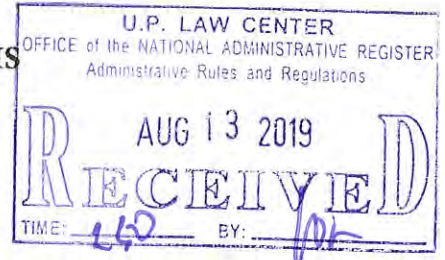




Republic of the Philippines
Department of Finance
BUREAU OF CUSTOMS
1099 Manila



CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. 09-2019

**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, Section 1226 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 on the establishment, operation, supervision, and control of CFWs for purposes of protecting government revenues and imported goods stored therein, and preventing customs fraud.
- 2.2. To provide the guidelines on the operation of a CFW by terminal facility operators with Permit to Operate granted by port authorities and similar government agencies, for customs purposes.
- 2.3. To provide a system of temporary storage for exports and imports and accounting of abandoned or overstaying and forfeited goods.
- 2.4. To define the rights and corresponding obligations of operators of CFWs.
- 2.5. To develop and maintain a CFW management system making full use of Information and Communications Technology (ICT).

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

- 3.1. **Abandoned or Overstaying Goods** — shall refer to goods which fall under any of the following circumstances:

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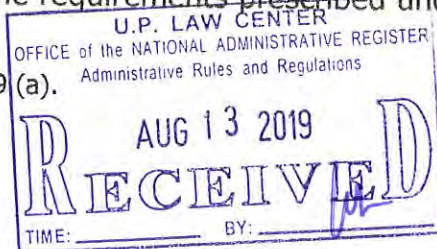
- 3.1.1. Expressly abandoned goods.¹
- 3.1.2. Impliedly abandoned goods on account of the following:
 - a. Failure to lodge/file goods declaration within the period prescribed under Section 407 of the CMTA.
 - b. Failure to pay duties and taxes and other charges upon final assessment, or upon receipt of the order of release or order lifting the alert, or both.
 - c. Failure to submit clearances, licenses, and other requirements within the period prescribed under the CMTA.
 - d. Failure to claim duty and tax paid imported goods within the period prescribed under the CMTA.
 - e. Failure to mark within the period prescribed under the CMTA.
- 3.1.3. Imported goods which have exceeded the allowable period of temporary storage at the terminal facility due to customs enforcement intervention for suspected violation of customs laws, rules and regulations, which resulted in the issuance of alert or hold order, warrant of seizure and detention, or such other instances as declared by the Commissioner.

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 to Operate — 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.

3.4. Certificate of Registration — shall refer to a document issued by the Bureau to terminal facility operators with Authority to Operate from port authorities and other regulatory agencies and have complied with the requirements prescribed under this CAO.

¹ CMTA, Title XI, Chapter 6, Section 1129



- 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 has 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
- 3.7. **Dangerous or Hazardous Goods** — shall refer to substances, materials and articles covered by the International Maritime Dangerous Goods (IMDG) Code and those defined by law, or those by which on account of their nature, cannot be stored in a general cargo storage and requires special handling.
- 3.8. **Designated Areas for Abandoned, Overstaying and Forfeited Goods within the CFW** — shall refer to a special area designated by a CFW where the Bureau may establish a temporary storage for abandoned, overstaying and forfeited goods.⁴
- 3.9. **Extension or Additional Facility** — 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.⁵
- 3.10. **Goods** — shall refer to articles, wares, merchandise and any other items which are subject of importation or exportation.⁶
- 3.11. **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.⁷

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

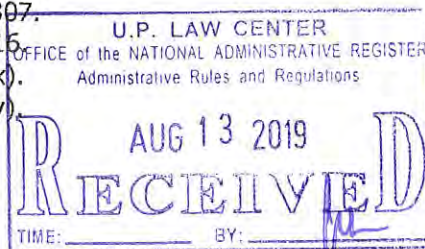
³ cf. CMTA, Title VIII, Chapter 2, Section 803.

⁴ cf. CMTA, Title III, Chapter 2, Section 307.

⁵ cf. CAO No. 1-2009, Title II, Section 2.16.

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

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



- 3.12. Importation** — shall refer to the act of bringing in of goods from a foreign territory into Philippine territory, whether for consumption, warehousing, or admission.⁸
- 3.13. Lodgement** — shall refer to the registration of a goods declaration with the Bureau.⁹
- 3.14. 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.¹⁰
- 3.15. Permit to Operate** — shall refer to an authority issued to terminal facility operators by other regulatory agencies such as Philippine Ports Authority (PPA), Phividec Industrial Authority (PIA), Cebu Ports Authority (CPA), Subic Bay Metropolitan Authority (SBMA), to fulfill a specific task or obligation as stipulated in their respective contracts.
- 3.16. Port Authorities** — shall refer to government agencies and regulatory bodies such as but not limited to PPA, SBMA, PIA, CPA and their respective affiliates and subsidiaries.
- 3.17. Security** — shall refer to any form of guaranty, such as a surety bond, cash bond, standby letter of credit or irrevocable letter of credit, or liability insurance, which ensures the satisfaction of an obligation to the Bureau.¹¹
- 3.18. Transfer Note** — shall refer to a document that accompanies the transfer 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 also known as "boat note" or "Special Permit to Transfer".
- 3.19. Unauthorized Removal or Delivery of Goods** — shall refer to the act of removing, transferring or disposing of goods stored in CFWs without proper authority or permission from the Bureau.
- 3.20. Wharves** — shall refer to the continuous structures built parallel to or along the margin of the sea or alongside river-banks, canals or

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

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

¹⁰ CMTA, Title I, Chapter 2, Section 102 (gg).

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

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waterways where vessel may lie alongside to receive or discharge cargo, embark or disembark passenger, or lie at rest.¹²

Section 4. General Provisions.

4.1. Establishment of Customs Facilities and Warehouses (CFWs). 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 CFWs for the storage and/or clearance of imported goods or for other special purposes.

Existing contracts of private operators with concerned government agencies and regulatory bodies, such as but not limited to the PPA, SBMA, PIA, 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 and regulatory functions of the Bureau in accordance with the CMTA.

4.2. Supervision and Control over Customs Facilities and Warehouses. All CFWs, including their expansion, extensions and additional facilities shall be considered as part of Customs Premises subject to the supervision and control of the Bureau which shall impose such conditions and other regulations 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. Types of Customs Facilities and Warehouses.

4.3.1. Terminal Facility. It is a facility duly authorized to operate ports and offer services such as, but not limited to, receiving, handling, and checking, as well as the custody and delivery of conventional breakbulk or stripped or stuffed containerized cargo over piers or wharves, in transit sheds or warehouses and open storage areas.

4.3.2. Off-Dock CFW. It is a customs facility located outside the seaport established for temporary storage of goods. It is considered part of customs premises under the exclusive

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

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

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

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control, direction and management of the Bureau. It may be a container yard, container freight station, seaport temporary warehouse, airport temporary warehouse or inland container depot as defined under this Order.

- 4.3.3. Off-Terminal CFW.** It is a customs facility located outside the airport established for temporary storage of goods. It is considered part of customs premises under the exclusive control, direction and management of the Bureau.
 - 4.3.4. Container Yard.** It is a facility duly authorized to accept and store container vans, loaded or empty, intended for international shipping for storage within the period allowed under applicable 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.
 - 4.3.5. Container Freight Station.** It is a facility duly authorized to accept and store containers loaded with 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.
 - 4.3.6. 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.
 - 4.3.7. 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.
 - 4.3.8. Inland Container Depot (ICD).** It is an off-dock CFW which is part of a terminal facility equipped for handling or temporary storage of containers, both empty or laden, for transit as may be allowed by the Bureau of an inland customs office.
- 4.4. Designated Areas for Abandoned, Overstaying and Forfeited Goods within the CFW.** For proper accounting and inventory, CFWs may designate special areas where the Bureau shall establish a temporary storage of abandoned, overstaying and forfeited goods.

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4.5. Other Premises Used for Customs Purposes. For the protection of government revenues, prevention of entry of contrabands, and other customs fraud, 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.

4.6. 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 PPA and other Port Authorities under Section 4.3 hereof shall be registered as a CFW, provided they submit the Permit to Operate or equivalent document from their respective port regulators and comply with the requirements under Section 6 for the effective exercise of customs jurisdictional control over ports, airports and terminal facilities.

4.7. Non-transferability of Authority to Operate. The Authority to Operate a CFW shall be non-transferrable. In case of a merger, sale, assignment, or other modes of transfer, the surviving entity which is not the grantee of an Authority to Operate issued by the Bureau must apply for a new Authority following the prescribed procedure under existing rules and regulations.

4.8. Registration of CFWs. All CFWs granted with Authority to Operate shall be registered with the BOC's profile recording system as CFW 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.

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

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4.10. Assignment of Personnel. In pursuit of its supervisory and control functions over Customs Premises, the District Collector may assign customs personnel¹⁶ at CFWs 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.

5.1. Application for Establishment of Off-dock and Off-terminal CFW.

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 as may be applicable.

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

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

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

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



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- 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;
- 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 five (5) 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 twenty (20) working days from receipt of the complete records of the application from the District Collector.



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If the Commissioner fails to act on the application within the prescribed period, said application shall be deemed approved: Provided, that all required documents have been submitted and all required fees and charges have been paid. The acknowledgement receipt together with the official receipt for payment of all required fees issued to the applicant and the date of receipt of the complete documents from the District Collector shall be enough proof or has the same force and effect of an Authority to Operate under this automatic approval mechanism.

In case the Commissioner denies the application, a letter shall be sent to the applicant stating clearly the grounds for the denial.¹⁹

5.2. Appeal from the Denial of the Application by the District Collector. The applicant may appeal²⁰ 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) working 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.

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

5.3. Certificate of Authority to Operate. Any approval of the off-dock or off-terminal CFW application shall be evidenced by a Certificate of Authority to Operate 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 to Operate. The Certificate of Authority may be amended by the District Collector

¹⁹ cf. CAO No. 1-2009, Title IV, Section 45

²⁰ cf. CMTA, Title I, Chapter 1, Section 102 (e) Administrative Rules and Regulations

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upon the request of the off-dock or off-terminal CFW operator based on the following instances:

- 5.4.1. Change of company name;
- 5.4.2. Change of the name of the street or building number without actual change of the physical location of the CFW;
- 5.4.3. Submission of a new lease contract covering the CFW for a period; and
- 5.4.4. 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) years²¹ counted from the date of approval of the application by the Commissioner.

5.6. Renewal of Authority to Operate. At least ninety (90) days before the expiration of the Authority to Operate, the off-dock or off-terminal CFW operator shall file the application for renewal of Authority to Operate attaching thereto the following:

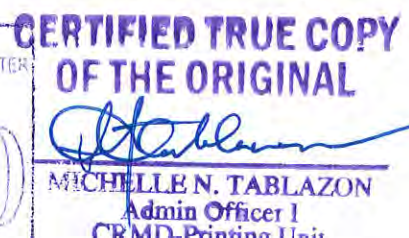
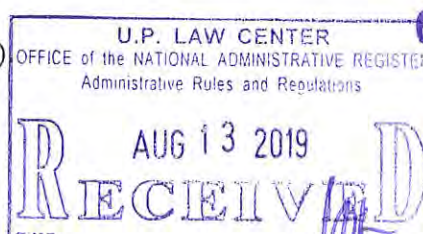
- 5.6.1. Income Tax Return duly filed with the BIR for the past three (3) years, certified true copy of Mayors' Permit, audited financial statement, and year-end inventory report.
- 5.6.2. Updated documentary and security requirements as provided in subsection 5.1.2 and 5.1.3 of this CAO.

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

²¹ cf. CMO No. 30-2015, Section 4.2 (a)



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.

In case of disapproval of the application for renewal, Section 5.2 of this CAO shall apply.

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.²²

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.²³ Accordingly:

- a. Rules for the establishment of a new off-dock or off-terminal CFW shall apply; and
- b. Control and supervision 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. The Bureau shall impose an annual supervision fee, service fee, and other charges on the operations of off-dock and off-terminal CFWs in accordance with the schedule provided under the CAO on Service Fees.

5.9. Rates charged by Off-dock and Off-terminal CFW. 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 the 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.

²² cf. CMO No. 30-2015, Section 4.5.

²³ cf. CMO No. 30-2015, Section 4.6.



Accordingly, the Bureau may consider the capacity utilization of the existing off-dock CFS, the provision of modern infrastructure, and other factors in the new applications for Authority to Operate an off-dock CFS.

5.11. 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 off-dock and off-terminal CFWs, as may be applicable, shall provide suitable areas for physical examination or NII, x-ray machines, and other customs equipment free of charge in favor of the government. Any NII equipment provided by the operator shall be under the operational control and supervision of the Bureau.

This includes 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:

- 5.11.1. Disposition of abandoned and forfeited goods;
- 5.11.2. The business and commercial operations;
- 5.11.3. Terminal area;
- 5.11.4. Volume of import goods being handled for examination;
- 5.11.5. Safety and security; and
- 5.11.6. Standards for handling radioactive cargoes.

5.12. System for Temporary Storage of Abandoned and Overstaying Goods Prior to Lodgement of Goods Declaration.

5.12.1. Off-dock and off-terminal operators shall provide suitable and secured premises for temporary storage of overstaying or abandoned goods. They shall provide authorized customs officers with unhampered access to the storage facility for temporary storage of goods.

5.12.2. In case of loss, damage, or 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.



5.13. Special Areas. For the protection of revenue and to prevent the entry of prohibited goods, the Bureau may require off-dock or off-terminal operators to provide special areas for the following:

- 5.13.1. General Cargoes;
- 5.13.2. Transshipment cargoes;
- 5.13.3. Dangerous and hazardous goods;
- 5.13.4. Forfeited and abandoned goods for disposition;
- 5.13.5. Stripped or segregated cargoes found or suspected to be in violation of customs, laws, rules, and regulations pending final disposition; and
- 5.13.6. Storage, stripping, and examination of consolidated shipments.

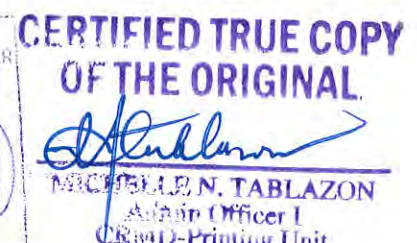
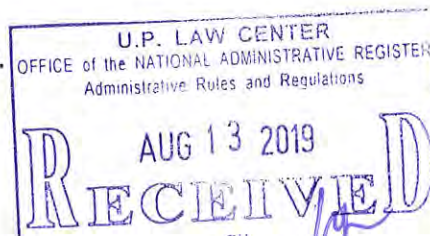
5.14. Suspension or Closure of CFW.

5.14.1. The District Collector shall, without prejudice to the imposition of administrative penalties and filing of criminal cases against the responsible person,²⁴ 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 operator knowingly facilitates or assists in the commission of smuggling and other illegal activities in the CFW;
- 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 required documents for renewal under Section 5.6 of this CAO;
- g. Violation of customs laws, rules and regulations; and
- h. Other practice or violation of law which negates the intended purpose for which the CFW was established.

5.14.2. 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.

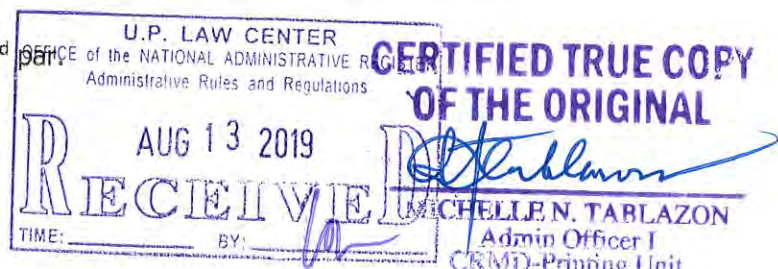
²⁴ cf. CAO No. 1-2009, Title V, Section 5.7.



- 5.14.3.** 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.
- 5.14.4.** 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 within ten (10) days from receipt of the decision otherwise it shall be deemed final and executory.
- 5.14.5.** 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.²⁵
- 5.14.6.** 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.
- 5.14.7.** 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.
- 5.15. Security.** In cases where transfer of goods including empty containers to an off-dock or off-terminal CFW is allowed, the operator shall post and maintain a non-chargeable annual Security to cover for the duties and taxes due on lost or damaged goods while in transit or stored in the facility. The Security shall be in the amount of Five Million Pesos (Php5,000,000.00) or equivalent to the average duties and taxes for goods or empty containers transferred to the facility for the last 12 months, whichever is higher.²⁶
- 5.16. Transfer Note.** All transfers to off-dock or off-terminal CFWs shall be covered by a Transfer Note or any equivalent document approved by the District Collector or his duly authorized representative.

- 5.16.1.** The Transfer Note shall state the following details:

²⁵ cf. CMTA, Title VIII, Chapter 2, Section 807, 2nd sentence
²⁶ cf. CMTA, Title XVIII, Chapter 2, Section 801.



CAD No. 09-2019

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

5.16.2. Pending the establishment of a system generated transfer and release instructions, 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; and
- c. In cases where the filing of Goods Declaration is required, no goods shall be released from the off-dock or off-terminal CFW unless the corresponding Goods Declaration is electronically lodged or the goods are cleared for release by the District Collector, in case of manual release.

All transfer of goods to any off-dock or off-terminal CFWs shall be under the supervision of assigned Bureau personnel. The Bureau shall integrate all processes pertaining to transfer and receipt of goods by off-dock or off-terminal CFWs to its current computer system.

5.17. The off-dock or off-terminal operators in coordination with Management Information System and Technology Group (MISTG) shall provide an ICT-enabled inventory and monitoring system for cargoes from the time they are transited from the terminal facility or unloaded from the aircraft, inbound, stored, or transferred and until finally released. The system shall also have the capability to monitor and tag the actual location and age of storage of goods inside the facility.

5.18. Reportorial Requirements and Annual Compliance Evaluation.²⁷

5.18.1. Pending the establishment of web-based page inventory system accessible to the Bureau, the operator shall submit a weekly report in electronic form containing a detailed statement of the following: (i) all 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.

²⁷ cf. CMO No. 32-2015, Section 4.7.



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5.18.2. The Bureau shall establish a compliance rate structure to evaluate the performance of all existing CFW operators.

5.19. 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:

5.19.1. 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 facility operators pursuant to Section 5.12 and Section 7.3 of this CAO.

5.19.2. Penalties for late submission of application for renewal required under Section 5.6 of this CAO shall be as follows:

a. 31-60 days before expiration of the validity period of Authority to Operate	Php100,000.00 ²⁹
b. 1-30 days before expiration of the validity period of Authority to Operate	Php150,000.00 and Prohibition on Transfer of Goods to Off-dock/Off-Terminal CFW until approval of application

5.19.3. Failure to submit the documents within the period prescribed under Section 5.6 of this CAO shall result to the closure of the off-dock CFW/off-terminal CFW. However, the off-dock CFW/off-terminal CFW may still reapply as new applicant.

Section 6. Terminal Facility Operators. Terminal facility operators with Authority to Operate granted by other government agencies and regulatory bodies shall comply with the following requirements:

²⁸ cf. CMTA, Title XIV, Chapter 1, Section 1423
²⁹ cf. CMTA, Title XIV, Chapter 1, Section 1430.

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- 6.1. Unhampered Access to Premises.** Port operators shall provide authorized customs officers with unhampered access to all premises within their administrative jurisdiction³⁰ cognizant of the internationally accepted port safety and security rules and regulations.
- 6.2. Provision of Areas for Physical Examination and Non-Intrusive Inspection.** 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 operators, if any.³¹ This includes 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:

- 6.2.1. Disposition of abandoned and forfeited goods;
- 6.2.2. The business and commercial operations;
- 6.2.3. Terminal area;
- 6.2.4. Volume of import goods being handled for examination;
- 6.2.5. Safety and security; and
- 6.2.6. Standards for handling radioactive cargoes.

6.3. System for Temporary Storage of Abandoned and Overstaying Goods Prior to Lodgement of Goods Declaration.

- 6.3.1.** The Commissioner in coordination with the terminal facility operator shall establish a system for temporary storage of imports prior to Lodgement of Goods declaration for Abandoned or Overstaying Goods,³² and export goods before the actual loading to the carrying vessel.
- 6.3.2.** Terminal facility operators shall provide suitable and secured premises for temporary storage of overstaying or abandoned goods. They shall provide authorized customs officers with

³⁰ cf. CMTA, Title II, Chapter 3, Section 215.

³¹ cf. CMTA, Title II, Chapter 2, Section 207, 307.

³² cf. CMTA, Title III, Chapter 2, Section 307.

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unhampered access to the storage facility for temporary storage of goods 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, or 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 revenue and to prevent the entry of prohibited goods, the Bureau may require Terminal Facility Operators to provide special areas for the following:

6.4.1. Transshipment cargoes;

6.4.2. Dangerous and hazardous goods;

6.4.3. Forfeited and abandoned goods for disposition;

6.4.4. Stripped or segregated cargoes found or suspected to be in violation of customs, laws, rules, and regulations pending final disposition; and

6.4.5. Storage, stripping, and examination of consolidated shipments.

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

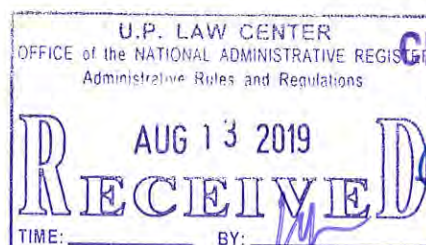
6.5.1. Daily report on discharged and loaded containers to and from the vessels;

6.5.2. Daily report on received and delivered containers;

6.5.3. Daily report on delivered containers with weight information; and

6.5.4. Weekly report on overstaying goods.

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



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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 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, as may be applicable, including stock-keeping and accounting of the goods transferred to and stored thereat.³³

7.2. CFW operators shall report to the Bureau all overstaying goods including empty containers transferred to the facility for the Bureau's appropriate action pursuant to existing rules and regulations.

³³ CMTA, Title VIII, Chapter 2, Section 805, 1st paragraph, 1st sentence

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7.3. 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.³⁴

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.³⁵

7.4. 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 CCTV and similar devices as required under Section 5.1.3 (g) and Section 6.7 of this CAO based on internationally accepted safety standards and best practices.

7.5. The CFW Operator shall be responsible for the 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 the goods to and 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.

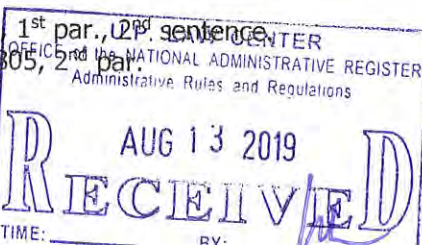
Section 8. Non-impairment Clause. Any existing contracts of private operators with concerned government agencies and regulatory bodies, such as but not limited to the PPA, SBMA, PIA and their respective affiliates and subsidiaries, including the powers and privileges already granted by virtue of such contracts, shall not be impaired or adversely affected thereby.

Section 9. 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.

Section 10. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 11. Implementing Rules and Regulations. The Bureau shall issue the corresponding CMO prescribing the specific rules and regulations for each type of

³⁴ CMTA, Title VIII, Chapter 2, Section 805
³⁵ cf. CMTA, Title VIII, Chapter 2, Section 805



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CAO NO. 09- 2019

CFWs as provided under this Order, and the procedure on the closure and suspension proceeding under Section 5.14.2. of this CAO.

Section 12. Repealing Clause. This CAO repeals CMO No. 37-2015, CMO No. 32-2015, CMO No. 30-2015, CAO No. 5-96 and all other rules and regulations which are inconsistent with this Order.

Section 13. 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 14. Effectivity. This CAO shall take effect thirty (30) 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.

REY LEONARDO B. GUERRERO
Commissioner of Customs

JUL 03 2019



BOC-02-00277

Approved:

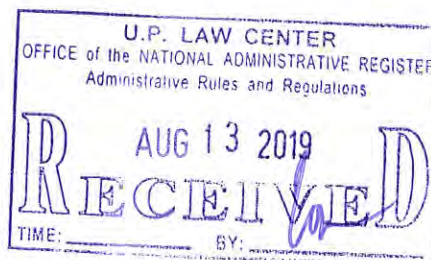
CARLOS G DOMINGUEZ
Secretary of Finance

JUL 24 2019



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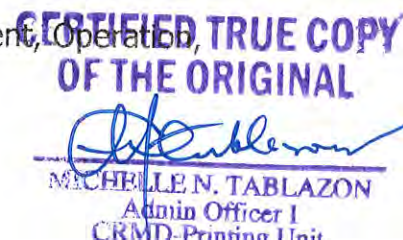
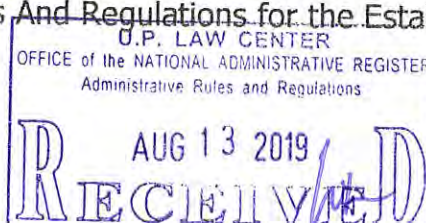
Informational Section. As the title denotes, this section only provides information and does not give rise to any substantive or formal rights or obligations.

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 11.3.1 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,



CAO No. 09-2019

- CMO No. 36-91. Supervision and Content of Bonded Manufacturing Warehouse
- CMO No. 71-91. Uniform Procedure In The Liquidation Of Warehousing Entries and Cancellation of Bonds
- CMO No. 6-2000. Amendment to CMO 95-90 (Annual Supervision Fee)
- CMO No. 4-2000. Creation Of Bonded Warehouse Committee To Implement The Provisions under CAO 2-91 and CMO 39-91
- CMO No. 5-2002. Guidelines In The Implementation of The Automated Board Management System (ABMS)
- CAO No. 7-2002. Rules And Regulations In The Importation Of Articles Through The Customs Bonded Trading Warehouse
- CAO No. 3-2003. Establishment of Industry-Specific CBW's and The Rules and Regulations Governing Its Operations.
- CMO No. 2-2003. Establishment, Operation And Control Of Special Customs Bonded Conversion Facility
- CMO No. 3-2003. Rules And Regulations In The Administrative Proceedings On The Closure of Bonded Warehouse As Implemented In CAO 2-91 and CMO 39-91
- CAO No. 7-2003. Issuance Of Clearance To Customs Bonded Warehouse
- CMO No. 19-2005. Establishment Of Industry – Specific Customs Bonded Warehouse Servicing the Semi -Conductor and Electronics Industry and the Rules and Regulations Governing Its Operations
- CAO No. 3-2007. Renewal Of Licenses Of CBW's
- CMO No. 9-2008. Amendments To CAO 4-96 (Creation Of CBWD)
- CMO No. 24-2008. 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. 32-2015. Monitoring The Specific Description Of Articles In The List Of Importable Materials of Customs Bonded Warehouses
- CMO No. 32-2015. 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) outside of the Customs Zones

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

