.** Security training and awareness of personnel of CFW operator;

¹⁷ cf. CMO No. 30-2015, Section 4.1 (a).

¹⁸ cf. CMO No. 30-2015, Section 4.1 (a).

- g.** Physical Security (e.g. fences, gates, parking, building structures, locks and keys, lighting, alarm systems and video surveillance cameras); and
- h.** Information Technology Security (e.g. password, accountability)

5.1.4. Evaluation of Documents and Examination of Premises. Upon receipt of the above documents, the District Collector shall:

- a.** Determine the completeness of the documents submitted in support of the application;
- b.** Cause the conduct of physical inspection and taking of photographs of the premises; and
- c.** Evaluate and review the documents including the physical inspection report.

5.1.5. Action by the District Collector. The District Collector shall recommend approval of the application within thirty (30) working days from completion of documents and inspection report.

5.1.6. Recommendation by the District Collector. In case there is merit in the application, the District Collector shall recommend its approval to the Commissioner, forwarding the complete records of the application. Otherwise, the District Collector shall send a letter to the applicant denying the application and stating clearly the grounds for the denial.

5.1.7. Approval by the Commissioner. The Commissioner shall act on the recommendation of the District Collector on the application within thirty (30) working days from receipt of such recommendation. Otherwise, the recommendation shall be deemed approved.¹⁹ In case the Commissioner denies the application, a letter shall be sent to the applicant stating clearly the grounds for the denial.²⁰

5.2. Appeal from the Denial of the Application by the District Collector. The applicant may appeal²¹ the denial of the application to establish an off-dock or off-terminal CFW by filing a Letter of Appeal to the District Collector who denied such application within fifteen (15) days from receipt of the letter of denial, copy furnished the Office of the Commissioner, stating clearly the grounds why the application should be approved.

¹⁹ cf. RA 9485, Anti-Red Tape Act of 2007, Section 9, Automatic Extension of Permits and Licenses.

²⁰ cf. CAO No. 1-2009, Title IV, Section 4.5.

²¹ cf. CMTA, Title I, Chapter 1, Section 102 (e).

5.2.1. Records of Appeal. The District Collector shall forward the complete records of the application to the Commissioner within five (5) days from receipt of the Letter of Appeal.

5.2.2. Decision of the Commissioner on Appeal. The Commissioner shall render a decision on the appeal within thirty (30) working days from receipt of the complete records of the case from the District Collector. Failure of the Commissioner to render a decision within the prescribed period shall be deemed as an affirmation of the decision of denial by the District Collector.

5.2.3. Denial of the application by the Commissioner may be appealed to the Secretary of Finance within fifteen (15) working days from receipt of the Letter of Denial.

5.3. Certificate of Authority. Any approval of the off-dock or off-terminal CFW application shall be evidenced by a Certificate of Authority to Operate an Off-dock or Off-terminal CFW issued by the District Collector. Such certificate shall be conspicuously displayed at all times at the off-dock or off-terminal CFW and its extension offices, if any.

5.4. Amendment of Certificate of Authority. The Certificate of Authority may be amended by the District Collector upon the request of the off-dock or off-terminal CFW operator based on the following instances:

- a. Change of company name;
- b. Change of the name of the street or building number without actual change of the physical location of the CFW;
- c. Submission of a new lease contract covering the CFW for a period; and
- d. Such other changes which do not substantially alter the conditions specified in the existing Authority to Operate CFW;

The Commissioner shall be notified of any amendment to the Certificate of Authority to Operate CFW as approved by the District Collector.

5.5. Validity of the Authority to Operate. The Authority to Operate an Off-dock or Off-terminal CFW, including any additional facilities, issued pursuant to this CAO shall be valid for three (3) years²² counted from the date of receipt of the Letter of Approval by the Commissioner of the application.

²² cf. CMO No. 30-2015, Section 4.2 (a).

5.6. Renewal of Authority to Operate. Prior to the expiration of their Authority to Operate, the off-dock or off-terminal CFW operator shall file the application for the renewal of Authority to Operate attaching thereto the following:

- a.** Income Tax Return duly filed with the BIR for the past three (3) years, certified true copy of Mayors' Permit, audited financial statement, and year-end inventory report.
- b.** Updated documentary and security requirements as provided in subsection 5.1.2 and 5.1.3 of this CAO.

For this purpose, the District Collector shall cause the inspection of the off-dock or off-terminal CFW and require a Certificate of No Accountability from concerned customs offices as precondition for renewal.

Non-submission of the above documentary requirements within the prescribed period may cause the imposition of penalties in the form of fines, suspension, or revocation of the Authority to Operate.

The Authority to Operate shall be deemed automatically extended in case the District Collector fails to issue the renewed Authority to Operate prior to the expiration of the original authority unless terminated. The automatic extension shall last until the regular Authority to Operate is issued. The effectivity of any Authority to Operate issued pursuant to this Section shall retroact to the first day immediately after the expiration of the previous authority.

5.7. Application for Establishment of Extension or Additional Facilities.

5.7.1. Application for establishment of extension or additional facilities shall be filed with the District Collector who has jurisdiction over the main facilities.²³

5.7.2. Where the proposed extension or additional facility is located in a place outside the jurisdiction of the District Collector where the main warehouse or facility is situated, such shall be treated as a new application.²⁴ Accordingly:

- a.** Rules for the establishment of a new off-dock or off-terminal CFW shall apply; and

²³ cf. CMO No. 30-2015, Section 4.5.

²⁴ cf. CMO No. 30-2015, Section 4.6.

- b.** Control, supervision, and visitorial power over an off-dock or off-terminal CFW can only be exercised by the District Collector who has jurisdiction over the location.

5.8. Annual Supervision Fee. An annual supervision fee shall be imposed on the operators of off-dock or off-terminal CFWs in accordance with the following schedule:

Main Facility	Php250,000.00
Additional Facility	Php50,000.00 for every additional facility

5.9. Fees and Charges. The fees and rates to be charged by off-dock and off-terminal shall be governed by those prescribed by the Bureau under existing rules and regulations. Within one year from the effectivity of this CAO, the Bureau shall review said rates and recommend adjustments for the approval of the Secretary of Finance.

5.10. Rationalization on Establishment of Off-Dock CFS. For efficient control and supervision of off-dock CFS, the Bureau shall maintain the number of off-dock CFS operating in a port to a number consistent with the business requirements of the port.

5.11. Suspension or Closure of CFW.

5.11.1. The District Collector shall, without prejudice to the imposition of administrative penalties and filing of criminal cases against the responsible person²⁵, cause the suspension or closure of any CFW under the following grounds:

- a.** In case of discontinuance requested by the CFW operator or when the conditions warrant pursuant to Section 807, Chapter 2, Title VIII of the CMTA;
- b.** When the facility becomes a conduit in smuggling and other illegal activities;
- c.** In case of pilferage of goods stored in the facility;
- d.** Failure to account for goods stored;
- e.** Being inactive for a continuous period of at least one (1) year, i.e. no transfer of imported goods;
- f.** Failure to submit the requires documents for renewal under Section 5.6 of this CAO;
- g.** Violation of customs laws, rules and regulations; and
- h.** Other violation of Philippine laws.

²⁵ cf. CAO No. 1-2009, Title V, Section 5.7.

5.11.2. Except in cases of voluntary discontinuance, there shall be a closure or suspension proceeding to be conducted by the District Collector where due process must be observed. For this purpose, a Customs Memorandum Order (CMO) shall be issued to outline the conduct of administrative proceedings to be instituted in such cases.

5.11.3. Upon the closure of the CFW, a careful examination of the account of the warehouse shall be made and dutiable goods stored in such premises must be removed at the risk and expense of the operator. Provided, however, that the premises shall not be relinquished, and its use shall not be discontinued until after a careful examination of the account of the warehouse shall have been made.

5.11.4. Closure of the CFW shall be effective upon approval by the District Collector, who shall within ten (10) days, inform the Commissioner of such action in writing. The decision ordering the closure of a CFW may be appealed to the Commissioner.

5.11.5. Notice of discontinuance made by the operator shall not result in the discharge of liability for payment of any duties, taxes, fees and other charges imposed on dutiable goods in said warehouse.²⁶

5.11.6. The owner, operator, or officers of the CFW shall not be relieved of criminal liability arising from any violation of the tariff and customs laws and other laws enforced by the Bureau in connection with the operation.

5.11.7. Suspension or closure of CFWs with existing contracts with government agencies and other regulatory bodies shall be governed by the provisions of the contract and the rules and regulations of the concerned government agency or regulatory body.

5.12. Security. The operator shall post an annual surety bond to cover the duties and taxes due on lost or damaged goods stored or transferred to the facilities in the amount of twenty million (Php20,000,000.00) pesos.

5.13. Transfer Note. All transfers to off-dock or off-terminal CFWs shall be covered by a Transfer Note duly approved by the District Collector or his duly authorized representative.

²⁶ cf. CMTA, Title VIII, Chapter 2, Section 807, 2nd par.

5.13.1. The Transfer Note shall state the following details:

- a.** Container Number;
- b.** Name of the Carrying Vessel, Registry Number, and Voyage Number;
- c.** Date of Arrival; and
- d.** Port of Origin.

A copy of Inward Foreign Manifest shall be attached to the permit for reference.

5.13.2. Transfers to any off-dock or off-terminal CFWs shall be subject to the following conditions:

- a.** Accompanied by duly approved Transfer Note;
- b.** Supervised by assigned Bureau personnel;
- c.** Transfer note shall be duly received by assigned Bureau personnel in the facility;
- d.** Containers shall be stripped and devanned in the off-dock CFW in the presence of the assigned Bureau personnel; and
- e.** Goods shall not be released from the off-dock or off-terminal CFW unless the corresponding goods declaration is electronically lodged and the goods are cleared for release by the District Collector, if applicable.

Until such time that transfer of goods to off-dock or off-terminal CFWs including the receipt therein are integrated in the Bureau's computer system, the same shall be made under the supervision of assigned Bureau personnel.

5.14. Reportorial Requirements and Annual Compliance Evaluation.²⁷

- a.** The operator shall submit a weekly report in electronic form containing a detailed statement of the following: **(i)** all imported goods entered, stored, and withdrawn; **(ii)** overstaying shipment; and **(iii)** unclaimed shipment pursuant to Section 1129 (d) of the CMTA. The Bureau shall specify the format of the report.
- b.** The Bureau shall establish a compliance rate structure to evaluate the performance of all existing CFW operators.

²⁷ cf. CMO No. 32-2015, Section 4.7.

5.15. Penalties. Without prejudice to the criminal liability provided under the CMTA, the following administrative sanctions shall be imposed on the operator for the following offenses:

5.15.1. Unauthorized Removal, Delivery or Repacking of Goods.

- a.** First Offense – Suspension of Authority to Operate for one (1) year; and
- b.** Second Offense – Closure.

Merchandise so concealed, removed, or repacked, or package upon which marks, number or the values thereof have been so altered, defaced, or obliterated shall be forfeited in favor of the government.²⁸

The suspension or closure shall be without prejudice to the penalties under Section 1418 of the CMTA and the forfeiture of bonds posted by the off-dock or off-terminal operators pursuant to Section 5.12 and Section 7.3 of this CAO.

5.15.2. Penalties for late submission of documents required under Section 5.6 of this CAO shall be as follows:

- | | |
|----------------------|--------------|
| a. 1-30 days | Php5,000.00 |
| b. 31-60 days | Php10,000.00 |
| c. 61-90 days | Suspension |
| d. 91st day | Closure |

Section 6. Terminal Facility Operators. In addition to the requirements, as may be imposed by the Bureau, terminal facility operators with Authority to Operate granted by other government agencies and regulatory bodies must, comply with the following:

6.1. Unhampered Access to Premises. Port operators shall provide authorized customs officers with unhampered access to all premises within their administrative jurisdiction²⁹ cognizant of the prescribed port safety and security rules and regulations.

6.2. Provision for Areas for Physical Examination and Non-Intrusive Inspection (NII). Subject to the provision of Section 1111, Chapter 3, Title XI of the CMTA on the costs of physical examination of alerted goods, operators of terminal facilities shall provide suitable areas for physical examination, NII, and other customs equipment free of charge in favor of the government within a definite period of time, as agreed with private port and airport

²⁸ cf. CMTA, Title XIV, Chapter 1, Section 1423, 2nd par.

²⁹ cf. CMTA, Title II, Chapter 3, Section 215.

operations, if any.³⁰ This includes provision of suitable areas for articles that require special handling such as dangerous or hazardous goods, high value items, frozen goods, perishable goods, or other similar articles.

The areas to be designated for the conduct of physical and non-intrusive examination shall conform to the Bureau's goods clearance procedures and requirements. Designation of additional areas for examination shall take into consideration the following factors:

- a. Disposition of abandoned and forfeited goods;
- b. The business and commercial operations;
- c. Terminal area; and
- d. Volume of import goods being handled for examinations;
- e. Safety and security; and
- f. Standards for handling radioactive cargoes.

6.3. Designated Temporary Storage Facility for Abandoned and Overstaying Goods.

6.3.1. The Commissioner shall establish a system for temporary storage of imports prior to lodgement of goods declaration for abandoned or overstaying goods.³¹

6.3.2. CFW Operators shall provide suitable and secured premises for temporary storage of goods declared overstaying or abandoned. They shall provide authorized customs officers with unhampered access to the storage facility for temporary storage of goods of their administrative jurisdiction taking into consideration the requirements under the International Maritime Organization (IMO), International Ship and Port Facility Security (ISPS), and other relevant international security and safety standards.

6.3.3. In case of loss, damage and deterioration of the goods stored due to the negligence or willful misconduct of the operator, the operator shall be liable for the payment of duties and taxes due thereon, unless the loss, injury or damage is caused by force majeure or other causes beyond the operator's control.

6.4. Special Areas. For the protection of revenues and the goods therein, and prevent the entry of prohibited goods, terminal

³⁰ cf. CMTA, Title II, Chapter 2, Section 207, 3rd par.

³¹ cf. CMTA, Title III, Chapter 2, Section 307.

operators shall provide specific separate areas as may be required by the Bureau for the following:

- a. Temporary Storage (Marshalling Yard) for Transshipment Cargoes;
- b. Dangerous and Hazardous Goods; and
- c. Positioning of Forfeited and Abandoned Goods for Disposition.
- d. Storage for stripped or segregated cargoes found or suspected to be in violation of customs, laws, rules, and regulations, pending final disposition.

6.5. Periodic Reports. The Operator shall submit a periodic report containing the following information:

- a. Daily report on discharged and loaded containers to and from the vessels;
- b. Daily report on received and delivered containers;
- c. Daily report on delivered containers with weight information;
- d. Weekly report on overstaying goods; and
- e. Weekly report on unclaimed shipments pursuant to Section 1129 (d) of the CMTA.

Upon written request, the port operator shall provide the Bureau with any information pertaining to import or export goods stored or handled. For information which are readily available, the operator shall provide the Bureau within two (2) business days from receipt, which may be extended upon the approval of the Bureau and such approval shall not be unreasonably withheld. For information which are not readily available, the operator shall provide the Bureau within five (5) business days from receipt, which can be extended upon approval and such approval shall not be unreasonably withheld.

The Bureau shall specify the format of the report and may require electronic submission or other modes allowed under customs rules and regulations.

For failure to provide such information within the period provided, the terminal facility operator shall be liable for a fine in the amount of Php5,000.00 per business day of delay.

6.6. Provision for a Suitable Working Space of Bureau Personnel. The CFW operator shall provide customs personnel with suitable working areas complete with office equipment and supplies necessary to perform their basic functions.

6.7. Installation of Closed Circuit Television Cameras (CCTVs). For effective enforcement of customs laws, rules and regulation,

port operators shall install CCTV cameras in critical areas inside the terminal facility to be designated by the Bureau such as ingress or egress gates, examination areas, and warehousing storage area. The storage period of CCTV footage shall be at least thirty (30) days.

The operator shall upon written request provide a copy of CCTV footage within five (5) days from receipt, or allow duly authorized customs officer for real-time viewing of the video monitors of the CCTVs.

- 6.8. Security.** The operator shall post a security to cover for duties and taxes due on lost or damaged goods stored or transferred to the facilities directly and solely caused by the operator in the amount of Php100,000,000.
- 6.9. Consultation with Port Authorities.** The Bureau shall conduct periodic consultation with the port authorities for the effective implementation of the jurisdictional control of the Bureau over goods stored and handled by operators of CFWs with existing contracts.

Section 7. Responsibilities of CFW Operators.

- 7.1.** CFW operators shall comply with the requirements of the Bureau on establishment, security, suitability and management of the facility, including stock-keeping and accounting of the goods transferred to and stored thereat.³²
- 7.2.** Upon lawful demand, the operators shall allow duly authorized representatives of the Bureau access to the premises at a reasonable time during working hours, and to obtain data, documents, and records pertaining to the operations of the CFW.³³

In case of loss of the goods stored in CFWs due to the gross negligence or willful misconduct of the operator, the operator shall be liable for the payment of duties and taxes due. The government assumes no legal responsibility over the safekeeping of goods stored in any customs warehouse, yard, or premises, unless due to its personnel's gross negligence or willful misconduct.³⁴

- 7.3.** Operators shall ensure a secured and safe environment for both persons and goods stored in the facilities by implementing effective security measures, such as the employment of a 24-hour security scheme and the installation of closed circuit television camera (CCTV) and similar devices as required under Section 5.1.3 (g) and

³² CMTA, Title VIII, Chapter 2, Section 805, 1st par., 1st sentence.

³³ CMTA, Title VIII, Chapter 2, Section 805, 1st par., 2nd sentence.

³⁴ cf. CMTA, Title VIII, Chapter 2, Section 805, 2nd par.

Section 6.7 of this CAO based on internationally accepted safety standards and best practices.

- 7.4.** The CFW Operator shall be responsible for physical transfer and security of the goods at the designated temporary storage area.

All costs incurred by the operators in connection with the transfer of goods from the designated temporary storage area if requested by the Bureau shall be for the account of the government subject to government accounting rules and regulations.

Section 8. Issuance of Customs Memorandum Order. The Commissioner shall issue the necessary CMO containing the detailed guidelines and procedures to include the lodgement, processing and clearance of imported goods entered through CFWs for the effective implementation of this CAO.

Section 9. Non-impairment Clause. Any existing contracts of private operators with concerned government agencies and regulatory bodies, such as but not limited to the Philippine Ports Authority (PPA), Subic Bay Metropolitan Authority (SBMA), Phividec Industrial Authority (PIA) and their respective affiliates and subsidiaries, including the powers and privileges already granted by virtue of such contracts, shall not be impaired or adversely affected thereby.

Section 10. Transitory Provisions. The Commissioner shall, without prejudice to all the rights, conditions, and obligations already acquired or vested prior to the effectivity of this CAO, cause the re-evaluation, reclassification and reorganization of all existing customs warehouses and facilities to ensure compliance with the requirements and conditions specified in this CAO.

This notwithstanding, customs warehouses already existing and given authority to operate by the Bureau prior to the effectivity of this CAO are required to comply with all the administrative and reportorial requirements set forth in this CAO on or before December 30, 2018.

Section 13. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 14. Repealing Clause. This CAO amends or repeals CAO No. 5-96, CMO No. 30 -2015, CMO 32-2015, CMO 37-2015 and all previous issuances the provisions of which are inconsistent with this Order.

Section 15. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, other parts not so declared shall remain in full force or effect.

Section 16. Effectivity. This CAO shall take effect after fifteen (15) days after its publication at the Official Gazette or a newspaper of national circulation.

The Office of National Administrative Register (ONAR) of the UP Law center shall be provided three (3) certified copies of this CAO.

NICANOR E. FAELDON
Commissioner of Customs

Approved:

CARLOS G. DOMINGUEZ
Secretary of Finance

Informational Section. As the title denotes, this section only provides information and does not give rise to any substantive or formal rights or obligations.

History.

- CMO No. 37-2015. Addendum to Revised Rules and Regulations for the Establishment, Supervision and Control of Off-Dock Container Yards and/or Container Freight Stations (OCC) and other Off-Dock Customs Facilities (OCF)
- CMO No. 32-2015. Revised Rules and Regulations for the Establishment, Supervision and Control of Off-Dock Container Yards and Container Freight Stations (OCC) and other Off-Dock Customs Facilities (OCF) Outside of the Customs Zone
- CMO No. 30-2015. Rules and Regulations for the Establishment, Supervision and Control of Wharves, Container Yards, Container Freight Stations, Warehouses, Examination Areas and Other Facilities with the Customs Zone, otherwise known as Authorized Customs Facility (ACF)
- CAO No. 5-96. Rules on the Approval of Applications to Operate Off-Dock CY/CFS (ODCY/CFS)

Related Policies.

- Tariff and Customs Code of the Philippines, Sections 1901 to 1909
- CAO No. 1-2009. Revised Rules and Regulations for the Establishment, Operation, Supervision and Control of Customs Bonded Warehouse
- CMO No. 39-91. Rules and Regulations Implementing CAO 2-91 for the Establishment, Supervision and Control of CBW
- CAO No. 2-91. Role and Regulation for the Establishment, Operation, Supervision and Control of CBW
- CMO No. 18-91. Deadline for Filing of Application For Renewal of The Authority/License to Operate A CBW
- CMO No. 95-91. Amendment to Sec 11.1.2 And 111.3.1 Of CMO 39-91
- CMC No. 253-91. Renewal Of License to Operate A Bonded Manufacturing Warehouse under RA 3137 Approved By GTEB
- CAO No. 4-96. Creation Of Common Bonded Warehouse Division, POM
- CMO No. 36-98. Monitoring Of Warehousing Operations
- CAO No. 13-77. Prescribing Rules And Regulations for the Establishment, Operation, Supervision and Control of Bonded Manufacturing Warehouses
- CAO No. 2-79. Rules And Regulations for the Establishment, Operation, Supervision and Content of Bonded Manufacturing Warehouse
- CMO No. 36-91. Uniform Procedure In The Liquidation Of Warehousing Entries and Cancellation of Bonds
- CMO No. 71-91. Amendment to CMO 95-90 (Annual Supervision Fee)
- CMO No. 6-2000. Creation Of Bonded Warehouse Committee To Implement The Provisions under CAO 2-91 and CMO 39-91
- CMO No. 4-2000. Guidelines In The Implementation of The Automated Board Management System (ABMS)
- CAO No. 5-2002. Rules And Regulations In The Importation Of Articles Through The Customs Bonded Trading Warehouse
- CAO No. 7-2002. Establishment of Industry-Specific CBW's and The Rules and Regulations Governing Its Operations.
- CAO No. 3-2003. Establishment, Operation And Control Of Special Customs Bonded Conversion Facility
- CMO No. 2-2003. Rules And Regulations In The Administrative Proceedings On The Closure of Bonded Warehouse As Implemented In CAO 2-91 and CMO 39-91
- CMO No. 3-2003. Issuance Of Clearance To Customs Bonded Warehouse
- CAO No. 7-2003. Establishment Of Industry – Specific Customs Bonded Warehouse Servicing the Semi -Conductor and Electronics Industry and the Rules and Regulations Governing Its Operations
- CMO No. 19-2005. Renewal Of Licenses Of CBW's

- CAO No. 3-2007. Amendments To CAO 4-96 (Creation Of CBWD)
- CMO No. 9-2008. Addendum To CMO 7-2008 Amending CMO 17-2005 On The Moratorium On Approvals To Establish/Operate Of Dock CY-CFS, Customs Public, Private Bonded Warehouses, Common Bonded Warehouses And Other Non-Manufacturing Bonded Warehouses/Facilities
- CMO No. 24-2008. Monitoring The Specific Description Of Articles In The List Of Importable Materials of Customs Bonded Warehouses

Webpage, Forms, Handbooks and other References.

- Tariff and Customs Code of the Philippines
- Revised Kyoto Convention
- International Maritime Dangerous Goods (IMDG) Code.
- RA 9485, Anti-Red Tape Act of 2007
- Presidential Decree 857