



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

July 26, 2019

CUSTOMS MEMORANDUM ORDER (CMO)
NO. 38-2019

**SUBJECT: INSTITUTIONALIZING AN ENVIRONMENTAL PROTECTION
AND COMPLIANCE DIVISION IN THE BUREAU OF CUSTOMS**

WHEREAS, the Basel Convention controls the transboundary movements of hazardous wastes and their disposal;

WHEREAS, Republic Act No. 6969, the Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1999 directs regulatory government agencies including the Bureau of Customs (BOC) to assist the Department of Environment and Natural Resources (DENR) in monitoring and preventing the entry, even in transit, of hazardous and nuclear wastes;

WHEREAS, the Bureau of Customs, under Republic Act No. 10863 entitled "Customs Modernization and Tariff Act", is mandated among others, to prevent and suppress smuggling and other forms of customs fraud;

WHEREAS, the Environmental Protection Unit under the Enforcement and Security Service was created pursuant to Customs Special Order No. 12-1996 with limited duties and functions;

WHEREAS, there is a need to establish, in accordance with law, a permanent and specialized unit known to be known as Environmental Protection and Compliance Division (EPCD) in order to address the unlawful entry of hazardous and other form of waste.

Section 1. SCOPE AND COVERAGE. This CMO covers all importation, whether for consumption, warehousing, transit, or for admission to Free Zones as defined in Section 102 (w) of the CMTA, and all exportation of shipments subject to permitting requisites of RA 10863 and other related laws, rules and regulations.

Section 2. OBJECTIVES.

- 2.1. To institutionalize a specialized unit in the BOC whose primary focus is environmental protection;

- 2.2. To provide uniform guidelines in containing the illicit traffic of hazardous substances and wastes, nuclear wastes, and other chemicals or substances that have adverse effects on the environment; and
- 2.3. To rationalize the procedure in the clearance of shipments containing chemicals or articles regulated by agencies under the Department of Environment and Natural Resources (DENR) including other chemicals or substances regulated by other government agencies except those falling within the jurisdiction of Philippine Drug Enforcement Agency (PDEA) and Dangerous Drugs Board (DDB).

Section 3. STRUCTURE. There shall be created a permanent Environmental Protection and Compliance Division under the Enforcement and Security Service (ESS), Enforcement Group (EG). The EPCD shall be headed by a Senior Officer from the ESS and composed of other ESS Personnel who will be selected by the ESS Director, subject to the approval of the Deputy Commissioner of EG.

Section 4. REALIGNMENT OF CENTRAL ALARM STATION MONITORING UNIT (CASMU) TO EPCD: All Central Alarm Station Monitoring Units established at the Port of Manila, Manila International Container Port and Port of Cebu to ensure the accomplishments of the objectives of MEGAPORTS Initiative Project pursuant to CMO No. 14-2007 are hereby placed under the supervision and control of the Chief, EPCD.

Section 5. DEFINITION OF TERMS.

- 5.1. **Alert Order (AO)** – shall refer to a written Order issued by the Commissioner of Customs, District Collector, or other customs officers authorized in writing by the Commissioner after the Lodgment of Goods Declaration and before their actual release from customs custody, on the basis of Derogatory Information (must be in writing and must state the suspected violations and other necessary specifics thereof) regarding possible non-compliance with the CMTA and other laws, rules and regulations enforced by Customs, pursuant to CAO No. 07-2019, entitled “Pre-Lodgement Control Order and Alert Order”.
- 5.2. **Certificate of Registration as Importer/Dealer of Imported Wood Materials** – a certificate issued by DENR authorizing person to import logs, lumber, veneer, plywood, other wood based panels, poles and piles, pulpwood, and wood chips pursuant to DENR Administrative Order No. 99-46, otherwise known as the “Revised Regulations Governing the Entry and Disposition of Imported Logs, Lumber, Veneer, Plywood, Other Wood Based Panels, Poles and Piles, Pulpwood and Wood Chips.
- 5.3. **Chainsaw** – shall refer to any portable power saw or similar cutting implement, rendered operative by an electric or internal combustion engine or similar means that may be used for, but is not limited to, the felling of trees or the cutting of timber.

5.4. **Hazardous Substances** – are substances which present either:

- a. Short-term acute hazard such as acute toxicity by ingestion, inhalation or skin absorption, corrosivity or other skin or eye contact hazard or the risk of fire or explosion.
- b. Long-term environmental hazard, including chronic toxicity upon repeated exposure, carcinogenicity (which may in some case result from acute exposure but with a long latent period), resistance to detoxification process such as biodegradation, the potential to pollute underground or surface waters, or aesthetically objectionable properties such as offensive odors.

5.5. **Hazardous Wastes** are:

- a. Substances that are without any safe commercial, industrial, agricultural or economic usage and are shipped, transported or brought from the country of origin for dumping or disposal into or in transit through any part of the territory of the Philippines.
- b. By-products, side-products, process residues, spent reaction media, contaminated plant or equipment or other substances from manufacturing operations and as consumer discards of manufactured products which present unreasonable risk and/or injury; to health and safety to the people or to the environment.

5.6. **Importation Clearance for Chemicals under Chemical Control Orders** – a clearance issued to importation in multiple shipments of chemicals under DENR Chemical Control Orders, specifically: *mercury and mercury compounds* (DAO 1997-38); *cyanide and cyanide compounds* (DAO 1997-39); *asbestos and asbestos compounds* (DAO 2000-02); and *lead and lead compounds* (DAO 2013-24). This type of clearance is issued by DENR to limit and regulate the use, manufacture, import, transport, processing, storage, possession and wholesale of the said chemicals.

5.7. **Importation Clearance for Recyclable Materials Containing Hazardous Substances** – an importation clearance issued by DENR, through the Hazardous Waste Management Section, EMB for single or multiple shipments of recyclable materials containing hazardous substances contained in Columns 1 and 2, Table 10.1, Chapter 10 of DENR Administrative Order No. 2013-22 otherwise known as the “Revised Procedures and Standards for the Management of Hazardous Waste”.

5.8. **Mineral Ore Export Permit (MOEP)** – a permit issued by DENR for the transport/shipment outside the Philippines of all mineral ore(s), including tailings, by permit holders and other mining rights holders, including small scale mining permits pursuant to R.A. 7942, otherwise known as the “Philippine Mining Act of 1995”.

- 5.9. **Nuclear Wastes** – are hazardous wastes made radioactive by exposure to the radiation incidental to the production or utilization of nuclear fuels but do not include nuclear fuel, or radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial, or industrial purpose.
- 5.10. **Ozone-Depleting Substances or ODS** – any substance which is controlled under the Montreal Protocol and its amendments. ODS includes CFCs, HCFCs, halons, carbon tetrachloride, methyl chloroform, hydromofluorocarbons, bromochloromethane, and methyl bromide. ODS has an ozone-depleting potential greater than zero (0) and can deplete the stratospheric ozone layer.
- 5.11. **ODS Alternative substance** – a replacement of ODS with zero Ozone Depleting Potential, such as Hydrofluorocarbons (HFCs).
- 5.12. **Permit to Import Chainsaw** – a permit issued by DENR authorizing person to import chainsaw pursuant to R.A. 9175, entitled “Chain Saw Act of 2002.
- 5.13. **Philippine Inventory of Chemicals and Chemical Substances (PICCS)** - a list of all existing chemicals and chemical substances, approximately 44,000 chemicals that are used, sold, distributed, imported, processed, manufactured, stored, exported, treated or transported in the Philippines. This includes both hazardous and non-hazardous substances updated by DENR as a result of PMPIN process that will be further reviewed for regulation.
- 5.14. **Pre-Manufacturing Pre-Importation Notification (PMPIN Compliance Certificate)** – a certificate issued by DENR through the EMB for new substances not listed on PICCS as authorized by R.A. 6969.
- 5.15. **Pre-Lodgment Control Order (PCLO)** – shall refer to a written Order issued by the Commissioner of Customs, District Collector, or other customs officers authorized in writing by the Commissioner before Lodgment of Goods Declaration or when no Goods Declaration is lodged, on the basis of grounds stated in Section 5.1.1 of CAO No. 07-2019.
- 5.16. **Pre-Shipment Importation Clearance (PSIC) of ODS** – an importation clearance issued by DENR, through the Philippine Ozone Desk, EMB prior to the entry of each ODS and its alternative shipment within the Philippine territory pursuant to DENR Administrative Order No. 2013-25, entitled “Revised Regulations on the Chemical Control Order for ODS”, and EMB Memorandum Circular No. 2005-03 entitled “List of Alternatives to Ozone Depleting Substances”.
- 5.17. **Priority Chemical List (PCL) Compliance Certificate** – a certificate issued by DENR, through the Chemical Management Section, EMB to importation of chemicals and chemical substances listed under the DENR Administrative Order No. 2005-27 entitled “Revised Priority Chemical List”, and except those chemicals that are already covered by Chemical Control

Orders as mentioned in the preceding paragraph. Chemicals under PCL have been determined by DENR to potentially pose unreasonable risk to public health, workplace, and the environment.

- 5.18. **Small Quantity Importation Clearance** – an importation clearance issued by DENR to chemicals which are exempted to the PMPIN Process. It is required prior to importation of less than 1,000 kg/year of pure chemical substances or component chemicals in percentage by weight of product, mixtures not listed in the PICCS.
- 5.19. **Warrant of Seizure and Detention (WSD)** – shall refer to an order in writing, issued in the name of the Republic of the Philippines and signed by the Collector of Customs, directing a Customs Officer to seize and detain any vessel, aircraft, cargo, goods, animal or any other movable property when the same is subject to forfeiture pursuant to Section 1113, Chapter 4, Title XI of the CMTA.
- 5.20. **Wildlife** – wild forms and varieties of flora and fauna, in all developmental stages, including those which are in captivity or are being bred or propagated.
- 5.21. **Wildlife Export Permit** – a permit issued by DENR authorizing an individual to bring out wildlife from the Philippines to any other country pursuant to R.A. 9147, entitled "Wildlife Resources Conservation and Protection Act".
- 5.22. **Wildlife Import Permit** – a permit issued by DENR authorizing an individual to bring in wildlife from another country pursuant to R.A. 9147.
- 5.23. **Wildlife Re-export Permit** – a permit issued by DENR authorizing an individual to bring out of the country a previously imported wildlife pursuant to R.A. 9147.

Section 6. POWERS AND FUNCTIONS. The EPCD shall have the following powers and functions:

- 6.1. Monitor the processing of shipments of hazardous substances, wastes products, nuclear wastes, recyclable products, and all other chemicals, products or substances under the regulatory control of DENR, including other chemicals or substances regulated by other government agencies except those falling under the jurisdiction of PDEA and DDB.
- 6.2. Recommend the issuance of Alert Order (AO) and Pre-Lodgment Control Order (PLCO) against shipments suspected of containing goods in violation of CMTA provisions and Environmental Laws.
- 6.3. Investigate cases involving violations of Environmental Laws and to make recommendations for prosecution of violations of the CMTA in relation to Environmental Laws and other applicable laws, rules and regulations.

- 6.4. Collaborate with the Piers and Inspection Division or its equivalent unit in each Port of Entry and prevent the unloading of cargoes from the carrying vessel containing hazardous substances without the requisite permit from DENR.
- 6.5. Coordinate with the X-ray Inspection Project (XIP) in the scanning of cargoes suspected to contain hazardous substances and wastes, recyclable materials, and other similar items.
- 6.6. Represent the BOC in all activities regarding environmental protection conducted by other government agencies and non-government organizations whether local or foreign based institutions.
- 6.7. Represent the government exclusively in all seizure and forfeiture cases and other proceedings within BOC involving Environmental issues.

Section 7. OPERATIONAL PROVISIONS.

- 7.1. All District/Port Collectors shall strictly implement the "No Importation Clearance, No Unloading Policy under Republic Act 6969 and The Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal".
- 7.2. During Boarding Formalities pursuant to Sections 1202, 1203 and 1204 of RA 10863, the Boarding Officer on duty or any Customs Officer acting as such assisted by an EPCD personnel shall not allow the unloading of the following: 1. Hazardous Wastes, 2. Nuclear Wastes, 3. Recyclable Materials containing hazardous substance not covered by Pre-Shipment Importation Clearance (PSIC).
- 7.3. For Break and Break Bulk Cargo shipments of those enumerated in the preceding paragraph, the concerned District/Port Collector shall not issue a Permit to Discharge.
- 7.4. For the effective implementation of this Order, the importers of recyclable materials containing hazardous substances covered with PSIC shall be responsible for the advance submission of the same to the EPCD Central Office at least three (3) days prior to the arrival of the carrying vessel.
- 7.5. The Boarding Officer on duty or any Customs Officer acting as such shall make a report of the shipments to be re-exported and submit the same to the concerned District Collector. The issuance of a Re-Exportation Order is without prejudice to the filing of appropriate criminal cases pursuant to the applicable provisions of RA 6969, RA 10863, and other related penal laws.
- 7.6. For shipments processed at the Formal Entry Division (FED) AND Informal Entry Division (IED), which requires the presentation of the appropriate permits or clearances from the DENR, the assigned Customs Operations Officer (COO) III shall forward the importation documents and

permits or clearances to the Office of the EPCD for verification and recordation purposes. For shipments without the required DENR permit or clearance, it shall not be issued a Final Notice of Assessment by the concerned COO V and referred to the EPCD-ESS for the issuance of Alert Order.

- 7.7. For all other shipments processed thru different customs channels and falling under the permitting requirements of the DENR, the concerned COO III or any other customs officer responsible for the examination of goods shall forward the importation documents and permits or clearances to the office of the EPCD for verification and recordation purposes.

Section 8. PENAL PROVISION AND ADMINISTRATIVE SANCTION. Violations of this CMO committed by any person, officer or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provisions in addition to the administrative sanctions that may be imposed by the BOC.

Section 9. ADDITIONAL RULES AND REGULATIONS. The Commissioner of Customs may issue additional rules and regulations for the effective implementation of this Order.

Section 10. REPEALING CLAUSE. This CMO amends or repeals CSO 12-1996 and all other Orders, Memoranda, Circulars or parts thereof which are inconsistent herewith.

Section 11. SEPARABILITY CLAUSE. In the event that any legislation, governmental regulation or court decision causes invalidation of any part, article or section of this issuance, all other parts, articles and sections not so invalidated shall remain in full force and effect.

Section 12. EFFECTIVITY. This Order shall take effect upon publication.


REY LEONARDO B. GUERRERO

Commissioner of Customs

AUG 01 2019



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