

CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. ____ - 2016

SUBJECT: CUSTOMS BONDED WAREHOUSES

Introduction. This CAO implements Section 301, Chapter 1; Section 303, Chapter 2, Title III, and Sections 801 to 813, Chapter 2, Title VIII, in relation to Section 204 and other relevant sections of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

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

Section 2. Objectives.

- 2.1.** To provide the guidelines for the establishment, operation, supervision, and control of CBWs.
- 2.2.** To protect revenue through the institution of safeguard and control measures over CBWs.
- 2.3.** To define the rights and corresponding obligations of operators of CBWs.
- 2.4.** To enhance the level of compliance of CBW operators with customs warehousing laws and regulations and provide penalties for non-compliance.
- 2.5.** To establish and implement a CBW management system making full use of Information and Communications Technology (ICT).

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

- 3.1.** Authority to Operate - is the authority given by the Bureau allowing persons, natural or juridical, to establish and operate a CBW.
- 3.2.** Authority to Transfer - is a document issued by the District Collector to a CBW allowing transfer or sale of imported raw materials, semi-finished products, or finished products to another CBW, member, client-exporter, subcontractor, or Freeport Zone locator for subsequent export.

- 3.3.** Certificate of Authority - is a document issued by the Bureau to persons, natural or juridical, duly authorized to operate a CBW.
- 3.4.** Certificate of Identification (CI) - is a document certifying that the finished products to be exported is from a particular warehousing entry, and also to determine whether or not a particular entry is partially or fully consumed.
- 3.5.** Certificate of Inspection and Loading (CIL) – is a document issued by the Bureau certifying the conduct of inspection over the cargo for export and its actual loading on the exporting carrier.
- 3.6.** Client-Exporter - is a natural or juridical person with facility established for the manufacture of products utilizing imported duty and tax-free raw materials or components sourced from ICBW subject to the condition that finished products shall be exported within the period prescribed by existing laws and regulations.
- 3.7.** Customs Premises – shall include customs offices, facilities, warehouses, ports, airports, wharves, infrastructure and other premises over which the Bureau shall have exclusive control, direction, and management for customs purposes.¹
- 3.8.** Customs Territory - refers to areas in the Philippines where customs and tariff laws may be enforced.²
- 3.9.** Constructive Exportation - involves the sale or any other mode of conveyance and delivery of raw materials, finished, or semi-finished products from a CBW to a Customs Manufacturing Bonded Warehouse (CMBW), PEZA/Economic Zone, Freeport.³
- 3.10.** Constructive Importation - involves the sale or any other mode of conveyance and delivery of raw materials, finished, or semi-finished products from a CMBW, PEZA/Economic Zone, Freeport to a CBW.⁴
- 3.11.** Diversion - is an act of bringing bonded articles to some place other than its intended destination without prior authority from the Bureau.

¹ cf. CMTA, Title III, Chapter 2, Section 303.

² CMTA, Title I, Chapter 2, Section 102(q).

³ cf. CAO No. 1-2009, Title II, Section 2.11.

⁴ cf. CAO No. 1-2009, Title II, Section 2.11.

- 3.12.** Entry - refers to the act, documentation, and process of bringing imported goods into the customs territory, including goods coming from the free zones.⁵
- 3.13.** Exportation - refers to the act, documentation, and process of bringing goods out of Philippine territory.⁶
- 3.14.** Extension Warehouse – a separate CBW facility granted by the Bureau to an already duly authorized CBW operator to optimize capacity and efficiency in manufacturing operations.⁷
- 3.15.** Free Zone - refers to special economic zones registered with the Philippine Economic Zone Authority (PEZA) under Republic Act No. 7916, as amended, duly chartered or legislated special economic zones and freeports such as Clark Freeport Zone; Poro Point Freeport Zone; John Hay Special Economic Zone and Subic Bay Freeport Zone under Republic Act No. 7227, as amended by Republic Act No. 9400; the Aurora Special Economic Zone under Republic Act No. 9490, as amended; the Cagayan Special Economic Zone and Freeport under Republic Act No. 7922; the Zamboanga City Special Economic Zone under Republic Act No. 7903; the Freeport Area of Bataan under Republic Act No. 9728; and such other freeports as established or may be created by law.⁸
- 3.16.** Formula of Manufacture - refers to the formula of conversion issued by the duly authorized government institution to the CBW operator, determining the raw material usage and wastages of a particular finished product for export and subsequent liquidation.
- 3.17.** Goods - refers to articles, wares, merchandise and any other items which are subject of importation or exportation.⁹
- 3.18.** Goods Declaration - refers to a statement made in the manner prescribed by the Bureau and other appropriate agencies, by which the persons concerned indicate the procedure to be observed in the application for the entry or admission of imported goods and the particulars of which the customs administration shall require.¹⁰

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

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

⁷ CAO No. 1-2009, Title II, Section 2.16.

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

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

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

3.19.Importation - refers to the act of bringing in of goods from a foreign territory into Philippine territory, whether for consumption, warehousing, or admission.¹¹

3.20.Certificate of Importer Accreditation – refers to the document issued by the Bureau to entity registered as importer in the Bureau’s existing Client Profile Registration System (CPRS) and recognized to electronically lodge goods declaration.

3.21.Liquidation of Raw Materials - is the process of accounting the usage of bonded raw materials, including wastages, in the manufacture of finished products for export as against the importation by CBWs of raw materials using the formula of manufacture.

3.22.Lodgement - refers to the registration of a goods declaration with the Bureau.¹²

3.23.Member - is an entity accredited to operate under an existing CCBW with facility established for the manufacture of products using imported duty and tax-free raw materials or components subject to the condition that finished products shall be exported within the period prescribed by existing laws and regulations.

Members may either be licensed by the Bureau alone or jointly with the Garments and Textiles Industry Development Office (GTIDO) in case of entities engaged in the manufacture of garments.

3.24.Perishable Goods - refers to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense.¹³

3.25.Physical Security - refers to a system to secure and monitor premises, storage and production areas of CBWs including the safety of personnel.¹⁴

3.26.Security - refers to any form of guaranty, such as a surety bond, cash bond, standby letter of credit or irrevocable letter of credit, which ensures the satisfaction of an obligation to the Bureau.¹⁵

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

¹² CMTA, Title I, Chapter 2, Section 102 (dd).

¹³ CMTA, Title I, Chapter 2, Section 102 (gg).

¹⁴ cf. Revised Kyoto Convention, Chapter 2, E26/F17

¹⁵ CMTA, Title I, Chapter 2, Section 102 (mm).

3.27. Sub-contractor - is a person or company licensed by the Bureau, and GTIDO in case of garments, to undertake or perform, for a definite period, certain manufacturing operations or activities incidental to the manufacture of bonded raw materials into finished products in behalf of a licensed CBW in cases where the latter's facilities are insufficient to address its immediate requirements or due to lack of material time to meet export commitments.

3.28. Transfer Note - is a document that accompanies the transfer or transit of bonded imported articles to a PEZA or Freeport locator or to another CBW and serves as proof of delivery or receipt of the articles at its intended destination duly acknowledged on its face by the Collector of Customs or his duly authorized representative. It is also commonly referred to as a "boat note".

3.29. Unauthorized Withdrawal - refers to the act of removing, transferring or disposing of goods stored in CBWs without proper authority or in violation of warehousing rules and regulations.

Section 4. General Provisions.

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

4.2. Supervision and Control over Customs Warehouses. All warehouses and facilities, including their expansion, extensions and additional facilities and extending to the warehouses and facilities of duly authorized members, client-exporters and sub-contractors of CBW, shall be subject to the supervision and control of the District Collector for the protection of government revenue, and of the goods stored therein.

In cases where the client-exporter of ICBW or sub-contractor of CBMW is also a locator in Free Zones¹⁶, the exercise of supervision and control shall be made in coordination with the government agency concerned.

4.3. Types of Customs Bonded Warehouse (CBW).

4.3.1. Customs Bonded Manufacturing Warehouse (CBMW).¹⁷ It is a warehouse facility established for the

¹⁶ CMTA, Title VIII, Chapter 3, Section 817.

¹⁷ CMTA, Title VIII, Chapter 2, Section 802.

manufacture of products utilizing raw materials or components that are imported duty and tax-free conditioned on the exportation of the finished products within the period prescribed herein or withdrawal for domestic consumption upon payment of duties and taxes. A CBMW shall include:

- a. Miscellaneous Manufacturing Bonded Warehouse (MMBW).** It is a warehouse facility established and as duly authorized to import, receive, and store, duty and tax free and under bond, raw materials, accessories, packaging and packing materials for products and commodities not covered under any specific industry, for manufacture into finished products for export within a specified period.¹⁸
- b. Garments and Textiles Manufacturing Bonded Warehouse.** It is a warehouse facility established and jointly authorized by the Bureau and the Garments and Textiles Industry Development Office (GTIDO) to import, receive, and store duty and tax free and under bond, raw materials, accessories, packaging and packing materials for the manufacture of garments or textiles for export within a specified period.¹⁹
- c. Customs Common Bonded Warehouse (CCBW).** It is a warehouse facility established and duly authorized by the Bureau alone and jointly with GTIDO, in case of garments industry, to import, receive, and store, duty free and under bond, raw materials, accessories, packaging and packing materials for the account of its accredited members for manufacture into finished products for export.²⁰
- d. Industry-Specific Customs Bonded Warehouse (ICBW).** It is a warehouse facility duly licensed by the BOC to import under bond and under its name and account raw materials (except fibers, yarns, fabrics and accessories for the manufacture of garments) for storage and subsequent sale and transfer to the following where these shall be manufactured into export products:

¹⁸ cf. CAO No. 1-2009, Title III, Section 3.3.6.

¹⁹ cf. CAO No. 1-2009, Title III, Section 3.3.4.

²⁰ cf. CAO No. 1-2009, Title III, Section 3.3.3.

- i. Licensed client exporter;
- ii. Customs Bonded Manufacturing Warehouse; or
- iii. PEZA or Freeport locator.

e. Private Bonded Manufacturing Warehouse (PvtBMW). It is a warehouse facility licensed by the Bureau to import, receive and store articles for its production intended for domestic consumption, withdrawal of which shall be made only upon payment of duties and taxes and other charges due thereon.

4.3.2. Bonded Non-Manufacturing Warehouse (BNMW).

It is a facility where goods are stored duty- and tax-free conditioned on the eventual withdrawal of the goods for consumption, or for export, or for transit, or for any other clearance regime, within the period prescribed herein, such as:

a. Public Bonded Warehouse. It is a warehouse facility duly authorized to receive and store general cargoes for exportation, transfer to another CBW, free zones, or for local consumption, in the same state when the cargoes were imported. Articles for local consumption shall only be withdrawn upon payment of the assessed duties, taxes and other charges.

b. Private Bonded Warehouse. It is a warehouse facility duly authorized to import, receive and store articles intended for domestic consumption, withdrawal of which shall be made only upon payment of the corresponding duties, taxes and other charges.²¹

c. Airlines Customs Bonded Warehouse and Airlines Catering Customs Bonded Warehouse. It is a special type of CBW which stores supplies, spare parts, in-flight duty-free items and such other goods necessary for the reasonable requirements of the aircraft, its crew and passengers.²²

²¹ cf. CAO No. 1-2009, Title III, Section 3.3.8.

²² cf. CAO No. 1-2009, Title III, Section 3.3.2.

- 4.4. Creation or Dissolution of CBW.** The Secretary of Finance may, upon the recommendation of the Commissioner, create or dissolve certain types of warehouses subject to consultation with the National Economic and Development Authority (NEDA) and the Department of Trade and Industry (DTI) based on prevailing economic circumstances.²³
- 4.5. Issuance of Authority to Operate.** The Bureau shall be responsible for the issuance of an authority to operate CBWs, including the imposition of requirements for their establishment and operation, setting forth the rights and obligations of operators, and the penalties and sanctions for violation of these rules.

Section 5. Customs Bonded Warehouse.

5.1. Application for the Establishment or Renewal of Authority to Operate a Customs Bonded Warehouse.

5.1.1. Application for Authority to Operate a CBW. The application to operate a CBW, including applications for accreditation as member, subcontractor or client-exporter of an existing warehouse, shall be filed with the District Collector where the CBW is located, describing the premises, location, capacity, and purpose of such establishment.²⁴

5.1.2. Documentary Requirements. Any person or firm desiring to establish and operate a CBW shall submit the following documents:

- a.** Certified Copy of Articles of Incorporation or Articles of Partnership, and by-laws;
- b.** Department of Trade and Industry (DTI) Certificate of Business Registration for sole proprietorship;
- c.** Certified True Copy (CTC) of Mayor's Permit;
- d.** Barangay Clearance;
- e.** Certificate of Bureau of Internal Revenue (BIR) Registration;
- f.** Income Tax Return (ITR) and Latest Audited Financial Statement, if applicable;
- g.** Lease contract or certificate of title to the real property where the proposed CBW is located;

²³ cf. CMTA, Title VIII, Chapter 2, Section 803, par. 2.

²⁴ cf. CAO No. 1-2009, Title IV, Sections 4.1 and 4.2.

- h.** Warehouse location or vicinity map showing the area and means of access;
- i.** Warehouse layout showing and describing the following:
 - i.** Floor plan and building structure;
 - ii.** Storage areas for raw materials, finished products and wastages;
 - iii.** Production area;
 - iv.** Office spaces for both CBW and customs personnel; and,
 - v.** Physical security feature;
- j.** List of machineries and equipment;
- k.** Feasibility study;
- l.** List of materials to be imported; and,
- m.** Formula of Manufacture or Conversion, if applicable.

5.1.3. BOC Certificate of Accreditation. In case the applicant is already a BOC accredited importer, the BOC Certificate of Accreditation shall be submitted together with the application.²⁵

5.1.4. Evaluation of the Application. The District Collector of the Port shall:

- a.** Determine the completeness of the documents submitted in support of the application;
- b.** Cause the conduct of physical inspection and taking of photographs of the premises;
- c.** Evaluate and review the documents including the physical inspection report; and,
- d.** Recommend to the Commissioner the approval of the application upon compliance with all the requirements.

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 CBW.

5.1.5. Action by the District Collector. The District Collector shall recommend approval of the application within thirty (30) working days from completion of documents and inspection report; provided, however, that in case of renewal where there is failure to act within the said

²⁵ cf. CAO No. 1-2009, Title IV, Section 4.3.

period, the application for renewal is deemed favorably acted upon by the District Collector, who shall forward the records to the Commissioner for appropriate action.

5.1.6. Denial of the Application by the District Collector.

In case of denial, the District Collector shall send a notice to the applicant stating clearly the grounds for the denial of the application.²⁶

5.1.7. Action by the Commissioner. The Commissioner shall act on the recommendation of the District Collector within thirty (30) working days from receipt of the recommendation. In case of renewal of authority to operate a CBW where there is failure to act within the said period, the application is deemed favorably acted upon by the Commissioner.

5.1.8. Notice of Denial. In case of denial of application by the Commissioner, a notice shall be sent to the applicant stating clearly the grounds for the denial.²⁷

5.1.9. Appeal from the Denial of the Application by the District Collector. The applicant may appeal the denial of the application to establish or renew a CBW by filing an appeal to the District Collector within fifteen (15) days from receipt of the notice of denial, copy furnished the Office of the Commissioner, stating clearly the grounds why the application should be approved.²⁸

5.1.10. Records of Appeal. The District Collector shall forward the complete records of the application to the Commissioner within five (5) days from receipt of the appeal.²⁹

5.1.11. Decision of the Commissioner on Appeal. The Commissioner shall render a decision on the appeal within thirty (30) working days from receipt of the complete records of the case from the District Collector.³⁰

²⁶ cf. CAO No. 1-2009, Title IV, Section 4.4.

²⁷ cf. CAO No. 1-2009, Title IV, Section 4.5.

²⁸ cf. CMTA, Title I, Chapter 1, Section 102 (*e*).

²⁹ cf. CMTA, Title XI, Chapter 5, Section 1127.

³⁰ cf. CMTA, Title XI, Chapter 5, Section 1127.

5.1.12. Implied Affirmation of the Decision by the District Collector. In case the Commissioner fails to act on the appeal within thirty (30) working days from receipt of the complete records, the decision of the District Collector denying the application shall be deemed affirmed.

5.1.13. Appeal to the Court of Tax Appeals (CTA). The decision of the Commissioner denying the application for establishment or renewal of authority to operate may be appealed to the CTA within thirty (30) days from receipt of the decision.³¹

5.1.14. Certificate of Authority. Upon approval of the CBW application, the District Collector shall issue a Certificate of Authority to Operate a CBW, which shall be conspicuously displayed at all times at the CBW and its extension offices.

5.1.15. Amendment of Certificate of Authority. Upon the request of the CBW operator, the District Collector may amend the Certificate of Authority based on any of the following grounds:

- 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 CBW; or
- c.** Such other changes which do not substantially alter the conditions specified in the existing Authority to Operate CBW.

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

5.1.16. Post Approval Requirements. CBWs granted Authority to Operate shall submit annually their ITRs duly filed with the BIR, CTC of Mayors' Permit, Audited Financial Statement, Export and Import Performance, and Year-end Stock Inventory Report. Non-submission

³¹ cf. RA 9282, Section 7, Jurisdiction.

of these requirements is a ground for the suspension or cessation of operations of the CBW.

5.1.17. Membership in a Customs Common Bonded Warehouse (CCBW). Membership in a CCBW shall be governed by the following rules and regulations:

- a. A company which is considered as micro or small enterprise shall have the option to establish its own CMBW or apply as a member of a CCBW³²; and
- b. Medium and Large-Scale enterprises can be accredited as members in meritorious cases such as when the bonded manufacturing operation is only a minor component of their business operations as may be determined during the evaluation of its application as member.

5.1.18. Application for Accreditation and Renewal as Member, Sub-Contractor, or Client-Exporter of CBWs. The CCBW Operator and its applicant member, the CBMW Operator and its applicant sub-contractor or the ICBW Operator and its applicant client-exporter of CBMW's, as the case may be, shall jointly file the application for accreditation and renewal with the District Collector who has supervision and control over the applicant CBW. In such case, the rules provided herein on application and renewal of CBWs shall apply.³³

5.2. Validity of Authority to Operate. The Authority to Operate a CBW, including warehouse extensions and additional facilities issued pursuant to this CAO 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.

³² cf. Magna Carta on SMEs, RA 9501

³³ cf. CAO No. 1-2009, Title IV, Section 4.2.

5.3. Filing of Application for Renewal of Authority to Operate CBW. The application for renewal of Authority to Operate a CBW shall be filed not later than ninety (90) days but not earlier than one hundred twenty (120) days before its expiration. For CCBWs or ICBWs with more than ten (10) members or client-exporter respectively, application for renewal shall be filed not later than one hundred twenty (120) days before its expiration.

5.4. Requirements for Renewal.

5.4.1. The application for renewal of Authority to Operate CBW shall be supported by the following:

- a.** If applicable, Certified Copy of Amended Articles of Incorporation or Articles of Partnership, and by-laws;
- b.** Updated General Information Sheet (GIS);
- c.** Certified True Copy (CTC) of Mayor's Permit;
- d.** Barangay Clearance;
- e.** Income Tax Return (ITR) and Latest Audited Financial Statement, if applicable;
- f.** Copy of the certificate of title to the real property or, if applicable, copy of renewal of lease contract;
- g.** Warehouse location or vicinity map showing the area and means of access;
- h.** List of machineries and equipment;
- i.** Updated list of materials to be imported;
- j.** Formula of Manufacture, if applicable; and,
- k.** Affidavit of change of circumstances with supporting documents.

In case of CBMW with sub-contractors, CCBW, and ICBW, the joint application for renewal shall be supported with all of the above requirements complied by all CBMW, CCBW, ICBW and each sub-contractor, member and client-exporter, respectively.

5.4.2. Post Application Requirements. Upon submission of application for renewal of Authority to Operate, the Operator shall secure and the Bureau shall issue the required Inspection Report, Clearances or Certificate of No Accountability of the CBW. In doing so, the Bureau shall be subject to the provisions of Anti Red Tape Act (ARTA).

5.5. Late Filing of Application for Renewal of Authority to Operate. Non-filing within the prescribed period shall cause the imposition of penalties, which may take the form of fines, suspension, or revocation of the Authority to Operate, as may be warranted.³⁴

5.6. Validity of Renewed Authority to Operate. Period of validity of renewed Authority to Operate shall follow Section 5.2 of this CAO.

5.7. Application for Structural Changes or Additional Facilities within the CBW.

5.7.1. The CBW Operator may introduce structural changes or additional facilities in the CBWs provided that the ingress and egress or the physical security feature of the CBW shall not be altered or compromised;

5.7.2. The CBW Operator shall file the application with the District Collector prior to the introduction of any structural changes or additional facilities;

5.7.3. The application shall be supported by the following documents:

- a.** Building permit, if applicable;
- b.** Description of the proposed structural changes or additional facilities;
- c.** CBW layout, estimated capacity and physical security features after the introduction of; and,
- d.** Such other documents that may be required by the District Collector in the exercise of power of supervision and control.

5.8. Application for Extension Warehouse.

5.8.1. The CBW Operator may apply for an extension warehouse provided that a prior application shall be filed with the District Collector.

5.8.2. Extension warehouses should be located within the jurisdiction of the District Collector who has control over the main warehouse.

³⁴ cf. CAO No. 1-2009, Title IV, Section 4.12.

5.8.3. The application shall be supported by the following documents:

- a.** Certified True Copy (CTC) of Mayor's Permit for the new CBW, if applicable;
- b.** Barangay Clearance, if applicable;
- c.** Lease contract or certificate of title to the real property where the proposed extension warehouse is located;
- d.** Location or vicinity map of the proposed extension warehouse showing the area and means of access;
- e.** Layout of the proposed extension warehouse showing and describing the following:
 - i.** Floor plan and building structure;
 - ii.** Storage areas for raw materials, finished products and wastages, and production area, as appropriate;
 - iii.** Office spaces for both CBW and customs personnel; and,
 - iv.** Physical security features; and,
- f.** List of machineries and equipment, as appropriate.

5.8.4. In case the proposed extension warehouse or facility is located in a place outside the jurisdiction of the District Collector where the main warehouse or facility is situated, such shall be treated as a new application and shall be filed with the District Collector who has jurisdiction of the area where the new warehouse is located.

The supporting documents to be submitted for such application shall be the same as those provided under Section 5.1.2 of this CAO.

5.8.5. Existing extension warehouses shall be governed by the transitory provision of this CAO.

5.9. Application for Relocation. As a general rule, any application for relocation of a CBW shall be approved by the Commissioner as recommended by the District Collector. In cases where the CBW is relocated to another structure or warehouse within the same compound or building, the application shall be approved

by the District Collector concerned subject to compliance with Section 5.8.3 of this CAO.

Any unauthorized relocation shall be a ground for the suspension or revocation of the authority to operate issued to the CBW, its members or sub-contractors, as the case may be.³⁵

5.10. Physical Inspection by the Bureau. In all cases of application for structural changes or additional facilities, extension warehouse or relocation of CBW, physical inspection of the premises must first be conducted prior to approval.

5.11. Annual Supervision Fee. An annual supervision fee shall be imposed on the operators of CBWs, including extensions and additional facilities, if any, based on the following schedule:

5.11.1. Customs Bonded Manufacturing Warehouse (CBMW).

Classification	Annual Supervision Fee	Total Assets in Pesos
Micro	Php 50,000.00	below 3 Million
Small	Php 75,000.00	3 Million but not less than 15 Million
Medium	Php 150,000.00	15 Million but not less than 100 Million
Large	Php 250,000.00	More than 100 Million
For every extension warehouse	Php 50,000.00	

5.11.2. Customs Common Bonded Warehouse or Industry Specific CBW

10 or less members	Php250,000.00
More than 10 members	Php 250,000.00 plus Php 10,000.00 for every additional member

5.11.3. Supervision Fee for Non-Manufacturing CBW

- a.** Php 250,000.00
- b.** For every extension warehouse - Php 50,000.00

³⁵ cf. CAO No. 1-2009, Title V, Section 5.3.

5.11.4. Airlines Customs Bonded Warehouse and Airlines Catering Customs Bonded Warehouse.

Classification	Annual Supervision Fee	Total Assets in Pesos
Micro	Php 50,000.00	below 3 Million
Small	Php 75,000.00	3 Million but not less than 15 Million
Medium	Php 150,000.00	15 Million but not less than 100 Million
Large	Php 250,000.00	More than 100 Million
For every extension warehouse	Php 50,000.00	

5.11.5. For purposes of determining whether the CBW classified as micro, small, medium, or large, total assets shall include the value of the real property excluding the value of the land.

5.12. Administrative Provisions for CBWs.

5.12.1. General Policies.

- a. Exemption from Duty of Goods in CBWs.** Goods duly entered for warehousing in CBWs shall be exempt from tax and duty within the allowed period for storage unless withdrawn for consumption, exportation or transit to a free zone or another CBW, in which case, such withdrawal will be subject to the applicable rules and regulations on liquidation of the warehousing entry.³⁶
- b. Raw Material Importation.** CBW may import articles based on approved formula of manufacture as duly authorized.
- c. Compliance Rating System.** The Commissioner shall establish a Compliance Rating System (CRS) which shall be used to measure and assess the compliance and performance levels of all CBWs especially with regard to applicable laws, rules and regulations and other performance factors such as import-export and economic viability, among others.

³⁶ CMTA, Title VIII, Chapter 2, Section 812.

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 CBW.

- d. For record purposes, all documents shall be kept for three (3) years.³⁷

5.12.2. Requirements Prior to Operation.

- a. **Customs Officers and Personnel.** In pursuit of the supervisory and control functions over CBWs by the District Collector, assigned customs officers and personnel shall monitor and implement control measures therein for customs purposes, in accordance with its existing organizational structure and staffing pattern.
- b. **Provision for a Suitable Working Space for Bureau Personnel.** The CBW operator shall provide customs personnel with suitable working areas complete with office equipment and supplies necessary to perform their basic functions.³⁸
- c. **Work Hours.** Customs personnel assigned to CBWs shall strictly observe regular office hours and record their attendance in accordance with Civil Service Rules and Regulations. The CBW operator shall promptly report to the District Collector any unauthorized absences. The services of the customs personnel requested by the operator and approved by the District Collector which are performed outside the regular office hours, including Saturdays, Sundays and holidays, shall be considered overtime work compensated by the Bureau pursuant to Chapter 2, Title XV, Section 1508 of the CMTA.³⁹ However, the Bureau may charge additional customs service fee when applicable, subject to the range prescribed under existing rules and regulations.⁴⁰
- d. **Locks and Keys.** The door and entrance to a CBW and the designated compartments for new materials, finished goods and wastages, rejects and by-products shall have secured locking system which complies

³⁷ cf. CMTA, Title VIII, Chapter 2, Section 813, par.2.

³⁸ cf. CAO No. 1-2009, Title IV, Section 4.7.

³⁹ cf. CAO No. 1-2009, Title IV, Section 4.8.

⁴⁰ CMTA, Title XV, Chapter 2, Section 1508.

with the standard and specification set by the Bureau. Access to the areas shall be limited to personnel duly authorized by both the Bureau and the CBW Operator.⁴¹

5.12.3. Requirements During Operation.

- a. Principal Books of Accounts.** The Bureau and the CBW operator shall keep and maintain Principal Books of Accounts containing the records of importation and exportation of all goods delivered to and withdrawn from a CBW.⁴² As far as practicable, the Bureau and CBW operator shall develop and maintain an ICT-enabled inventory and liquidation system of all goods delivered to and withdrawn from a CBW, which may serve as the principal books of accounts.
- b. Submission of the Audited Financial Statements.** For monitoring purposes, the CBW operator shall submit its annual Audited Financial Statement for the immediately preceding calendar or fiscal year, as the case may be to the District Collector not later than thirty (30) days from its filing to the Bureau of Internal Revenue.
- c. Stock Inventory.** All CBWs shall establish and maintain a computer-based inventory system for bonded goods which is accessible to the Bureau.⁴³
- d. Inspection of CBW and Bonded Goods.** The District Collector may issue a Mission Order authorizing a representative to conduct inspection of the CBW and the bonded goods stored in the CBW; and to examine the documents, books, and records of accounts concerning the operation of any CBW.⁴⁴ Mission order shall contain the names of the representative, time and date of inspection, and the documents, books, and records of accounts to be examined.

⁴¹ cf. CAO No. 1-2009, Title IV, Section 4.9.

⁴² cf. CAO No. 1-2009, Title IV, Section 4.10.

⁴³ cf. CAO No. 1-2009, Title IV, Section 4.14.

⁴⁴ CMTA, Title VIII, Chapter 2, Sections 805 and 813.

5.13. Operational Provisions for CBWs.

5.13.1. Lodgement of Warehousing Entry or Transit Declaration. A single goods declaration shall be lodged by the CBW operator and accepted by the Bureau as warehousing and transit declaration whenever appropriate.

For CMBW operator which sources its raw materials from enterprises in Free Zones or from existing customs manufacturing bonded warehouse, the Bureau shall prescribe the specific form of goods declaration and supporting documents.

5.13.2. Posting of Security for Goods Stored in CBWs.

For goods declared and entered under the CBW scheme, the District Collector shall require the importer to post sufficient security equivalent to the assessed duties, taxes and other charges, as a condition for the storage and withdrawal of the bonded goods within the period prescribed by Section 811, Chapter 2, Title VIII of the CMTA, or the payment of duties, taxes and other charges upon compliance with all importation requirements.

5.13.3. Transfers of Bonded Goods. Unless the covering goods declaration is placed under Alert Order or selected Red, the District Collector shall allow direct transfer of bonded goods to the CBW where the examination shall be conducted. The Bureau shall establish a mechanism to ensure the integrity of the bonded goods during the transfer of shipment from the port of entry to the CBW.

5.13.4. Withdrawal of Goods from CBWs. The CBW operator shall, within the prescribed storage period, apply for withdrawal of the bonded goods for production.

5.13.5. Identification of Bonded Goods Prior to Stuffing for Export. The CBW operator shall notify the District Collector in advance before any actual stuffing into a container shall be made.

All goods for export by CBW shall be stuffed only upon prior examination by a customs officer who shall issue the Certificate of Identification (CI).

5.13.6. Exportation of CBW Products. The CBW operator shall lodge an export declaration for finished products which are manufactured in CBWs within the prescribed period.

For CMBW or ICBW operator which supplies its raw materials or packaging materials to enterprises in Free Zones or to existing customs manufacturing bonded warehouse, the Bureau shall prescribe the specific form of goods declaration and supporting documents to be submitted.

5.13.7. Wastages. Wastages, rejects and by-products in the manufacture of export products shall be properly accounted for and disposed of in accordance with existing rules and regulations.⁴⁵

5.13.8. Liquidation of Warehousing Entry and Cancellation of Bond. The CBW operator shall cause the liquidation of the warehousing entry and the cancellation of the bonds related to the finished products.

The Bureau shall establish and maintain an ICT-enabled system to account for the raw materials used in the manufacture of goods and the resulting wastages for liquidation;⁴⁶ and to monitor the posting, charging, cancellation and aging of bonds for CBMW.⁴⁷

5.14. Period of Storage in CBWs.⁴⁸

5.14.1. Goods entered for warehousing may remain in a CBW for a maximum period of one (1) year from the time of its arrival at the warehouse, without prejudice to the provisions of Section 5.14.4 of this CAO.

5.14.2. For perishable goods, the storage period shall be three (3) months from the date of arrival at the warehouse,

⁴⁵ CAO No. 1-2009, Title IV, Section 4.18.

⁴⁶ cf. CAO No. 1-2009, Title IV, Section 4.19.

⁴⁷ cf. CAO No. 1-2009, Title IV, Section 4.20.

⁴⁸ CMTA, Title VIII, Chapter 2, Section 811.

extendible for valid reasons, and upon written request, for another three (3) months.

Imported goods shall be withdrawn from the CBWs when the necessary withdrawal permit has been filed, together with any related document as may be required by the Bureau.⁴⁹ Goods not withdrawn after the expiration of the prescribed period shall be deemed abandoned, as provided under paragraph (e), Section 1129, Chapter 6, Title XI of the CMTA⁵⁰, unless the CBW operator expressly abandons the goods prior to the expiration of the period to withdraw the same within the prescribed storage period.

5.14.3. Bonded raw materials withdrawn within the prescribed storage period shall be manufactured and exported within one (1) year from the time of arrival at the CBW. Goods withdrawn within the prescribed period of one (1) year but re-exported beyond the said period shall be subject to the applicable penalties under this CAO.

5.14.4. The Commissioner shall, in consultation with the Secretary of Trade and Industry, establish a reasonable storage period limit beyond one (1) year for particular bonded goods for manufacturing and intended for export, the processing into finished products of which requires a longer period based on industry standard and practice, subject to the approval of the Secretary of Finance.

5.15. Suspension or Closure of CBW.

5.15.1. The District Collector shall, without prejudice to the imposition of administrative penalties⁵¹ and filing of criminal cases against the responsible person, initiate suspension or closure proceeding against any CBW in the following instances:

- a.** In case of discontinuance requested by the CBW operator or when the conditions warrant pursuant to Section 807, Chapter 2, Title VIII of the CMTA;

⁴⁹ cf. CMTA, Title VIII, Chapter 2, Section 809, par. 1.

⁵⁰ CMTA, Title VIII, Chapter 2, Section 811, par. 1, last sentence.

⁵¹ cf. CAO No. 1-2009, Title V, Section 5.7.

- b.** Filing an application containing false information for establishment or renewal of CBW authority to operate;
- c.** Failure to file application for renewal;
- d.** Being inactive for a continuous period of at least one (1) year, i.e. no importation, or if there is one, no corresponding legal withdrawal of imported goods or exportation of finished products;
- e.** When the operator or any responsible official thereof shall knowingly allow the use of the warehouse for illegal activities;
- f.** Unauthorized relocation or use of extension warehouse; and,
- g.** Violation of customs rules and regulations.⁵²

5.15.2. Upon the closure of the CBW, 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.

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

5.15.4. Notice of discontinuance made by the operator shall not result in the discharge from any duties, taxes, fees and other charges imposed on dutiable goods in said warehouse.⁵³

Section 6. Responsibilities of CBW Operators.

6.1. Operators of CBWs shall comply with the requirements of the Bureau on establishment, security, suitability and management, including stock-keeping and accounting of the goods introduced therein.

6.2. Upon lawful demand, the operators shall allow duly authorized representatives of the Bureau access to the premises at a

⁵² cf. CMO No. 02-2003, Section II, General Provisions.

⁵³ cf. CMTA, Title VIII, Chapter 2, Section 807.

reasonable time, and to inspect all documents, books and records of accounts pertaining to the operations of the CBW.

- 6.3.** In case of loss of the goods stored in CBWs due to the operators' gross negligence or willful misconduct, the operator shall be made liable for the payment of duties and taxes due thereon. The government assumes no legal responsibility over the safekeeping of goods stored in CBW.⁵⁴
- 6.4.** Operators shall ensure a secured and safe environment for both persons and goods stored in CBWs by implementing effective security measures, such as the employment of a 24-hour security scheme and the installation of closed circuit television camera (CCTV) and similar devices.

Section 7. Customs Supervision and Control over CBWs.⁵⁵

- 7.1.** The Bureau shall exercise supervision and control over CBWs and the same shall, for all intents and purposes, be considered as extension of the customs premises insofar as the dutiable goods stored and introduced therein are concerned.
- 7.2.** The Bureau however, shall not be liable for any loss or damage of the goods stored in any CBW.

Section 8. Penalties.⁵⁶ Without prejudice to the criminal liability provided under the CMTA, the following administrative sanctions shall be imposed on the operator for the following offenses:

8.1. Diversion or Unauthorized Withdrawal.

- a.** First Offense - Duties, taxes and charges due on the goods withdrawn; and Surcharge of fifty percent (50%) of duties, taxes, customs fees, and charges, found to be due and unpaid⁵⁷;
- b.** Second Offense - Suspension of warehousing privileges for six (6) months; and,
- c.** Third Offense - Closure

⁵⁴ CMTA, Title VIII, Chapter 2, Section 805.

⁵⁵ CMTA, Title VIII, Chapter 2, Section 806.

⁵⁶ cf. CAO No. 1-2009, Title V, Section 5.4.

⁵⁷ cf. CMTA, Title XIV, Chapter 1, Section 1422.

8.2. Unauthorized Relocation.

- a.** First Offense - Duties, taxes and charges due on the goods withdrawn; and Surcharge of fifty percent (50%) of duties, taxes, customs fees, and charges, found to be due and unpaid⁵⁸;
- b.** Second Offense -Suspension of warehousing privileges for six (6) months; and,
- c.** Third Offense - Closure

Any person who enters any CBW with intent to unlawfully remove any merchandise, or who shall aid or abet such removal, shall suffer the penalties provided in Section 1401 of the CMTA.

8.3. Penalties for late filing of renewal of the Authority to Operate a CBW shall be as follows:⁵⁹

1-30 days	Php5,000.00
31-60 days	Php10,000.00
61-90 days	Php15,000.00
For members of CCBW and ICBW - 91-120 days	Php15,000.00

Failure to file an application for renewal within the period stated in Section 5.3 of this CAO shall cause the suspension or closure of the CBW, as the case may be.

8.4. Late Re-Exportation under Section 5.14.3 of this CAO.

- a.** Up to six (6) months - 2% per month of the collectible duties and taxes counted from the date of expiration of the bond to date of actual exportation.⁶⁰
- b.** Beyond six (6) months – Penal amount of the bond in addition to the 2% per month of the collectible duties and taxes from the date of expiration of the bond to date of actual exportation.⁶¹

⁵⁸ cf. CMTA, Title XIV, Chapter 1, Section 1422.

⁵⁹ CAO 1-2006, Title V, Section 5.6.

⁶⁰ CAO No. 5-91, Section II, (1a).

⁶¹ CAO No. 5-91, Section II, (1b).

- 8.5.** Late submission of documents such as proof of re-exportation or authority to cancel bonds issued by the Commissioner and such other documents required for reconciliation or liquidation of raw materials, liquidation of entries or cancellation of re-export or surety bonds.⁶²

1-30 days from expiration of the bond	Php1,000.00
31-60 days from expiration of the bond	Php2,000.00
61-90 days from expiration of the bond	Php3,000.00
91-120 days from expiration of the bond	Php4,000.00
121-150 days from expiration of the bond	Php5,000.00
151 to 180 days from expiration of the bond	Php6,000.00
Beyond six (6) months from expiration of the bond	Penal amount of the bond

- 8.6.** Without prejudice to other actions that the Bureau may file against the importer or surety company for breach of bond or take action on the importation pursuant to the CMTA, the provisions on existing regulations on fines, penalties, or surcharges shall be applied on erring importers or warehouse operators.

Section 9. Issuance of Customs Memorandum Order. The Commissioner shall issue the necessary CMO containing the detailed guidelines and procedures to include the lodgement, processing and clearance of imported goods entered through CBWs for the effective implementation of this CAO.

Section 10. Non-impairment Clause. Any existing contracts of private operators with concerned government agencies and regulatory bodies, such as but not limited to the Philippine Ports Authority (PPA), Subic Bay Metropolitan Authority (SBMA), Phividec Industrial Authority (PIA) and their respective affiliates and subsidiaries,

⁶² CAO No. 5-91, Section II, (2a).

including the powers and privileges already granted by virtue of such contracts, shall not be impaired or adversely affected thereby.

Section 11. Transitory Provisions. The Commissioner shall, without prejudice to all the rights, conditions, and obligations already acquired or vested prior to the effectivity of this CAO, cause the re-evaluation, reclassification and reorganization of all existing CBWs to ensure compliance with the requirements and conditions specified in this CAO.

This notwithstanding, CBWs already existing and given authority to operate by the Bureau prior to the effectivity of this CAO are required to comply with all the administrative and reportorial requirements set forth in this CAO on or before December 30, 2020.

Section 12. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 13. Repealing Clause. This CAO specifically amends or repeals previously issued CAOs and CMOs which are inconsistent with the provisions therein.

Section 14. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, other parts not so declared shall remain in full force or effect.

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

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

NICANOR E. FAELDON
Commissioner of Customs

Approved:

CARLOS G. DOMINGUEZ III

Secretary of Finance

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

History.

- CAO No. 1-2009. Revised Rules and Regulations for the Establishment, Operation, Supervision and Control of Customs Bonded Warehouse.
- CMO No. 39-91. Rules and Regulations Implementing CAO 2-91 for the Establishment, Supervision and Control of CBW
- CAO No. 2-91. Role and Regulation for the Establishment, Operation, Supervision and Control of CBW

Related Policies.

- Tariff and Customs Code of the Philippines, Sections 1901 to 1909
- CMO No. 18-91. Deadline for Filing of Application For Renewal Of The Authority/License To Operate A CBW
- CMO No. 95-91. Amendment To Sec 11.1.2 And 11.3.1 Of CMO 39-91
- CMC No. 253-91. Renewal Of License To Operate A Bonded Manufacturing Warehouse Under RA 3137 Approved By GTEB
- CAO No. 4-96. Creation Of Common Bonded Warehouse Division, POM
- CMO No. 36-98. Monitoring Of Warehousing Operations
- CAO No. 13-77. Prescribing Rules And Regulations For The Establishment, Operation, Supervision and Control Of Bonded Manufacturing Warehouses
- CAO No. 2-79. Rules And Regulations For The Establishment, Operation, Supervision and Content Of Bonded Manufacturing Warehouse
- CMO No. 36-91. Uniform Procedure In The Liquidation Of Warehousing Entries and Cancellation of Bonds
- CMO No. 6-2000. Creation Of Bonded Warehouse Committee to Implement The Provisions Under CAO 2-91 and CMO 39-91
- CAO No. 5-2002. Rules And Regulations In The Importation Of Articles Through The Customs Bonded Trading Warehouse
- CAO No. 7-2002. Establishment of Industry-Specific CBW's and The Rules and Regulations Governing Its Operations.
- CAO No. 3-2003. Establishment, Operation And Control Of Special Customs Bonded Conversion Facility

- CMO No. 2-2003. Rules And Regulations In The Administrative Proceedings On The Closure of Bonded Warehouse As Implemented in CAO 2-91 And CMO 39-91
- CMO No. 03-2003. Issuance of Clearance to Customs Bonded Warehouse
- CAO No. 07-2003. Establishment Of Industry – Specific Customs Bonded Warehouse Servicing the Semi -Conductor And Electronics Industry and The Rules and Regulations Governing Its Operations
- CMO No. 19-2005. Renewal Of Licenses Of CBWs
- CAO No. 3-2007. Amendments to CAO 4-96 (Creation Of CBWD)
- CMO No. 9-2008. Addendum to CMO 7-2008 Amending CMO 17-2005 On The Moratorium on Approvals to Establish/Operate of Dock CY-CFS, Customs Public, Private Bonded Warehouses, Common Bonded Warehouses and Other Non-Manufacturing Bonded Warehouses/Facilities
- CMO No. 24-2008. Monitoring The Specific Description of Articles In The List of Importable Materials Of Customs Bonded Warehouses

Webpage, Forms, Handbooks and other References.

- Magna Carta on SMEs, RA 9501
- Revised Kyoto Convention
- World Customs Organization (WCO) Safe Framework
- RA 9282. An Act Expanding The Jurisdiction Of The Court Of Tax Appeals (CTA), Elevating Its Rank To The Level Of A Collegiate Court With Special Jurisdiction And Enlarging Its Membership, Amending For The Purpose Certain Sections Or Republic Act No. 1125, As Amended, Otherwise Known As The Law Creating The Court Of Tax Appeals, And For Other Purposes