



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA 1099

CUSTOMS ADMINISTRATIVE ORDER
NO. 2-2003

SUBJECT: RULES AND REGULATIONS RATIONALIZING THE USE AND OPERATION OF PUBLIC CBWs; SUPPLEMENTING/MODIFYING CAO 2-91 AND OTHER RELATED ISSUANCES

By authority of Section 608 and pursuant to Title V of the Tariff and Customs Code of the Philippines, as amended, in relation to CAO Nos. 2-91 and 7-2002 and other related issuances, the following rules and regulations are hereby promulgated:

I. Objectives

1. To rationalize the use and operations of Public Customs Bonded Warehouses (Public CBWs) such that only those that the business of the port requires shall be established/allowed to operate.
2. To ensure that these facilities shall not be used to delay or evade the payment of lawful duties and taxes accruing on imported articles entering such warehouses, or in any scheme that would defraud the government of its lawful revenues.

II. Scope

This Order covers Public CBWs duly registered with, and authorized by the BOC to operate as such, when the business of the port so requires.

III. General Provisions

1. For purposes of this Order, a "Public Customs Bonded Warehouse" is defined as a facility licensed by the Bureau of Customs, when the business of the port requires, to receive, store and take custody of general cargoes, under bond, for exportation, transfer to another customs bonded warehouse or ecozone/PEZA, or for local consumption, in the same state and condition the cargoes were when imported.
2. Except as otherwise herein provided, applications for the establishment/ operations of Public CBWs shall be processed following the documentary and procedural requirements for the establishment of CBWs under existing laws, rules and regulations.
3. The establishment/operation of Public CBWs shall only be allowed upon determination that the business of a particular port requires such facility, on recommendation of the District Collector and the Customs Bonded Warehouse Committee, subject to the approval of the Commissioner of Customs.
4. On a per shipment basis, imported articles shall be entered into a Public CBW upon certification by the arrastre operator that the port has no available space and/or has no available equipment/facilities specially required to handle such articles; and upon certification by the Public CBW operator that he/she has the necessary space for storing such materials and/or the necessary special equipment/facilities to handle the same, on the recommendation of the chief of the operating division, with the approval of the District Collector.
5. Imported articles entered into Public CBWs may be stored therein for a period not exceeding one (1) year to be counted from the date of their arrival.

IV. Specific Provisions

A. Transfers from the Port to Public CBWs

1. Authorized transfers from the port to Public CBWs may be effected upon filing of the corresponding warehousing entry, which shall be processed in accordance with the existing Selectivity system and upon the posting of the required bond.

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2. In ports where the Selectivity system for warehousing entries is not yet operational, the transfer of the imported warehousing articles from the Customs zone shall be made under a Transshipment Permit, in which case the warehousing entry shall be filed within five (5) days from date of transfer, which period may be extended for another five (5) days by the District Collector as provided for under CMO 39-91.
3. Regulated articles without the corresponding clearance and/or import authority duly issued by a competent authority shall not be allowed transfer from the port to a Public CBW and shall be subject to seizure/forfeiture, without prejudice to other appropriate penalties imposable under existing laws and regulations. Prohibited articles shall be subject to immediate seizure and such other sanctions.
4. The transfer of imported articles from the port to a Public CBW shall be under continuous guarding by customs guard until delivery at the warehouse is acknowledged in the covering boatnote by the customs personnel assigned thereat.

B. Withdrawals from Public CBWs

1. Withdrawals for local consumption shall be allowed only upon payment of duties and taxes.
2. Withdrawals for transfer to another CBW or ecozone/PEZA shall be allowed without payment of customs duties and taxes;

Provided that the transfer to another CBW shall be under bond; and provided further that the articles sought to be transferred fall within the authority/license of the receiving CBW; and provided finally that such transfer shall be approved by the chief of the concerned operating division of the receiving CBW.

Subsequent transfer from a receiving CBW to another CBW shall as a rule no longer be allowed.

In case of transfers to ecozones/PEZA, the articles sought to be transferred shall be covered by an import authority duly issued by the concerned ecozone/PEZA authority duly designated for the purpose. The chief of the operating division shall verify the authenticity and due execution of the ecozone/PEZA import authority.

3. Articles not withdrawn at the end of the one-year storage period shall be sold at public auction pursuant to Sec. 1908, Tariff and Customs Code of the Philippines.

C. Liquidation of Warehousing Entry and Cancellation of Bonds

1. The liquidation of imported articles under bond shall be done within 30 days from sale/transfer/withdrawal, provided that the 30-day period shall fall within the one-year storage period.
2. Only upon the full liquidation of materials and their covering entries shall the bonds be cancelled.

V. Transitory Provisions

1. Within the first three (3) months from the effectivity of this Order, the Bonded Warehouse Committee shall review all existing Public CBWs, whether licensed or operating as such, for the purpose of clearly determining whether these facilities are operating in conformity with this Order taking into account their individual storage capacity and facilities/equipment, among others.
2. Existing Public CBWs found not to be operating in conformity with the provisions of this Order may convert at their option to Industry Specific CBWs in accordance with Customs Administrative Order (CAO) 7-2002, or to any other type of CBW not covered by the moratorium under CMO 3-98, within three (3) months from the effectivity of this Order.
3. Public CBWs found to be operating not in conformity with the provisions of this Order and which opts not to convert within the three-month period shall be deemed closed.

VI. Penalties

1. In addition to the penalties provided for under CAO 7-2002, violations of any provisions hereof shall subject the imported goods to seizure proceedings, public auction and such other appropriate actions. The above administrative penalties shall be without prejudice to the criminal sanctions against the importer, consignee and/or operator of the CBW as provided for under existing laws, rules and regulations.

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2. Any customs officer who willfully or negligently allows or permits the violation of any provisions hereof shall be subject to administrative and criminal liabilities as provided for by existing laws.

VII. Authority of the Commissioner to Promulgate Additional Rules

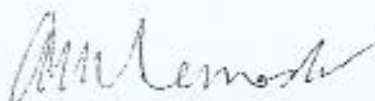
The Commissioner of Customs is hereby authorized to issue additional rules and regulations to more effectively implement this Order.

VIII. Repealing Clause

All Orders, Memoranda, or circulars, inconsistent herewith are hereby repealed and/or deemed modified accordingly.

VII. Effectivity

This Order shall take effect upon the approval of the Secretary of Finance and after fifteen (15) days from publication in a newspaper of general circulation in the Philippines.



ANTONIO M. BERNARDO
Commissioner of Customs

APPROVED:



JOSE ISIDRO CAMACHO
Secretary of Finance

Date Signed: 23/2/03