

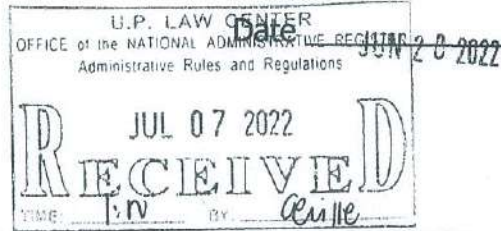


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PROFESSIONALISM INTEGRITY ACCOUNTABILITY



**CUSTOMS MEMORANDUM ORDER (CMO)
 No. 18-2022**

SUBJECT: RULES AND REGULATIONS ON THE ESTABLISHMENT, SUPERVISION, OPERATION AND CONTROL OF CUSTOMS FACILITIES AND WAREHOUSES (CFWs) PURSUANT TO CUSTOMS ADMINISTRATIVE ORDER (CAO) NO. 9-2019

Section 1. Scope. This Order applies to all types of Customs Facilities and Warehouses (CFWs) which include Terminal Facilities, Off-dock/Off-terminal CFWs, Container Yards/Depots, other types of CFWs, and those which may be created by the Secretary of Finance, upon the recommendation of the Commissioner pursuant to Section 803 of the Customs Modernization and Tariff Act (CMTA).

Section 2. Objectives.

- 2.1. To provide for the guidelines on the establishment, operation, supervision, and control of all types of CFWs, including those located outside of the customs zones for purposes of protecting government revenues and imported goods stored therein, and preventing customs fraud.
- 2.2. To provide a mechanism to monitor the movement of goods stored at the CFWs and account for the goods stored thereat, including abandoned, overstaying and forfeited goods.
- 2.3. To maintain ideal yard utilization in accordance with the seaport design capacity in order to decongest vital port spaces to ensure accelerated trade movement and port productivity.
- 2.4. To define the rights and obligations of operators of CFWs and provide for their accountabilities in the operation of their respective 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 Order, the following terms are defined as follows:

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- 3.1. Airport Temporary Storage Warehouse** — shall refer to a customs facility established within the airport premises or off-terminal for purposes of storage, examination, stripping, or safekeeping of imported goods.¹
- 3.2. 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, or any of the other types of CFWs.
- 3.3. Certificate of Registration** — shall refer to the document issued by the Bureau to terminal facilities granted Permit to Operate pursuant to existing contracts with the Philippine Ports Authority (PPA) or other similar regulatory agencies.
- 3.4. Container Freight Station (CFS)** - shall refer to 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 CFS may be established either within the seaport or off-dock, as may be allowed under customs laws, rules, and regulations.
- 3.5. Container Yard** – shall refer to a facility duly authorized to accept and store container vans intended for international shipping, loaded or empty, for storage within the prescribed period. A container yard may be established either within the seaport or off-dock, as may be allowed under customs laws, rules, and regulations.
- 3.6. Customs Premises** — shall include customs offices, facilities, warehouses, ports, airports, wharves, infrastructure and other areas over which the Collection Districts have exclusive control, direction and management for customs purposes.
- 3.7. 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.²

¹ cf. CAO No. 9-2019, Section 4.3.7.

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

- 3.8. 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 require special handling.
- 3.9. Electronic Tracking of Containerized Cargo (E-TRACC) System** - shall refer to a system that enables the Bureau to have real-time monitoring of inland movements of containerized goods using an Information and Communications Technology-enabled system such as the GPS tracking device to secure its transport to the intended destination.
- 3.10. Ecozone Logistics Service Enterprise (ELSE)** — shall refer to a PEZA-registered enterprise engaged in warehousing/logistics operations providing for the following services to its Ecozone Export Enterprises (EEE) clients: (1) Procure goods through direct importation, indirect importation, or locally purchased from suppliers in the domestic territory and stores the same for subsequent sale/delivery to its EEE-clients; and (2) provide a facility for the storage and inventory management of the importations of its EEE-clients, for the latter's subsequent retrieval.³

For purposes of this Order, the rules and regulations herein shall apply only to the extent of the operations of ELSE as CFW Operator for the transfer of the importations of its EEE-clients from the port of discharge to the ELSE Facility for temporary storage.

- 3.11. Goods** — shall refer to articles, wares, merchandise and any other items which are subject of importation or exportation.⁴
- 3.12. 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

³ cf. PEZA Memorandum Order No. 2017-008.

⁴ CMTA, Title I, Chapter 2, Section 102 (x).

goods and the particulars of which the customs administration shall require.⁵

- 3.13. Importation** — shall refer to the act of bringing in of goods from a foreign territory into Philippine territory, whether for consumption, warehousing, or admission.⁶
- 3.14. Inland Container Terminal (ICT)** — shall refer to a terminal facility, established in a secure inland location, away from the seaport, near large industrial complexes, where its main functions include handling and storage of containers, general and/or bulk cargoes entering or leaving the facility by any mode of transport such as road, railways or inland waterways. In addition, other value-added services may be provided for customs activities such as import/export inspection and clearance, subject to the approval of the District Collector and strict compliance to relevant customs laws, rules and regulations. For purposes of this Order, Inland Container Terminal shall also refer to Inland Container Depot.
- 3.15. Inventory Management System (IMS)** — shall refer to the automated system to be adopted by the CFW operator as a tool to track and monitor the real-time movement of cargo entered into and withdrawn from the off-dock/off terminal CFW.
- 3.16. Online Cargo Release System (OLRS)** — shall refer to an online service which enables the port or arrastre operators and other CFW operators to receive release instruction from and transmit confirmation or misroute OLRs message to the Bureau ICT system.
- 3.17. Security** — shall refer to any form of guaranty, such as a surety bond or cash bond which ensures the satisfaction of an obligation to the Bureau.⁸
- 3.18. Security Warehouse** — shall refer to a type of Customs Facility Warehouse accredited by the Collection District where goods seized or forfeited as a consequence of the Bureau's exercise of its enforcement functions outside of Customs premises are stored for eventual disposition.

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

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

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

3.19. Seaport Temporary Storage Warehouse — shall refer to a customs facility established within the seaport premises or off-dock for purposes of storage, examination, stripping, stuffing, or safekeeping of imported goods.

3.20. Permit to Transfer (PSAD)/Transfer Permit — shall refer to the customs document authorizing the transfer of imported Goods from the port or airport terminal to the designated CFW or from one CFW to another CFW, all within the same Collection District.

Section 4. General Provisions.

4.1. Establishment of CFWs. When the business of the port and trade requires such facilities, the Collection District, subject to the approval of the Commissioner, shall designate and establish CFWs for the storage of imported goods or for other special purposes.

4.2. Supervision and Control over CFWs. 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 Collection District which shall impose such conditions as may be deemed necessary for the protection of government revenue and of the goods stored therein.

4.3. Authority to Operate. The Bureau shall be responsible for the issuance of an Authority to Operate a CFW, 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.

4.3.1. CFWs with Existing Contracts Granted by Port Authorities. 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 and terminal facilities.

4.3.2. Authority of CFW Operators. Only authorized CFW operators shall be allowed to handle and store imported

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goods that are immediately discharged from arriving aircrafts, vessels or other means of operational transport.

4.3.3. Off-Dock CFWs under Jurisdiction of More than One Collection District. For Off-Dock CFWs catering to shipments transferred from multiple ports of discharge, separate authority shall be secured from these Collection Districts where these were respectively discharged.

4.3.4. Non-Transferability of Authority to Operate. The Authority to Operate a CFW shall be non-transferrable. In case of 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 rule and regulations.

4.4. Types of CFWs.

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

4.4.2. Off-Dock/Off Terminal CFW. A customs facility established outside the seaport/airport duly authorized to accept the temporary storage of goods whether LCL or containerized, for consumption, warehousing, transit, transshipment and export, including the examination, stripping and stuffing of consolidated shipments and other related activities. It is considered part of customs premises under the exclusive control, direction and management of the Bureau.

For purposes of this Order, Off-Dock/Off Terminal CFW includes Container Yards (CY)/Depots, Container Freight Stations (CFS), Seaport/Airport Temporary Storage Warehouse, Inland Container Terminals, and other storage facilities established away from the seaport in an inland location.

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4.4.3. Other Premises Used for Customs Purposes as CFW. For the protection of government revenues, prevention of entry of contrabands, and other customs fraud, CFWs shall extend to examination areas, wharves, infrastructure and other premises which may be established outside the seaports/airports, where goods subject to customs clearance may be stored, examined, or disposed. Customs control over these premises as CFWs 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.

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

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

4.7. General Requirements in the Operation of CFW.

4.7.1. Secure and Safe Environment. Operators shall ensure a secured and safe environment for 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 this Order based on internationally accepted safety standards and best practices

4.7.2. Installation of Non-Intrusive Inspection Machines, Provision of Areas for Physical Examination and Facilities Suitable for the Nature of Cargoes being Handled. CFW operators shall provide designated areas for physical examination and

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non-intrusive inspection, including open areas for stuffing and stripping, loading and unloading, and Container Hold Area (CHA) or the area designated for seized items.

The CFW shall also provide suitable areas with appropriate facilities for cargoes which require special handling such as temperature-controlled areas or compartments for temperature sensitive shipments, secured storage for valuable shipments, and separate areas for electronic goods, express cargoes, dangerous goods, returned cargoes, livestock quarantine, plant quarantine, etc., if applicable.

4.7.3. Provision for a Suitable Working Space of Bureau Personnel. The CFW operator shall provide customs personnel with suitable working areas and office equipment and supplies necessary to perform their basic functions. The working area for customs personnel must be adequate enough to also store records in the custody of the Bureau personnel assigned thereat until their disposition pursuant to the pursuant to the National Archives of the Philippines (NAP) "General Records Disposition Schedule".

4.7.4. Designated Areas for Abandoned⁹, Overstaying and Forfeited Goods within the CFW. For proper accounting and inventory, CFWs shall designate special areas for the temporary storage of abandoned, overstaying and forfeited goods. Disposition of abandoned cargoes shall be made pursuant to existing rules and regulations.¹⁰

4.7.5. Report on Overstaying Cargoes and Empty Containers.¹¹ CFW operators, through the Wharfinger-in-Charge or Warehouseman-in-Charge assigned at the CFW, shall provide a weekly report to the District Collector of all overstaying goods including empty containers transferred to the facility.

⁹ CAO No. 9-2019, Section 3.1.

¹⁰ CAO No. 3-2020.

¹¹ CAO No. 17-2019, Section 4.2.4; CAO No. 8-2019, Section 9.

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4.7.6. Loss and Damage of Goods Stored in CFWs. In case of loss or damage 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.

4.7.7. Inspection of CFW and Inventory of Goods Stored Thereat. The District Collector or his/her authorized representative shall conduct regular inspections of off-dock/off-terminal CFWs and annual inventory of goods stored therein under the jurisdiction of the Collection District. His/her authorized representatives shall be covered by appropriate Mission Orders which shall contain their names and the time and date of inspection. Inspection of off-dock/off-terminal CFWs shall also include validation of the structural lay-out of the CFWs as approved by the Port.

4.7.8. Cooperation in Customs Investigation. During any investigation conducted by the Bureau, the operators shall make available pertinent papers and documents as well as issue statements, affidavits, and attestation and allow the processing of any information or documents already submitted to the bureau.

4.7.9. Annual Supervision Fee. The CFW operator shall pay an annual supervision fee in the operations of CFW in accordance with the schedule provided under pertinent rules and regulations.

Section 5. Off-Dock/Off Terminal Customs Facilities and Warehouses.

5.1. Procedure for Application for the Issuance of Authority to Operate an Off-Dock or Off-Terminal CFWs. Any person or firm desiring to establish and operate an off-dock/off-terminal CFW shall apply in writing to the Collection District where the proposed CFW facilities are to be located describing the premises, location, capacity, and purpose/s.

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5.1.1. Documentary Requirements. The applicant shall submit a duly filled-up Application to Operate an Off-Dock/Off Terminal CFW (Annex "A") together with the following required documents:

- a. Securities and Exchange Commission (SEC) Articles of Incorporation, Department of Trade and Industry (DTI) Certificate of Business Registration, Bureau of Internal Revenue (BIR) Certificate of Registration and Mayor's Permit;
- b. Location and layout of facility, including the areas for examination, storage of forfeited and abandoned goods, releasing, loading and unloading area and areas for customs offices;
- c. Lease Contract or Certificate of Title to the real property where the proposed CFW is located;
- d. List of equipment as applicable;
- e. Audited Financial Statements for the last two (2) years immediately preceding the date of application, if applicable;
- f. Lay-out for the designated examination area and non-intrusive inspection equipment facility as may be applicable; and
- g. Feasibility Study. The Project Feasibility Study following the format in Annex "B" shall present the viability of the operation for a period of five (5) years.

5.1.2. Physical Inspection of Facilities. Upon receipt of the application, the District Collector shall immediately refer the same to the Deputy Collector for Operations for the conduct of physical inspection of the proposed CFW and determination of the completeness of the documents submitted in support of the application.

The Deputy Collector for Operations shall then immediately refer the application to the Chief, Piers and Inspection Division (PID)/equivalent unit or office concerned for the conduct of inspection and submission of the Inspection Report (Annex "C") within seven (7)

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working days. The following shall be considered in the preparation of the report:

- a. Accessibility of the location of the proposed CFW to all means of land transportation;
- b. Structural compliance of the proposed CFW with the National Building Code and zoning requirements of the local government unit concerned;
- c. Design and configuration of the proposed CFW to accept and store cargoes, provide suitable areas for physical examination or non-intrusive inspection machines;
- d. Capacity of the facility to store cargoes in terms of Twenty Equivalent Units (TEUs); and
- e. Security measures in place.

5.1.3. Security Requirements. The inspection team of the PID or office concerned must check that the applicant has a written and verifiable procedures on the following:

- a. Physical Security (e.g. fences, gates, parking, building structures, locks and keys, lighting, alarm systems and video surveillance cameras);
- b. Physical access controls (e.g. security personnel, employee ID system, searches, visitors or vendors verification);
- c. Security procedures for service providers and vendors, if applicable;
- d. Procedural security (e.g. cargo control, shipping and receiving, container opening and release);
- e. Security training and awareness of personnel of CFW operator; and
- f. Information Technology Security (e.g. password, accountability).

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5.1.4. Evaluation of the Application.

- a. Upon receipt of the application and complete supporting documents, including the Inspection Report from the PID or office concerned, the Deputy Collector for Operations shall submit his/her recommendation to the District Collector within three (3) working days from receipt of the report.
- b. Within five (5) working days from receipt of the report and the recommendation, the District Collector, if he/she finds merit in the application shall recommend its approval to the Commissioner through the Deputy Commissioner, AOCG, attention: Director, Port Operations Service (POS), forwarding the complete records of the application. The District Collector may deny the application at any stage of the evaluation process in cases where the application is attended with fraud or material misrepresentation, or the applicant does not meet the regulatory requirements to operate a CFW. In case of denial, the District Collector shall send a notice to the applicant stating clearly the grounds for the denial of the application.
- c. Upon receipt of the records, the Deputy Commissioner, AOCG shall direct the Director, POS to review the application and submit his/her findings and recommendations within ten (10) working days upon receipt thereof.
- d. Within five (5) working days from receipt of the final evaluation report from the Director, POS, the Deputy Commissioner, AOCG shall endorse the final evaluation report and the recommendation to the Commissioner for final approval of the application.
- e. Within five (5) working days from receipt of the final evaluation report and recommendation from the Deputy Commissioner, AOCG, the Commissioner shall approve the same and issue the corresponding Certificate of Authority if the application is found in order.

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- f. In cases where the Commissioner denies the application for Authority to Operate a CFW, the Deputy Commissioner, AOCG shall forward the denial to the District Collector concerned within three (3) days from receipt thereof. The District Collector shall inform the applicant of the denial of the application within three (3) days from receipt thereof.

5.1.5. Procedure and Remedies in Case of Denial of the Application.

- a. An applicant whose application for Authority to Operate a CFW or its renewal was denied by the District Collector may file an Appeal with the Commissioner through the Legal Service within fifteen (15) days from receipt of the Notice of Denial, copy furnished the Chief, Port Operations Coordinating Division (POCD) of the AOCG and the District Collector.
- b. The Legal Service, within twenty (20) days from receipt of the Appeal, shall recommend action on the application based on the grounds clearly stated in the Appeal.
- c. The Commissioner, within five (5) days from receipt of the recommendation of the Legal Service, shall affirm or reverse his previous denial of the application.
- d. The applicant whose application was denied by the Commissioner, instead of filing an Appeal, may choose to file a new application.

5.2. Certificate of Authority to Operate. Upon approval of the off-dock/off-terminal CFW application, the Commissioner shall issue a Certificate of Authority to Operate a CFW. Such certificate shall be conspicuously displayed at all times at the off-dock/off-terminal CFW and its extension offices, if any.

5.3. Validity of the Authority to Operate. The Authority to Operate an off-dock or off-terminal CFW, including any additional facilities, shall be valid for three (3) years counted from the date of the

approval of the application for establishment, as stated in the Certificate of Authority to Operate. If the term of the lease of contract submitted during the application is less than three (3) years, the validity of the Authority to Operate shall be coterminous with the lease contract unless a new contract of lease with a longer period is submitted. In such case, the Authority to Operate shall be amended to its maximum period of three (3) years counted from its date of original issuance.

5.4. Amendment of Certificate of Authority to Operate.

5.4.1. The Certificate of Authority may be amended upon the request of the Off-Dock/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.

5.4.2. The said notice and request must be accompanied by an affidavit of Change of Circumstance together with supporting documents which shall be submitted within ten (10) working days from the change in the business information.

5.4.3. The District Collector shall, within three (3) days from receipt of the request, direct the PID or office concerned to confirm or validate the changes reported.

5.4.4. The PID or office concerned shall validate the information and submit its reports within seven (7) days from receipt of the directive of the District Collector.

5.4.5. The District Collector shall, within three (3) days, from receipt of the report of the PID or office concerned shall approve the request for amendment and endorse the same for updating of the record of the CFW in its

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database to the Chief, POCD. The Chief, POCD shall within three (3) days from receipt of the endorsement of the District Collector shall likewise prepare the amended Certificate of Authority for signature of the Commissioner.

5.4.6. The Commissioner shall, within three (3) days, sign the amended Authority to Operate and return the same to the POCD for subsequent issuance to the CFW operator.

5.4.7. The CFW Operator, upon receipt of the amended Authority to Operate, shall surrender the previously issued Authority to operate to the District Collector concerned for records purposes.

5.5. Renewal of Authority to Operate. At least ninety (90) days before the expiration of the Authority to Operate, the off-dock/off-terminal CFW operator shall file the application for renewal of Authority to Operate.

5.5.1. Requirements. The CFW operator shall file the application for renewal of Authority to Operate with the Collection District, attaching therewith 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; and
- b. Updated documentary and security requirements as provided in subsection 5.1.1 of this Order.

5.5.2. Inspection and Certificate of No Accountability. The District Collector shall cause the inspection of the Off-Dock/Off-Terminal CFW and require a Certificate of No Accountability from the following offices as a pre-condition for renewal.

- a. Legal Service;
- b. Customs Intelligence and Investigation Service (CIIS);
- c. Enforcement and Security Service;
- d. Law Division;
- e. Bonds Division insofar as posting of the required Security;

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f. PID or office concerned

5.5.3. Automatic Extension. The Authority to Operate shall be deemed automatically extended in case the Commissioner 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.

5.6. Application for Establishment of Extension or Additional Facilities.

5.6.1. Application for establishment of extension or additional facilities shall be filed with the Collection District which has jurisdiction over the main facilities.

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

- a. Rules for the establishment of a new Off-Dock or Off-Terminal CFW shall apply; and
- b. Control and supervision over the off-dock or off-terminal CFW can only be exercised by the Collection District who has jurisdiction over the location.

5.6.3 The evaluation and action on the application for establishment of extension or additional facilities shall follow the procedures in the evaluation of applications to establish CFWs under Section 5.1 hereof except for extension or establishment of additional facilities of private terminal operators, in which case such extension shall be duly noted by the District Collector concerned and the POCD.

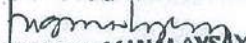
5.7. Post-Approval Requirements. The applicant upon receipt of the approval of the Commissioner of Customs shall further comply with the following requirements before operations begin:

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- 5.7.1. Posting of Annual Security.** CFW Operators shall post 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 higher¹³.
- 5.7.2. Registration of CFWs under the CPRS.** All CFWs granted with Authority to Operate shall be registered with the BOC's Customs Profile Recording System (CPRS) as CFW operator. Provided, that the CPRS shall be immediately updated or activated within the validity period of the Certificate of Authority to Operate subject to submission of annual updates of company pertinent paper.
- 5.7.3. On-Line Release System (OLRS).** Accredited CFWs shall be required to set-up their own On-Line Release System (OLRS) which shall be linked to the Bureau's computer system for the electronic transmission of instruction messages from the Bureau to the concerned operator of the CFW granting these entities authority to release the goods to the rightful owner.
- 5.7.4. Inventory Management System.** Off-dock/off-terminal CFWs with Authority to Operate shall within thirty (30) days from the grant thereof and before actual operation, subscribe to the Inventory Management System (IMS) and comply with the uploading of the required documents and data to the system as required under CMO No. 21-2021.
- 5.7.5. Customer Support System.** The CFW operator shall provide on a 24/7 basis its own customer support system to address the concerns of stakeholders.
- 5.7.6. Assignment of CFW Number.** Before the CFW shall be allowed to operate, the POCD under the Office of the Deputy Commissioner, AOCG, shall assign a CFW number

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¹³ CAO 9-2019, Sec. 5.15.

for all CFWs given an Authority to Operate after the effectivity of this Order. The CFW number shall follow a unique alpha-numeric sequence of letter/s and four numbers to identify the type of CFW.

5.8. Requirements During Operations.


5.8.1. General Requirements in the Transfer of Cargoes to Off-dock/Off-terminal CFWs. The following shall be required for all transfers of imported cargoes to Off-Dock/Off-Terminal CFWs.

- a. Transfers to Off-dock/Off-Terminal CFW.** Goods for transfer to Off-dock/Off-Terminal CFWs shall, unless otherwise provided herein or other CMOs, be covered by a Special Permit to Transfer (P-SAD) duly filed by the deconsolidator/cargo forwarder, consignee/importer, CFW Operator or authorized representative, whichever is applicable.
- b. Permit to Transfer - Single Administrative Document (P-SAD).** For transfers to Off-Dock/off-terminal CFWs, the consignee/importer or authorized representative shall lodge the P-SAD goods declaration in the e2m system through any of the BOC accredited Value-Added Service Providers (VASPs) and subsequently file the same together with the supporting documents with the Office of the Deputy Collector for Operations for evaluation and final assessment of the fees and charges due thereon. The P-SAD shall serve as the authority of the Wharfinger/Warehouseman to receive the shipment at the premises of the CFW.
- c. Electronic Tracking of Containerized Cargo (E-TRACC) System.** For containerized shipments, the concerned customs officer shall ensure that the consignee/importer has been enrolled in the Electronic Tracking of Containerized Cargo (E-TRACC) System and that each container for transfer has been booked with the service provider for arming of E-TRACC device in accordance with CMO No. 04-2020, before the final assessment thereof.

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Containers transferred from the port of discharge to the off-dock CFW without being secured with the E-TRACC device shall not be allowed to be opened by any Customs Officer without the approval of the District Collector of the port of destination in coordination with the port of discharge. This is without prejudice to the imposition of any penalty or sanctions that may be applicable under the circumstances in accordance with CMO No. 4-2020.

Pending full implementation of the E-TRACC at the airports, the transfer of air shipments through cargo igloos to Off-Terminal CFWs shall be under-guarded by an assigned Customs Guard by virtue of a Mission Order issued for that purpose and the duly issued Transfer Note.

5.8.2. Procedure for the Transfer of Cargoes to Specific Types of Off-dock/Off-terminal CFWs.

a. Container Freight Stations (CFS).

The deconsolidator/ cargo forwarder, consignee/ importer, CFW Operator or authorized representative, whichever is applicable shall lodge the P-SAD goods declaration in the e2m system through any of the BOC accredited VASPs. The printed copy of the P-SAD and supporting documents shall be filed with the Office of the Deputy Collector for Operations for evaluation and final assessment of the fees and charges due thereon. The P-SAD shall serve as the authority of the Wharfinger/Warehouseman to receive the shipment at the premises of the CFW.

The Wharfinger shall receive the goods duly covered by P-SAD in the premises of the CFW. After the containers have been properly disarmed of the E-TRACC device in accordance with the procedure provided under CMO No. 4-2020, the Wharfinger shall then approve the stripping of the container using the functionality in the IMS.

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The Wharfinger shall check the cargo details indicated in the electronic cargo manifest against the actual details of the cargo upon stripping as indicated in the Stripping Tally Sheet, thus:

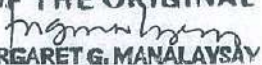
- i. In case of discrepancy, such as, but not limited to over-landed /short-landed shipment, the concerned Wharfinger shall render a report of his findings to the District Collector with due notice to the CFW Operator for the proper tagging of the subject House BL (HBL). Said discrepancy shall be checked by the Wharfinger assigned if the said discrepancy has been reflected in the Goods Declaration filed for the subject HBL and the appropriate duties and taxes has been assessed and paid accordingly.
- ii. In case the discrepancy is over-shipment or overlanded, the Wharfinger shall not allow the release of the excess quantity if the same is not included in the Good Declaration processed at the Port. In such case, the Goods Declaration shall be cancelled and a new one shall be filed reflecting the actual quantity of the shipment actually received at the CFW. The goods in excess of the quantity reflected in the Goods Declaration if not claimed shall be deemed impliedly abandoned and shall be disposed in accordance with applicable rules and regulations on disposition of abandoned cargoes.
- iii. Where the cargo has no markings or labels or such marking or labels have become unintelligible so as not to be able to identify the consignee, the Wharfinger shall take note of the same in the Stripping Tally Sheet as reference for future request for relabeling.

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b. Airport Temporary Storage Warehouses. The Warehouseman shall receive the goods from the air cargo carrier duly covered by Transfer Note in the premises of the CFW. The warehouseman shall check the cargo details between that indicated in the

electronic cargo manifest and the actual details of the air-shipments upon de-stuffing as indicated in the receiving cargo list, thus:

- i. In case of discrepancy, such as, but not limited to over-carried shipment, under-carried shipment, found-cargo, overlanded, or short-landed, the concerned Warehouseman shall render a report of his findings to the District Collector with due notice to the CFW Operator for the proper tagging of the subject Air Waybill (AWB). Said discrepancy shall be checked by the Warehouseman if the said discrepancy has been reflected in the Goods Declaration filed for the subject AWB and the appropriate duties and taxes has been assessed and paid accordingly.
 - ii. In case the discrepancy is over-carried shipment, over-shipment or overlanded, the warehouseman shall not allow the release of the excess quantity if the same is not included in the Good Declaration processed at the Port. In such case, the Goods Declaration shall be cancelled and a new one shall be filed reflecting the actual quantity of the shipment received at the CFW. The goods in excess of the quantity reflected in the Goods Declaration if not claimed shall be deemed impliedly abandonment and shall be disposed in accordance with applicable rules and regulations on disposition of abandoned air cargoes.
 - iii. Where the cargo has no markings or labels or such marking or labels have become unintelligible so as not to be able to identify the consignee, the warehouseman shall take note of the same in the receiving cargo list as reference for future request for relabeling.
- c. Container Yard/Depot or Other Facilities Established Pursuant to this Order.** The transfer of cargoes for temporary storage to the facility shall be subject to the following conditions:
- i. Only containerized shipments which have been duly cleared by the port of discharge but remain

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unreleased by the owners thereof may be transferred to the CFW for temporary storage;

- ii. The CFW Operator shall provide their own/hired trucks or trains for the transfer of the cargoes from the port of discharge to the facility;
- iii. Under circumstances when it is necessary to transfer containers to the facility in order to improve the yard utilization in the port, overstaying cargoes which have been forfeited/abandoned or subject of a pending case may only be transferred for temporary storage therein, upon approval of the District Collector provided the facility where the goods are to be transferred is under the jurisdiction of the same Collection District.
- iv. The CFW operator shall provide the port concerned a weekly report on the movement of all containers transferred to the facility and shall report all shipments transferred under Section C (i) above which have remained unclaimed after thirty (30) days for institution of abandonment proceedings and eventual disposition.

d. Inland Container Terminal (ICT). The Warehouseman shall receive the cargoes in the premises of the ICT after checking the information in the P-SAD as against the cargoes actually delivered. After the containers or carriers have been properly disarmed of the E-TRACC device in accordance with the procedure provided under existing regulations, the cargoes shall be transferred to the facility designated in the ICT, for storage and other handling services subject further to the following conditions:

- i. Goods intended for transfer shall be electronically lodged, at least twelve (12) hours prior to arrival of the vessel or upon manifest submission by the shipping lines/airlines to undergo selectivity;
- ii. Goods subject for transfer must be manifested;

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- iii. Goods intended for transfer must not be subject to any alert of hold order;
 - iv. The transfer shall be limited to the importations of the users thereof in accordance with Section 7, Paragraph 7.6.2 hereof;
 - v. The CFW Operators shall provide their own/hired trucks/trains or other conveyances for the transfer of the cargoes from the port of discharge to the ICD.
- e. Ecozone Logistics Service Enterprise (ELSE) Facility.**
- i. **Storage Facility for Subsequent Withdrawal and transfer.** The Warehouseman shall receive the imported goods duly covered by P-SAD, in the premises of the CFW for temporary storage in the facility or warehouse for subsequent withdrawal and transfer to ELSE's Ecozone Export Enterprise (EEE) Clients. The consignee of the goods for transfer to the ELSE must be the forwarder/consolidator indicated in the Master Bill of Lading.

For containerized shipments, after the same have been properly disarmed of the E-TRACC device in accordance with the procedure provided under existing regulations, the Wharfinger-in-Charge (WIC) shall then approve the stripping of the container using the functionality in the IMS. The WIC shall check the cargo details between that indicated in the PSAD and the actual details of the cargo upon stripping as indicated in the Stripping Tally Sheet or receiving cargo list.

Only importations consigned to PEZA-registered enterprises shall be allowed for transfer to an ELSE as a CFW for subsequent withdrawal under transit procedures or for consolidation prior to transfer to their port of loading, in the case of exports.

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5.8.3. Cargo Clearance Procedure. The cargo clearance procedure under existing customs rules and regulation for consumption, warehousing, and transit goods declaration shall be observed for LCL shipments transferred to CFWs.

a. Physical Examination of LCL shipments. LCL shipments selected "RED" under the Bureau's Selectivity System shall be physically inspected at the destination CFW as part of the cargo clearance process.

Physical examination of LCL shipments tagged as "Orange" with suspicious image shall likewise be examined at the CFW.

b. Cargo Clearance Unit. For the clearance of shipments transferred from the Port of Discharge to the ICT, the Bureau may establish a clearance unit in the CFW which may be composed of Customs Examiners, representatives from the Enforcement Group (EG), Intelligence Group (IG) and other concerned offices.

The Port shall coordinate with the Terminal Operator for the provision of the necessary ICT-infrastructure to facilitate the cargo clearance of goods transferred to the ICT.

c. Hold/Alert Order. For consolidated shipments, when a certain HBL is subject of an alert or hold order, this shall not prevent the transfer of the container to the CFW for stripping. The shipment shall be processed in accordance with the rules and regulations on the processing of shipments subject of Alert or Hold Orders.

Processing of Hold/Alert Orders issued against LCL shipments transferred to off-dock/off-terminal CFWs shall follow existing rules and regulations on the processing of hold/alert orders.

For shipments issued with Hold/Alert Order after the transfer to a CFW other than container freight

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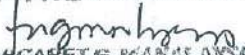
stations, the conduct of 100% physical examination, the lifting thereof for continuous processing, or issuance of a Warrant of Seizure and Detention (WSD), as the case may be, shall comply with the procedure under existing customs rules and regulations.

- d. Seizure.** Cargoes under seizure proceedings shall be transferred to a Container Hold Area (CHA) or the area designated by the CFW operator for seized items. Accordingly, the cargoes shall be appropriately tagged in IMS to prevent the release thereof pending seizure proceedings. The Auction and Cargo Disposal Division (ACDD) or equivalent unit shall be given access in the IMS in order to properly reflect the status of the shipments under seizure and forfeiture proceedings.
- e. Overstaying Cargoes.** The existing rules and regulations on the abandonment of cargoes shall be observed. For proper disposition of overstaying cargoes, the concerned Wharfinger or Warehouseman shall submit a weekly report generated in the IMS to the District Collector, through the Chief, Law Division.
- f. Release of Cargoes.** Upon the receipt by the IMS of release instructions (OLRS) transmitted by the BOC e2m system, the CFW Operator shall issue the gate pass for the release of the cargo. The Wharfinger or Warehouseman shall validate the details in the gate pass as against the details in the IMS for the particular BL by matching the same in the declaration in the hardcopy of the processed goods declarations and the gate pass. If in order, he shall then approve the release of the cargo as indicated in the IMS and tag the shipment as "approved" in the IMS.

5.8.4. Rates to be Charged by Off-Dock and Off-Terminal CFW. Pending the issuance of a new Customs Administrative Order (CAO) providing for the rates to be charged by CFWs established under this CMO, the rates as provided under existing regulations shall continue to be in force and effect.

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The following incidental or pass-on charges for expenses incurred by Off-dock/Off-terminal CFW operators may be collected as reimbursements:

- a. Fees for the return of Empty Container being charged by Truck Operators;
- b. Control Fees being charged by the Shipping Lines;
- c. Parking Fee being charged by the Shipping Lines;
- d. Detention, demurrage or storage fees on empty and loaded containers being charged by the Shipping Lines and/or Terminal Operators;
- e. Electronic Tracking of Containerized Cargo (E-TRACC) System fees being charged by the service provider;
- f. X-ray Fees being charged by the service provider if applicable;
- g. Terminal Appointment Booking System (TABS) fees being charged by Terminal Operators;
- h. Container maintenance fees being charged by the Shipping Lines; and
- i. Warehouse Inventory System Fees being charged by the service provider

The foregoing incidental charges incurred by off-dock and off-terminal CFW operators shall be proportionately charged to the consignee, as supported by an official receipt.

At the request of the importer, the off-dock and off-terminal CFW shall present the details or the source of the incidental charges, including the manner by which the pro-rating has been computed.

In no case shall the charge be twice collected if the importer has already paid the same.

Any other fees not enumerated herein shall be subject to approval of the Bureau.

5.8.5. Suspension or Closure of CFW.

- a. The District Collector, without prejudice to the imposition of administrative penalties and filing of criminal cases against the responsible person, shall

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cause the suspension or closure of any CFW under the following grounds:

- i. 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;
- ii. When the operator knowingly facilitates or assists in the commission of smuggling and other illegal activities in the CFW;
- iii. In case of pilferage of goods stored in the facility;
- iv. Failure to account for goods stored;
- v. Being inactive for a continuous period of at least one (1) year, i.e. no transfer of imported goods;
- vi. Failure to submit the required documents for renewal under Sections 5.6 of CAO 9-2019;
- vii. Violation of customs laws, rules and regulations; and
- viii. Other practice or violation of law which negates the intended purpose for which the CFW was established.

b. Closure/Suspension Proceedings. Except in cases of voluntary discontinuance, the following shall govern the procedure for the closure or suspension of an off-dock/off-terminal CFW:

- i. **Notice of Violation.** The District Collector, through the Law Division - upon report of violation or existence of any of the grounds enumerated in the preceding paragraph, by the PID, or concerned Office/s of the Port or upon the recommendation of the Chief, POCD, pursuant to its monitoring and supervision functions under Section 10 of this Order - shall issue a Notice of Violation to the CFW Operator. Within ten (10) days from receipt of such Notice, the CFW operator shall submit his Answer thereto.

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- ii. **Summary Proceeding.** Upon receipt of the Answer, the Chief, Law Division shall immediately set the case for hearing so that issues shall be joined. Clarificatory hearing/s may be conducted as may be deemed necessary.

Within five (5) workings days from the termination of the hearing, the CFW Operator shall be required to submit a verified Position Paper, copy furnished the Office of the Deputy Collector Operations or the Chief, POCD as the case maybe, who shall submit his Comment thereto within five (5) working days from receipt.

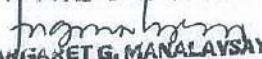
Within 10 days from submission of the last pleading, the Chief, Law Division shall submit his recommendation to the District Collector, who shall render a decision within five (5) working days from receipt thereof.

- iii. **Order of Closure or Suspension.** Closure or suspension of the CFW shall be effective upon the issuance of an order by the District Collector, who shall within ten (10) working days inform the Commissioner of such action in writing.

- iv. **Appeal.** The decision ordering the closure or suspension of a CFW may be appealed to the Commissioner through the Legal Service within fifteen (15) working days from receipt of the decision, copy furnished the Chief, PID/POCD or concerned office and the District Collector, otherwise it shall be deemed final and executory.

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The Legal Service, within ten (10) days from receipt of the Appeal, shall recommend action on the order of closure or suspension based on the grounds clearly stated in the Appeal.

The Commissioner, within five (5) days from receipt of the recommendation of the Legal Service, shall affirm or reverse the District Collector's Order.

c. Closure in Case of Voluntary Discontinuance.

Within three (3) working days from receipt of the notarized letter-request of the Operator the District Collector, through the Law Division, shall issue a Closure Order.

d. Effect of Closure/Suspension.

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.

The owner, operator or Officers of the CFW shall not be relieved from criminal liability arising from any violation of the tariff laws and other laws enforced by the Bureau.

In case of notice of discontinuance made by the operator, the same shall not result in the discharge of liability for the payment of any duties, taxes and other charge imposed on the dutiable goods in the warehouse.

Section 6. Other Types of Off-Dock/Off Terminal CFW. For the effective control of shipments under the jurisdiction of the Port, the establishment of facilities outside the seaport/airport rendering services other than storage of imported goods, may be authorized. This type of facility shall be considered as off-dock/off-terminal CFW in accordance with this Order.

6.1. Services Provided. The services to be rendered by this type of CFW shall include, but not be limited to the following:

6.1.1. Return of Empty Containers. Container yards may be established for the temporary storage of empty containers for repositioning and export load-out. ICT Operators, in addition to the services being rendered in the ICT Facility, may provide such services upon authority of the Port, provided further that the facility/area designated for such purpose shall be separated from the facilities designated for other services.

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6.1.2. Drop-off Service for Export Cargoes and Other Services. Facilities may be established as drop off service or the short-term storage of export shipments and other services for consolidation before they are transferred to the seaport/airport terminal for actual loading to the vessel or aircraft.

ICT Operators, ELSE, or Airport Cargo Warehouses rendering additional services for the export shipments of their accredited users, PEZA registered clients, and exporter-clients shall provide a designated facility/area for such purpose which shall be separate from the facilities in the terminal or facility authorized to be used as part of the CFW.

6.1.3. Security Warehouse for Seized and Forfeited Goods. The Port may grant the operation of a Security Warehouse for the storage of goods seized pursuant to Letters of Authority issued by the Bureau pending seizure and forfeiture proceedings and while under the custody of the Port through the Auction and Cargo Disposal Division (ACDD).

Security Warehouse as established herein may be used as temporary storage areas of goods waiting for final clearance from the Bureau, subject to approval of the District Collector concerned, to prevent incurring additional expenses on the part of the importer/consignee.

6.2. Issuance of Authority to Operate and Renewal Thereof. In so far as applicable, the procedure in the application and renewal for the issuance of Authority to Operate an Off-Dock or Off-Terminal CFW shall also apply to these types of CFW.

6.3. Post-approval Requirements and Requirements During Operations. The applicant shall likewise comply with the post-approval requirements and the general requirements during the operations of CFW under paragraphs 4.7 and 5.7, respectively, in this Order in so far as they are applicable to each type of CFW, in addition to the following:

6.3.1. Return of Empty Container.

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- a. **Delivery.** The Warehouseman prior to receiving the empty containers returned by importers, truckers, brokers in the premises of the CFW shall require a copy of the Container Delivery Receipt/Order or other

document issued by the Shipping Line or its agent which specified the CY/Depot as the storage facility for the return of the container.

In case the Container Delivery Receipt/Order or other documents does not specify the Depot where the empty container shall be returned, the Warehouseman shall still receive the same provided that the importer/broker/trucker presents any proof that he has communicated or notified the shipping line owning the empty container or his agent, duly received/acknowledged, that the CY/Depot is his chosen storage facility, pursuant to CMO No. 13-2019. Expenses for the return of the empty container in this instance shall be for the account of the shipping line/agent.

- b. **Withdrawal.** The Wharfinger shall allow the withdrawal of the empty containers stored thereat upon submission of the following:

- i. For empty containers for repositioning and export load-out, the Special Permit to Load (SPTL) issued by the CCCD, which must contain among others the particular description of the empty container to be returned, their time of loading and other related information; or
- ii. Copy of the Informal Entry Declaration Form and BCOR evidencing payment of the duties and taxes due in case of overstaying containers or where the shipping line instead of exporting the same, opts to pay the duties and taxes due thereon;
- iii. Gate pass issued by the Port in case of donation or other modes of disposition of empty containers which have been forfeited in favor of the government.

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- c. Failure to Withdraw From the Depot for Re-exportation Within the Period of Limitation.** For failure of the owner shipping line to re-export the empty containers after the lapse of the period provided by law, the existing rules and regulation on the abandonment of the empty container shall be observed. For this purpose, the concerned Wharfinger or Warehouseman shall submit a daily report of overstaying empty containers to the District Collector, through the Chief, Law Division, for disposition.

6.3.2. Drop-off Service for Export Cargoes.

- a. Delivery.** Upon delivery of the export shipment at the ICT, ELSE or Airport Warehouse by the accredited users, PEZA Registered Clients and exporter-clients respectively, the same shall be entered at the facility/area designated for such purpose in the Terminal or facility before their transfer to the Port Terminal for actual loading, provided that export shipments delivered to ELSE must be duly covered by a duly processed Export Declaration.
- b. Examination and Stuffing.** The physical and/or non-intrusive examination for export shipment when required under existing rules and regulation may be conducted in the terminal facility or warehouse by the assigned Customs Officers. The stuffing of export cargoes into the container shall be supervised by assigned customs personnel.
- c. Transfer from ICT, ELSE or Airport Warehouse to the Port Terminal for Actual Loading.** Until such time the MISTG shall develop a functionality in the Bureau's computer system for the filing of a PSAD for export cargoes at CFWs to be transferred to the Port of Loading, said transfer shall be covered by a copy of the Authority to Load (ATL) issued by the Export Division of the port of loading, the gate pass issued by the CFW operator and confirmation that each container for transfer has been booked with the service provider for arming of E-TRACC device.

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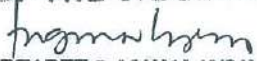
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6.3.3 Security Warehouse for Seized and Forfeited Goods.

- a. Transfer for Temporary Storage of Seized and Forfeited Goods.** The warehouseman shall receive the goods duly covered by Transfer Note in the premises of the CFW. The warehouseman shall check the cargo details between that indicated in the Examination Report of the assigned Customs Examiner or Inventory Report of ACCD Examiner and the actual details of the cargo delivered.
- b. Release for Disposition.** The CFW Operator shall issue the corresponding gate-pass for the release of the cargo upon the receipt of the ACDD issued gate-pass allowing the release of the Goods together with the following supporting documents:
- i.** Notice of Award from the Winning Bidder in case the cargoes were sold through auction/negotiated sale;
 - ii.** Order of Condemnation from the Contractor in case the cargoes are subject to condemnation;
 - iii.** Authorization from the recipient agency designating a representative to receive the goods in case of donation to the DSWD or other government agency;
 - iv.** Order of Release with the corresponding BCOR evidencing payment of the duties, taxes, other charges and penalties due if required, in case where the District Collector ordered the release thereof duly approved by the Commissioner upon automatic review.
 - v.** Decision of the District Collector accepting consignee's offer of settlement either by way of fine or redemption of seized cargoes with the corresponding BCOR evidencing payment of the

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Settlement value or Redemption value, duly approved by the Commissioner upon automatic review.

In cases where use of the IMS shall be implemented in Security warehouses, the warehouseman shall validate the details in the gate-pass as against the details in the IMS matching the same in the Notice of Award, Order of Condemnation, Deed of Donation and Acceptance or the Order/Decision. If in order, he shall then approve the release of the cargo as indicated in the IMS and tag the shipment as "approved" in the IMS.

- c. **Provision of Separate Areas.** The CFW operator shall also provide designated areas in the warehouse to prevent commingling and to ensure the preservation of all forfeited items stored therein in so far as practicable specially highly valuable items, perishable goods and electronic items, and seized cargoes pending final disposition or resolution of the seizure case.

The CFW operator shall likewise provide a separate and secured area in the facility for the storage of goods which by their nature are considered dangerous or injurious to public health.

- d. **Unclaimed Cargoes Subject of Auction/Negotiated Sale/Approved Offers of Settlement.** Cargoes sold through auction or negotiated sales and those with approved offers of settlement which remained unclaimed by the winning bidder or within the period of limitation provided by law shall be proceeded against in accordance with the rules on abandonment.

- e. **Access for Public Viewing of Lots or Goods Prior to Auction Sale.** Upon written request by the ACDD, the CFW operator shall provide prospective bidders' access to the Security Warehouse for the

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public viewing of goods prior to the conduct of Public Auction Sale. The request shall indicate therein the date and time including the names of the prospective bidders interested in the viewing.

- 6.4 Suspension or Closure.** The grounds and the procedure for the closure and suspension of the operation of Off-Dock/Off-Terminal CFWs provided under paragraph 5.8.6 shall also apply to these type of CFW.

Section 7. Terminal Facilities as CFW. For the efficient exercise of the Port's jurisdictional control over import and export cargoes, private port operators granted with Authority to Operate by other government agencies and regulatory bodies shall comply with the following:

- 7.1. Registration with the Bureau.** Terminal Facility Operators with existing contracts granted by the Philippine Port Authority (PPA) or other appropriate government agencies or regulatory bodies, such as, but not limited to Subic Bay Metropolitan Authority (SBMA), Phividec Industrial Authority, (PIA), Cebu Port Authority and other similar government agencies and regulatory bodies shall apply for registration as a CFW with the Collection District having jurisdiction over the location of the CFW, by submitting a duly accomplished Registration Form stating therein among others the classification or intended use of the facility (e.g. foreign containerized cargo terminal operator and/or bulk and break bulk terminal operator) and type of cargoes received for handling and storage (e.g. containerized import/export cargoes or bulk and break-bulk import/export cargoes) as determined by the Port Authority in the concession agreement, attaching therewith the issued Permit/Authority to Operate.

- 7.2. Certificate of Registration and Assignment of CFW Number.** The District Collector shall endorse the application to the Deputy Commissioner, AOCG, through the Director, POS for preparation of the Certification of Registration for signature of the Commissioner. Thereafter, the Director, POS shall instruct the Chief, POCD to assign a CFW number to the Certificate of Registration signed by the Commissioner prior to the issuance thereof.

- 7.3. Validity Period, Renewal, and Annual Registration Fee.** The Certificate of Registration of Terminal Operators shall be

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coterminous with the duration of their contracts with the concerned government regulatory agency subject to the payment of the required annual supervision as provided under existing rules and regulations which amount shall be paid on or before January 5 of every year.

7.4. Post-registration Requirements. The applicant, upon receipt from the AOCG of the signed Certificate of Registration shall further comply with the following requirements:

7.4.1. Annual Security. Terminal Operators shall post non-chargeable annual security in the amount of One Hundred Million Pesos (Php100,000,000) to cover for the duties and taxes due on lost or damaged goods while stored or transferred to the facility solely or directly caused by the Operator.

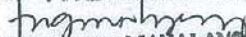
7.4.2. CPRS Registration. All Terminal Operators with Certificate of Registration issued by the Bureau shall be required to register with the Bureau's Client Profile Registration System (CPRS).

7.4.3. ICT-Enabled Inventory Management System. The Terminal Operator shall set up an ICT enabled inventory management system for the accounting of goods stored thereat, including abandoned, overstaying and forfeited goods. The system shall be capable of effectively tracking and monitoring the real-time movement of cargoes entered into and withdrawn from the CFW and the proper tagging for the location of the goods and its alert/hold status. The system shall likewise allow users access to certain functionalities, such as the real time status of cargoes through a device application accessible to the Customs Officers, importers/brokers, forwarders and shipping/airline agents.

7.4.4. On-Line Release System (OLRS). Registered Terminal Operators shall be required to set-up their own On-Line Release System (OLRS) which shall be linked to the Bureau's computer system for the electronic transmission of release instruction from the Bureau to the concerned Terminal Operator.

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7.4.5. Customer Support System. The Terminal Operator shall provide on a 24/7 basis its own customer support system to address the concerns of stakeholders.

7.5. Requirements During Operations. In addition to specific tasks and obligations stipulated under the concession agreement with the concerned Port Authorities and general requirements/obligations enumerated under paragraph 4.7 of this Order, Terminal Operators shall further comply with the following requirements during its operations:

7.5.1. Provision of Areas for Physical Examination and Non-Intrusive Inspection, Designation of Additional Areas. Subject to the provision of Section 1111, Chapter 3, Title XI of the CMTA on the costs of physical examination of alerted goods, CFW operators shall provide suitable areas for physical examination, non-intrusive inspection, 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. 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. For this purpose, the Port may require the designation of additional areas for examination taking into consideration the following factors:

- a. Disposition of abandoned and forfeited goods
- b. The business and commercial operations;
- c. Terminal area;
- d. Volume and type of import goods being handled for examination;
- e. Safety and security; and
- f. Standards for the proper cargo handling in view of their nature and physical characteristics, such as radioactive cargoes.

7.5.2. Special Areas/Facilities and Cargo Handling Appropriate to the Nature of the Shipment. The Bureau shall require the CFW Operator to provide adequate special areas or facilities, fully equipped for the

proper handling necessitated by the physical characteristics, nature or status of cargoes, to wit:

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- a. Containerized and out-of-gauge containers
- b. Bulk and break bulk cargoes
- c. Reefer plug-ins for reefer containers
- d. Transshipment cargoes;
- e. Dangerous and hazardous goods;
- f. Forfeited and abandoned goods for disposition, taking into account goods eligible for public auction sale and prohibited goods subject to destruction/condemnation as determined by the ACDD and concerned regulating agencies and cargoes subject of pending administrative and criminal cases filed by the Bureau upon prior notice.
- g. Stripped or segregated cargoes found or suspected to be in violation of customs, laws, rules and regulations pending final disposition; and
- h. Storage, stripping, and examination of consolidated shipments.

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

- a. Daily report on discharged cargoes from the vessels whether containerized, bulk or break-bulk, including empty containers;
- b. Daily report on received cargoes for load out to vessels whether containerized, bulk or break-bulk, including empty containers;
- c. Daily report on releases whether containerized, bulk or break-bulk, including empty containers;
- d. Weekly report on overstaying goods;
- e. Yard utilization rates of laden, empty and reefer containers; and
- f. Other reports as may be required by the Port.

The daily report on cargoes discharged, received, and released must also contain the information on the weight.

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 of the written request. For information which are not readily available, the

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operator shall provide the Bureau within five (5) business days from receipt of the request.

For failure to provide such information within the period provided for unjustifiable reasons, the terminal facility operator shall be liable for a fine in accordance with CAO No. 9-2019.

- 7.5.4. Installation of Closed Circuit Television Cameras (CCTVs).** For effective enforcement of customs laws, rules and regulations, 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 of the request or allow duly authorized customs officer real-time viewing of the video monitors of the CCTVs.

- 7.5.5. Unhampered Access to Premises.** The Terminal Operator shall provide authorized Custom Officers with unhampered access to all premises within their administrative jurisdiction cognizant of the internationally accepted port safety and security rules and regulations.

- 7.5.6. Return of Empty Containers and Transfer of Unclaimed Overstaying Goods.** To relieve the port's capacity constraints, the Bureau may temporarily disallow, until further notice, the Terminal Operator from accepting empty containers in the port's premises, except those duly covered with Special Permit to Load (SPL) issued by the CCCD. Empty container with SPLs issued and allowed entry into the terminals must be loaded out for export within three days from their entry. For the same purpose, the Port shall also allow the transfer of port-cleared but unclaimed overstaying cargoes to other facilities established outside the port as extension of the Port terminal.

The Terminal Operator shall be responsible for the physical transfer and security of the goods to any facility established pursuant to Section 7.6.1 of this Order as

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extension of the terminal. All costs incurred by the operators in connection with the transfer of the goods to and from the said facility if requested by the Bureau shall be for the account of the government subject to government accounting rules and regulations.

7.5.7. Suspension and Closure and Liability of the CFW Operator.

The suspension and closure of the Terminal Operator shall be governed by the provisions of the contract and the rules and regulations of the concerned government agency or regulating body. Notwithstanding, the owner, operator or Officers of the CFW shall not be relieved from criminal liability arising from any violation of the Customs law and other laws enforced by the Bureau.

7.5.8. Storage Fees and Other Charges for Services Rendered.

The rate and amount of fees to be charged for the storage and other charges for the handling of the cargoes, shall be determined by the provisions in the concession agreement and rules and regulations of the concerned port authority.

7.6. Establishment of Other Facilities Outside the Port Terminal.

The Port shall allow Terminal Operator to establish other custom facilities outside the ports as an extension of its terminal facility or provide other services for certain industries within a regional area. The facilities to be established and services to be rendered may include the following:

7.6.1. Container Yard/Depot and Other Storage Facility.

The Terminal Operator may establish a facility outside the Port Terminal but within the proximity of the seaport as an extension facility limited to the transfer and temporary storage of cleared and overstaying containers to maintain the port's efficiency and ideal yard utilization rate.

7.6.2. Inland Container Terminal.

The Terminal Operator may establish an Inland Container Terminal outside the port to provide port services and conduct activities within a regional area to service the needs of major industries such as PEZA Registered Companies, Customs Bonded Warehouse and other industries that significantly contribute to economic growth. The facilities and the

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corresponding services being rendered may include the following:

- a. Container Depot for cleared and overstaying shipments;
- b. Container Yard for storage of containerized cargoes and other handling services, including reefer plug-ins;
- c. Customs facility as export drop-off service before transfer to the Port Terminal;
- d. Container Freight Station for consolidated shipments;
- f. Empty container depot; and
- g. Other value added services such as facility for customs activities (customs inspection and clearance), upon approval of the District Collector, subject to compliance with existing rules and regulations.

The list of prospective client industries to be serviced by the ICT shall be submitted to the Collection District together with the application for accreditation as CFW. Exception to this criterion shall be recommended to the Commissioner for approval on a case to case basis.

The terminal operator shall ensure that users of the ICT shall satisfy the following criteria:

- i. **Track Record of the Company.** The firm's general business reputation must be fully compliant with the rules and regulations issued by the Bureau. The company or any of its official must not have any delinquency/liabilities with the Bureau. Neither should they be subject of any derogatory information, investigation, or pending criminal/administrative case.
- ii. **Economic Contribution.** It is shown that the use of the facility by the firm will boost the efficiency of its operation and contribute to the economic well-being of the country.
- iii. **Registration in the Client Profile Registration System of the Bureau.**

Facilities established by Port Operator outside the seaport or airport whether as an extension of the Terminal Facility

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or an Inland Terminal Facility extending the ports services to certain industries operating within a regional area, shall be treated as a separate entity and shall be considered as Off-Dock/Off-Terminal CFW governed by Section 5 and 6 of this Order.

The port having jurisdiction over the Port Terminal where the imported goods subject for transfer are discharged, shall also have jurisdiction over such Facilities established by the Port Operator, where the imported goods are intended to be transferred.

Section 8. Consultation with Port Authorities. To ensure compliance with the requirements of the Bureau and for effective implementation of its jurisdictional control over goods stored and handled by operators of CFWs with existing contracts, the Bureau shall conduct a periodic consultation with Port Authorities.

Section 9. Reclassification of Public Bonded Warehouse in Airports. To ensure compliance with the requirements and conditions specified in CAO No. 9-2019, all existing public bonded customs warehouses are hereby reclassified as CFWs without prejudice to all the rights, conditions, and obligations already acquired or vested prior to the effectivity of this Order.

Section 10. Monitoring, Supervision, and Coordination of CFW Activity. The POCD shall ensure that rules and regulations are properly implemented thru effective coordination, evaluation, supervision and monitoring of CFW operations/activities.

The POCD shall establish a Compliance Rating System (CRS) which shall be used to measure and assess the compliance and performance levels of all CFWs especially with regard to applicable laws, rules and regulations. The system shall be utilized by the Bureau as a risk management mechanism in its evaluation of any application or used as basis in any action which may be taken by the Bureau for or against a CFW.

POCD shall likewise conduct periodic CFW inspection in aid of its monitoring functions for decision making process and in order to properly provide recommendations to the Deputy Commissioner of AOCG and the Commissioner. Conduct of inspection by the POCD must be covered by a Mission Order issued by the Commissioner.

The POCD shall enlist the assistance of other offices in the Bureau, such as the Investigation Prosecution Division of the Customs Intelligence Investigation Service (IPD-CIIS) and Legal Service, to audit, investigate and possible filing of administrative, civil and criminal case against erring CFW Operators which are ascertained to be not complying with relevant laws, customs rules and regulations.

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Section 11. Separability Clause. If any part of this Order is declared unconstitutional or contrary to existing laws, other parts not so declared shall remain in full force or effect.

Section 12. Effectivity. This Order shall take effect on 08 JUL 2022.

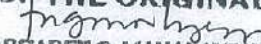
The Office of National Administrative Register (ONAR) of the UP Law center shall be provided three (3) certified copies of this Order.



REY LEONARDO B. GUERRERO
Commissioner

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ANNEX "A"

APPLICATION TO OPERATE AN OFF-DOCK/OFF- TERMINAL CUSTOMS FACILITIES AND WAREHOUSE (CFW)

NAME OF FIRM: _____

ADDRESS: OFFICE: _____ **TEL. NO.** _____

FACILITY/WAREHOUSE: _____ **TEL. NO.** _____

Official Business Email (Registered with the CPRS) _____

Type Off-Dock/Off-Terminal CFW

Intended use or purpose

- | | |
|---|---|
| <input type="checkbox"/> Container Freight Station | Storage and deconsolidation of ocean import cargoes
Storage and consolidation of ocean export cargoes |
| <input type="checkbox"/> Airport Storage Warehouse | Storage and deconsolidation air import cargoes
Storage and consolidation of air export cargoes |
| <input type="checkbox"/> Container Yard/Depot | Storage of empty containers
Port Terminal's extension storage facility for containerized cargoes |
| <input type="checkbox"/> Security Warehouse | Storage seized/forfeited cargoes |
| <input type="checkbox"/> ELSE Warehouse | PEZA imports storage and consolidation
PEZA exports storage and consolidation |
| <input type="checkbox"/> Inland Container Terminal | Storage for cleared containerized cargo
Handling and storage containerized cargoes
Handling and storage of general and/or bulk cargoes
Drop-off service for containerized export cargoes |

Kind of Business Entity:

- Corporation Single Proprietor Partnership

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**FOR PARTNERSHIP/SOLE PROPRIETORSHIP:
CAPITAL OF PARTNERSHIP/SOLE PROPRIETOR:**

Name & Tax Acct Number	Nationality	Country of Residence	Capital (Amount in Pezo)

FOR CORPORATION:

	No. of Shares	Value of Shares
Authorized Capital Stock		
Subscribed Capital Stock		
Paid up Capital Stock		

**Majority Stockholder
Number of Shares Held**

Name	TIN	Nationality	Subscribed	Paid Up

Board of Directors:

Name & Tax Acct. No.	Nationality	No. of shares held	
		Subscribed	Paid Up

Name of Principal Officers

Name	Tax Acct. No.	Nationality	Position

List of Business Affiliations of Applicant/Partners/Majority Stockholders

Name	Business Affiliations	Position

Proposed Facilities and Services to be rendered

Facility	Services

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In support of my application, submitted are the following documents: (Note: Photocopies certified by Applicant)

- | | To be filled-up
by Customs
(pls tick) |
|---|---|
| 1. A copy of Certificate of Registration with the SEC certified by the Corporate Secretary. | <input type="checkbox"/> |
| 2. Photo copies of Articles of Incorporation, By-Law or Articles of Partnership. | <input type="checkbox"/> |
| 3. Certificate of Registration with the Bureau of Domestic Trade if a sole proprietorship. | <input type="checkbox"/> |
| 4. Instrument of evidencing absolute ownership or lease contract covering the proposed warehouse (if lease contract must have a minimum period of one (1) year) | <input type="checkbox"/> |
| 5. CFW location showing means of access to the property. | <input type="checkbox"/> |
| 6. CFW layout showing and describing the size and construction of the proposed warehouse together with the intended use of each compartment. | <input type="checkbox"/> |
| 7. Mayor's permit for the building. | <input type="checkbox"/> |
| 8. Audited or Interim Financial Statement for the last two years immediately preceding the date of application. (Preferable the copy submitted to BIR). | <input type="checkbox"/> |
| 9. Applicant's Income Tax Return for the last two years immediately preceding the date of application. If a corporation/partnership, in addition, the income tax return of the majority stockholders/partners during the same period. | <input type="checkbox"/> |
| 10. List of equipment. | <input type="checkbox"/> |
| 11. Project Feasibility Study in the prescribed format. | <input type="checkbox"/> |
| 12. Proof of Investment or inward remittance by foreign investors/bank certificate. | <input type="checkbox"/> |
| 13. Clearances from the officers or equivalent unit of the port having jurisdiction over the CFW to be secured by the PID/POD/AOD OR equivalent unit within ten (10) working days from receipt of application. | <input type="checkbox"/> |

This is to certify that I have read CAO 9-2019 relative to the establishment and operation of CFWs and the rules and regulations implementing it and hereby undertakes and commits itself to faithfully abide thereby and all the terms and conditions of the bonds posted in connection herewith;

ANNEX "B"

FEASIBILITY STUDY

I. ORGANIZATIONAL ASPECT:

1. Management Structure;
2. Description of important functions; names and qualifications of personnel performing them;
3. Description of administrative procedures and controls.

II. FINANCIAL ASPECT:

1. Project cost and source/s of financing;
2. Projected income
4. Cash Flow Statement.

III. TECHNICAL ASPECT:

1. Equipment required;
2. Number of personnel involved in operations of business
3. ICT-based systems in use

ANNEX "C"

INSPECTION REPORT ON COMPLIANCE WITH STRUCTURAL REQUIREMENT FOR CUSTOMS FACILITIES AND WAREHOUSE

FIRST NAME _____

ADDRESS: Office _____

Tel. No. Office _____

Type of Application: New Renewal

CFW applied for: _____

	YES	NO	COMMENTS/ OTHER DESCRIPTION
A. Accessibility of CFW location 1. Distance from the Customs Zone 2. Located within a compound or with adjacent structures			
B. Structural Evaluation of CFW 1. Made of concrete 2. Entrance/Doors made of steel 3. Doors secured by at least 2 locks: 4. Ventilation at least 7 ft. from the ground - grilled/ barred by strong materials 5. Windows grilled/barred by strong materials, including at production and storage areas			
C. General Description of CFW Total Area : _____ sq. m. Total Capacity in TEUs: _____			
D. Equipment installed: 1. Description: (Use separate sheet if necessary) 2. Year model/make 3. Proof of payment of Duties and Tax paid if importation			
E. CCTV system 1. Entrance 2. Exit 3. Perimeters			

4. Offices			
5. Loading/Unloading Area			
F. Offices (Assigned Customs Personnel and CFW Personnel)			
1. Desktop computers			
2. Internet connection			
G. Others			
1. Emergency exit			
2. Fire hazard			
3. Flood prone area			

Other observations: _____

Recommendation: _____

INSPECTED BY:

 (Signature on top of printed name)

Date _____

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**APPLICATION FOR RENEWAL OF
AUTHORITY TO OPERATE**

The District Collector
Port of _____

Sir:

The undersigned, _____,
(Operator/Company Name)
Operator of CFW No. _____ located at _____
(CFW Location/Address)
granted an Authority to Operate a _____ pursuant to CAO No. _____,
hereby respectfully applies for the renewal of our authority/license to operate
CFW No. _____ which expires on _____.

Under pain of the proper administrative/criminal prosecution, and/or
disapproval of this application, we hereby fully and truthfully disclose as follows:

- Names of all principal officer and directors:

CURRENT	IN PREVIOUS YEAR/S

(use separate sheet as necessary)

- Current principal officers and directors who are also officers and directors of other firm/s operating the CFW:

NAME	CFW NO./FIRM NAME	ADDRESS/LOCATION

- Outstanding obligation/liabilities/accounts:

3.1 Cargoes/materials which have overstayed, description of cargoes,

(use separate sheet as necessary)

Applicant has read all pertinent Customs related rules and regulations and hereby undertakes and commits itself to faithfully abide thereby and all the terms and conditions of the bonds posted in connection herewith;

Applicant hereby solemnly declares, under pain of perjury, that the information herein contained and in the documents submitted are true and correct. It is hereby understood that any misrepresentation, false statement, non-disclosure of any information herein required and/or any violation of any Customs law, rules and regulations by the undersigned operator/firm or any of its officers/directors in connection with this application as well as the operation of our CFWs shall be ground for the disapproval hereof and/or the cancellation or revocation of our authority, license to operate a CFW, without prejudice to any administrative/criminal prosecutions as may be proper.

Operator/Company Name

By: _____
Owner/President/General Manager
Signature over printed name

Complete Address: _____

Telephone No. _____
Email Address (registered with AMO): _____

Republic of the Philippines)
City/Province of _____) S.S.
Municipality of _____)

SUBSCRIBED AND SWORN to before me this ____ day of _____, ____ in the City/Province of _____ affiant exhibiting to me his duly-issued Government Identification Card with No. _____ issued at _____ on _____.

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

(Customs Documentary Stamp)
(Reproduction Authorized)

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