**CUSTOMS ADMINISTRATIVE ORDER**

**NO. - 2016**

**SUBJECT: CUSTOMS BONDED WAREHOUSES AND CUSTOMS FACILITIES AND 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).

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

# Objectives.

## To provide the guidelines for the establishment, operation, supervision, and control of CBWs and CFWs.

## To protect revenue through the institution of safeguard and control measures over CBWs and CFWs.

## To define the rights and corresponding obligations of operators of CBWs and CFWs.

## To enhance the level of compliance of CBW and CFW operators with customs warehousing laws and regulations and provide penalties for non-compliance.

## To utilize Information and Communications Technology (ICT) in the management and control of CBWs and CFWs as provided for in Section 109 of CMTA.

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

## **Authority to Operate -** is the authority given by the Bureau allowing persons, natural or juridical, to establish and operate a CBW or CFW.

## **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-end-user, subcontractor, or Freeport Zone locator for subsequent export.

## **Certificate of Authority** - is a document issued by the Bureau to persons, natural or juridical, authorized to operate a CBW or CFW.

## **Certificate of Identification** - 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.

## **Customs Territory** -refers to areas in the Philippines where customs and tariff laws may be enforced.[[1]](#footnote-1)

## **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.[[2]](#footnote-2)

## **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.[[3]](#footnote-3)

## **Diversion** - is an act of bringing bonded articles to some place other than its intended destination without prior authority from the Bureau.

## **Entry** -refers to the act, documentation, and process of bringing imported goods into the customs territory, including goods coming from the free zones.[[4]](#footnote-4)

## **Exportation** - refers to the act, documentation, and process of bringing goods out of Philippine territory. [[5]](#footnote-5)

## **Extension Warehouse** - is a separate CBW facility granted by the Bureau to an already authorized CBW operator when the current warehousing facilities are no longer sufficient to fully service the volume of its operations. [[6]](#footnote-6)

## **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.[[7]](#footnote-7)

## **Formula of Manufacture** - refers to the formula of conversion issued by the Industrial Technology and Development Institute (ITDI) to the CBW operator, determining the raw material usage and wastages of a particular finished product for export and subsequent liquidation.

## **Goods** - refers to articles, wares, merchandise and any other items which are subject of importation or exportation.[[8]](#footnote-8)

## **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. [[9]](#footnote-9)

## **Importation** -refers to the act of bringing in of goods from a foreign territory into Philippine territory, whether for consumption, warehousing, or admission. [[10]](#footnote-10)

## **BOC Certificate of Accreditation** – refers to the document issued to importers authorized to transact with the Bureau.

## **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.

## **Lodgement** - refers to the registration of a goods declaration with the Bureau.[[11]](#footnote-11)

## **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, which may be proceeded to, advertised and sold at auction upon notice if deemed reasonable.[[12]](#footnote-12)

## **Physical Security** - refers to a system to secure and monitor premises, storage and production areas of CBWs and CFWs including the safety of personnel. [[13]](#footnote-13)

## **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.[[14]](#footnote-14)

## **Transfer Note** - is a document that accompanies the transfer or transit of bonded imported articles to a PEZA/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”.

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

# General Provisions.

## **Establishment of Customs Warehouses.** When the business of the port and trade[[15]](#footnote-15) 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. [[16]](#footnote-16) The Commissioner shall issue rules and regulations defining the requirements for eligibility to operate a CBW or CFW.[[17]](#footnote-17)

## **Supervision and Control over Customs Warehouses.** All such warehouses and premises shall be subject to the supervision of the District Collector, who shall impose such conditions as may be deemed necessary for the protection of government revenue, and of the goods stored therein.

## Such authority shall extend to any additional facilities, such as warehouse extensions, licensed members, clients/end-users and sub-contractors, as the case may be. In cases where the clients/end-users or sub-contractors are located in Free Zones[[18]](#footnote-18), such authority shall be made in coordination with the government agency concerned.

## **Types of Customs Warehouses.**

### **Customs Bonded Warehouse.**[[19]](#footnote-19)

### **Customs Bonded Manufacturing Warehouse (CBMW).** It is a facility established for the 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. A BMW shall include:

1. **Miscellaneous Customs Bonded Warehouse.** It is a warehouse facility established and authorized by the Bureau to import, receive, and store, duty free and under bond, raw materials, accessories and packing materials for products and commodities not covered under any specific industry, for manufacture into finished products for export.[[20]](#footnote-20)
2. **Customs Common Bonded Warehouse.** It is a warehouse facility established and authorized by the Bureau to import, receive, and store, duty free and under bond, raw materials, accessories, and packing materials for the account of its accredited members classified as micro or small-scale enterprise, for manufacture into finished products for export.[[21]](#footnote-21)
3. **Industry Specific Bonded Warehouse.** It is a warehouse facility established and authorized by the Bureau to import, receive, and store, duty free and under bond, raw materials, accessories, and packing materials for products that fall under a specific industry, for manufacture into finished products for export.[[22]](#footnote-22)

### **Bonded Non-Manufacturing Warehouse (BNMW).** Itis 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:

1. **Public Bonded Warehouse.** Itis a warehouse facility authorized by the Bureau 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.[[23]](#footnote-23)
2. **Private Bonded Warehouse.** Itis a warehouse facility authorized 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 the corresponding duties, taxes and other charges.[[24]](#footnote-24)

## **Customs Facilities and Warehouses.**

### **Container Yard.** It is a facility authorized by the Bureau to accept and store container vans, laden or empty, intended for international shipping for storage within the period allowed under customs laws, rules and regulations. A container yard may be established either within the customs zone or off dock, as may be allowed under customs laws, rules, and regulations.

### **Container Freight Station.** It is a facility authorized by the Bureau to accept and store container vans intended for international cargo, for temporary storage, examination, stripping, stuffing, and other related activities as may be allowed under customs laws, rules, and regulations. A container freight station may be established either within the customs zone or off dock, as may be allowed under customs laws, rules, and regulations.

### **Seaport Temporary Storage Warehouse.** It is a customs facility established at the seaport for purposes of storage, examination, stripping, stuffing, and safekeeping of imported cargoes.

### **Airport Temporary Storage Warehouse.** It is a customs facility established at the airport for purposes of storage, examination, stripping, stuffing, and safekeeping of imported cargoes.

## **Issuance of Authority to Operate.** The Bureau shall be responsible for the issuance of an authority to operate CBWs and CFWs, including the imposition of different sets 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.

## **Lodgement and Clearance Procedure.** The Commissioner shall issue rules and regulations governing the lodgement, processing and clearance of imported goods entered through CBWs and CFWs.

## **Assignment of Personnel.** In pursuit of its supervisory and control functions over CBWs and CFWs, the shall assign customs personnel to monitor and implement control measures therein for customs purposes, in accordance with its existing organizational structure and staffing pattern.[[25]](#footnote-25)

## **Creation or Dissolution of Customs Warehouses.** 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.[[26]](#footnote-26)

# Customs Bonded Warehouse.

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

### **Application for Authority to Operate a CBW.** The application to operate a CBW, including applications for accreditation as member, subcontractor or client and end-user 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.[[27]](#footnote-27)

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

1. Certified Copy of Articles of Incorporation or Articles of Partnership, and by-laws;
2. Department of Trade and Industry (DTI) Certificate of Business Registration for sole proprietorship;
3. Certified True Copy (CTC) of Mayor’s Permit;
4. Certificate of Bureau of Internal Revenue (BIR) Registration;
5. Income Tax Return (ITR) and Latest Audited Financial Statement, if applicable;
6. Warehouse location or vicinity map showing the area of and means of access to the real property;
7. Warehouse layout showing and describing the following:
8. Floor plan and building structure of the proposed CBW;
9. Storage areas for raw materials, finished products and wastages;
10. Production area;
11. Office spaces for both CBW and customs personnel; and
12. Physical security features;
13. Lease contract or title to the real property;
14. List of machineries and equipment;
15. Feasibility study;
16. List of materials to be imported;
17. Formula of Manufacture, if applicable; and,
18. Other documents, as may be applicable, such as BOI, DTI, Freeport Authority, PEZA and other government agency endorsement. Favorable endorsements from the relevant business industry association and federation may also be submitted in support of the application. [[28]](#footnote-28)

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### **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.[[29]](#footnote-29)

### **Evaluation of the Application.** The District Collector of the Port shall:

1. Determine the completeness of the documents submitted in support of the application;
2. Cause the conduct of physical inspection of the premises;
3. Evaluate and review the documents including the physical inspection report; and,
4. Recommend to the Commissioner the approval 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 the applicant does not meet the regulatory requirements to operate a CBW.

The District Collector shall recommend approval or deny the application within thirty (30) working days from completion of documents and inspection report.

### **Recommendation for Approval or Denial of the Application by the District Collector.** In case the District Collector recommends the approval of the application, the same shall be forwarded to the Commissioner together with the complete records within five (5) days from such action. In case of denial, a letter shall be sent to the applicant stating clearly the reasons why the application is denied. [[30]](#footnote-30)

### **Review by the Commissioner.** The Commissioner shall act on the application as favorably endorsed by the District Collector within fifteen (15) days from receipt of such endorsement. The Commissioner may either approve or deny the recommendation of the District Collector.[[31]](#footnote-31)

### **Appeal.** The applicant may appeal the denial of the application to establish or renew a CBW by filing a Notice of Appeal to the District Collector who denied such application within fifteen (15) days from receipt of the letter of denial.[[32]](#footnote-32)

### **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 Notice of Appeal. [[33]](#footnote-33)

### **Decision of the Commissioner on Appeal.** The Commissioner shall render a decision on the appeal within fifteen (15) days from receipt of the complete records of the case from the District Collector.[[34]](#footnote-34)

### **Finality of the Decision of the Commissioner.** The decision of the Commissioner in all cases involving CBW application shall be final and executory.

### **Certificate of Authority.** Any approval of the CBW application shall be evidenced by a Certificate of Authority to Operate a CBW issued by the District Collector. Such certificate shall be conspicuously displayed at all times at the CBW and its extension offices, if any.

### **Amendment** **of** **Certificate of Authority.** The Certificate of Authority may be amended by the District Collector upon the request of the CBW operator based on the following instances:

1. Change of company name;
2. Change of the name of the street or building number without actual change of the physical location of the CBW;
3. Change of the type of the CBW as approved by the Commissioner; and,
4. 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.

### **Membership in a Customs Common Bonded Warehouse (CCBW).**

1. 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 CCBW.[[35]](#footnote-35)
2. A company that is considered as medium or large scale enterprise shall not be allowed to apply as member of a customs common bonded warehouse.[[36]](#footnote-36)
3. This Section, notwithstanding, existing members of CCBW which are classified as medium or large may opt to remain as member or establish its own CBW. Medium and large scale enterprises, however, are encouraged to establish their own CBW.

### **Application for Accreditation as Member, Sub-Contractor, or Client/End-User of CBWs.** Application or renewal of accreditation as member, as a sub-contractor or client/end-users of CBW’s shall be filed with the District Collector where the CBW is located. In such case, the rules provided herein on application and renewal of CBWs shall apply.[[37]](#footnote-37)

### **Application for Extension Warehouse.**

1. Applications of extension warehouse for CBWs shall be filed with the District Collector who has jurisdiction over the main facilities.
2. 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. Accordingly:
3. Rules for the establishment of a new warehouse shall apply; and,
4. Supervisory functions and visitorial power may only be exercised by the District Collector who has jurisdiction over the location.

## **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 or renewal, as stated in the Certificate of Authority to Operate.

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## Any relocation of a CBW should have prior written approval from the District Collector as approved by the Commissioner. Any unauthorized relocation shall be ground for the suspension or revocation of the authority to operate issued to the CBW, its members or sub-contractors, or CFW, as the case may be.[[38]](#footnote-38)

## **Filing of Application for Renewal of Authority to Operate CBW.**

### The application for renewal of Authority to Operate a CBW shall be filed at least three (3) months before its expiration. For CCBWs, the application for renewal shall be filed at least six (6) months before its expiration.

Non-filing within the prescribed period shall cause the imposition of penalties, including suspension or revocation of the Authority to Operate, as may be warranted.[[39]](#footnote-39)

## **Supervision** **Fee.** An annual supervision fee shall be imposed on CBWs including their extensions and additional facilities, if any, based on the following schedule:

### **Customs Bonded Manufacturing Warehouse (CBMW)**

1. Micro Php 50,000.00
2. Small Php 75,000.00
3. Medium Php 150,000.00
4. Large Php 300,000.00
5. For every extension warehouse Php 50,000.00

### **Customs Common Bonded Warehouse or Industry-Specific CBW**

1. 10 or less members Php 300,000.00
2. More than 10 members Php 300,000.00 plus Php

10,000.00 for every

additional member

### **Non-Manufacturing CBW**

1. Php 300,000.00
2. For every extension warehouse - Php 50,000.00

## **Administrative Provisions for CBWs.**

### **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 ten (10) days from its filing to the Bureau of Internal Revenue.

### **Assignment of Customs Personnel.** Unless the Commissioner provides otherwise, the District Collector having jurisdiction over the CBW shall assign such number of customs personnel necessary to monitor the operation of the CBW.[[40]](#footnote-40)

### **Provision for a Suitable Working Space of Bureau Personnel.** The CBW operator shall provide customs personnel with suitable working areas complete with office equipment and supplies.[[41]](#footnote-41)

### **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 which are performed outside the regular office hours, including Saturdays, Sundays and holidays, shall be considered overtime work compensated pursuant to applicable Civil Service Rules and Regulations.[[42]](#footnote-42)

### **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 with the standard and specification set by the Bureau. Access to the areas shall be limited to personnel authorized by both the Bureau and the CBW Operator.[[43]](#footnote-43)

### **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.[[44]](#footnote-44) 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.

### **Production of Documents.** All documents, books, and records of accounts concerning the operation of any CBW shall, upon demand, be made available to the District Collector or the representative of the District Collector for examination or audit.[[45]](#footnote-45)

The District Collector shall issue a written notice specifying the documents to be requested, time and date of visit, and the name of the person duly authorized to receive and secure the same.[[46]](#footnote-46)

For record purposes, all documents shall be kept for three (3) years.[[47]](#footnote-47)

### **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. 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.

### **Raw Material Importation.** CBW may import articles based on approved formula of manufacture as authorized by the Bureau or other government regulatory agencies.

### **Stock Inventory.** All CBWs shall establish and maintain a computer-based inventory system for bonded goods which is accessible to the Bureau. [[48]](#footnote-48)

## **Operational Provisions for CBWs.**

### **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.

### **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.

### **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.

### **Withdrawal of Goods from CBMWs.** The CBMW operator shall, within the prescribed storage period, apply for withdrawal of the bonded goods for production.

### **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).

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

### **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.[[49]](#footnote-49)

### **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 maintainan ICT-enabled system to account for the raw materials used in the manufacture of goods and the resulting wastages for liquidation;[[50]](#footnote-50) and to monitor the posting, charging, cancellation and aging of bonds for CBMW.[[51]](#footnote-51)

### **Bonded Goods Not Exported.** For bonded goods withdrawn for production but not exported within the prescribed period, the CBW operator shall lodge the appropriate goods declaration for consumption and pay duties, taxes and other charges plus penalties, as may be provided by regulation, within 15 days from the expiration of the storage period.[[52]](#footnote-52) Bonded goods for which taxes, duties and other charges are paid shall be taken out immediately from their bonded areas, such as compartments for raw materials on finished products, after such payments.[[53]](#footnote-53)

## **Period of Storage in CBWs.**[[54]](#footnote-54)

### 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 5.6.4 of this CAO.

### For perishable goods, the storage period shall be three (3) months from the date of arrival at the warehouse, extendible for valid reasons, and upon written request, for another three (3) months.

### 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 CMTA.

### 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.

## **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.[[55]](#footnote-55)

## **Suspension or Closure of CBW.**

### The District Collector shall, without prejudice to the imposition of administrative penalties[[56]](#footnote-56) and filing of criminal cases against the responsible person, cause the suspension or closure of any CBW under the following:

1. 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;
2. Filing an application containing false information for establishment or renewal of CBW authority to operate;
3. Failure to file application for renewal;
4. 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;
5. When the operator or any responsible official thereof shall knowingly allow the use of the warehouse for illegal activities;
6. Unauthorized relocation or use of extension warehouse; and,
7. Violation of customs rules and regulations.[[57]](#footnote-57)

### Except when the closure is made upon the request of the CBW operator, there must be a closure proceeding to be conducted by the District Collector where due process must be observed.

### 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.

### 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.

### 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.[[58]](#footnote-58)

## **Penalties**.[[59]](#footnote-59)

### Without prejudice to the criminal liability provided under the CMTA, the following administrative sanctions shall be imposed for diversion or unauthorized withdrawal:

1. Suspension of warehousing privileges for six (6) months for the offense; and,
2. Closure, for the second offense.

### Penalties for late filing of renewal of license to operate a CBW shall be collected as follows:[[60]](#footnote-60)

1. 1-15 days Php 5,000.00
2. 16-30 days Php 10,000.00
3. 31 days and above Closure

### Without prejudice to other actions that the Bureau may file against the importer and/or surely 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.

# Customs Facilities and Warehouses.[[61]](#footnote-61)

## **Creation/Establishment.** All applications for the establishment of a CFW shall be filed with the District Collector where the CFW is located, describing the premises, location, capacity and purpose thereof.

## **Documentary Requirements.** Any person or firm desiring to establish and operate a CFW shall submit the following documents:

### SEC Articles of Incorporation, DTI Certificate of Business Registration, BIR Certificate of Registration and Mayor’s Permit (if not yet filed under the Client Profile Registration System-CPRS);

### Location and layout of facility, including machineries, equipment and x-ray facility as applicable (including lease contract or title to the property);

### Audited Financial Statements for the last two (2) years immediately preceding the date of application;

### Web-based inventory management system; and,

### Customs facility for use of customs complement (or proposed facility).

## **Security Requirements.** An applicant must likewise have written and verifiable procedures on the following:[[62]](#footnote-62)

### Security procedures for service providers and vendors;

### Container security integrity and breach detection measures (e.g. container storage and seals);

### Physical access controls (e.g. security personnel, employee ID system, searches, visitors/vendor verification);

### Personnel security (e.g. pre-employment verification, background checks);

### Procedural security (e.g. cargo control, shipping and receiving, container opening and release);

### Security Training and Awareness;

### Physical Security (e.g. fences, gates, parking, building structures, locks and keys, lighting, alarm systems and video surveillance cameras); and,

### IT Security (e.g. password, accountability)

## **Examination of the Premises.** Upon receipt of such application, the District Collector shall examine the premises of such proposed warehouse, particularly its location, construction and storage facilities. The District Collector, with the approval of the Commissioner, may authorize the establishment of CFWs, and accept the required security for its operation and maintenance.

## **Procedures.** A Customs Memorandum Order (CMO) shall be issued to outline the procedure in the issuance of an authority to operate a CFW. The CMO shall provide adequate measures to ensure continued compliance with the Bureau’s requirements pertaining to the security and suitability of the CFW, including stock-keeping, accounting of the goods, and monitoring by specific/proper offices.

## **Application for Establishment of Additional Facilities.**[[63]](#footnote-63)

### Application for establishment of additional facilities shall be filed with the District Collector who has jurisdiction over the main facilities.

### Where the proposed extension 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. Accordingly:

1. Rules for the establishment of a new CFW shall apply; and,
2. Supervisory functions and visitorial power can only be exercised by the District Collector who has jurisdiction over the location.

### **Validity of the Authority to Operate.** The Authority to Operate a CFW, including any additional facilities, issued pursuant to this CAO shall be valid for three (3) years counted from the date of the approval by the Commissioner of the application or renewal, as the case may be.[[64]](#footnote-64)

### **Renewal of Authority to Operate.**[[65]](#footnote-65)

1. Application for renewal of Authority to Operate a CFW shall be filed at least three (3) months before its expiration.
2. Non-filing within the prescribed period shall cause the imposition of penalties, including suspension or revocation of the Authority to Operate, to be provided by the Commissioner in a CMO to be issued in connection with this CAO.

## **Appeal on the Denial of the Application for Establishment or Renewal of the Authority to Operate CFW.**

### The applicant may appeal the denial of the application to establish or renew CFW by filing a notice of appeal to the District Collector who denied such application within fifteen (15) days from receipt of the order of denial.

### The District Collector shall forward to the Commissioner the complete records of the application within five (5) days from receipt of the notice of appeal.

### The Commissioner shall render a decision within sixty (60) days from receipt of the complete records of the case from the District Collector.

### The decision of the Commissioner shall be final and executory.

## **Appeal in Other Cases.** The aggrieved party may appeal any adverse decision by the District Collector to the Commissioner by filing a Notice of Appeal in the same manner set forth under Section 6.7.

## **Discontinuance of CFW.** The use of any CFW may be discontinued by the District Collector when conditions so warrant, or upon receipt of a written request from the operator; Provided, that all the requirements of the laws and regulations have been complied with by the said operator.[[66]](#footnote-66)

## **Voluntary Discontinuance of a CFW.**[[67]](#footnote-67)

### In cases where the discontinuance is due to the written request from the operator, the District Collector shall require all cargoes remaining in the CFW to be released to its consignee(s) upon payment of all duties, taxes and other charges due thereon and after compliance with applicable rules and regulations.

### Any overstaying cargoes still remaining with the operator shall be inventoried and transferred to a Bureau warehouse at the expense of the operator.

### Discontinuance of the use of any warehouse shall be effective upon approval thereof by the District Collector who shall, within ten (10) days, inform the Commissioner of such action in writing.

## **Customs Initiated Discontinuance/Revocation of Authority.**

### The operation of a CFW may be discontinued or the authority revoked on any of the following grounds:

1. When the facility becomes a conduit in smuggling and other illegal activities;
2. In case of pilferage of goods stored in the facility;
3. Failure to account for cargoes stored therein;
4. Violation of customs laws, rules and regulations; and,
5. Other violation of Philippine laws.

### In case the Bureau initiated discontinuance or revocation of authority based on the aforementioned grounds, a CMO shall be issued to outline the conduct of the administrative proceedings to be instituted in such cases. The CMO shall likewise provide for the imposition of other penalties or fines and/or suspension in lieu of discontinuance/revocation.

## **Effects of Discontinuance.**

### Where dutiable goods are stored in such premises, the same 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.

### Any notice of discontinuance made by the operator shall not result in the discharge from the payment of duties, taxes, fees and other charges imposed on dutiable goods in the said warehouse.

### The owner, operator, or officers of the CFW shall not be relieved of from criminal liability arising from any violation of the tariff and customs laws and other laws enforced by the Bureau in connection with the operation of a CFW.

## **Period of Stay of Articles in CFWs.** Imported goods shall be released only when the goods declaration is electronically lodged, together with any related document required by any provision of the CMTA and other regulations. All goods entered into the CFWs shall be subject to the filing of goods declaration within the period specified under Section 407 of the CMTA.

## **Supervision fees.** An annual supervision fee shall be imposed on CFWs in the amount provided in a CMO to be issued by the Commissioner pursuant to this CAO.

## **Security.** The operator shall post a surety bondto cover for duties and taxes due on lost or damaged goods stored or transferred to the facilities.

## **Reportorial Requirements and Annual Compliance Evaluation.**[[68]](#footnote-68)

### The Operator shall submit a weekly report containing a detailed statement of all imported goods entered and withdrawn from the CFW. The Bureau shall specify the format of the report and may require electronic submission or other modes allowed under customs rules and regulations.

### The District Collector shall conduct an annual compliance evaluation of the performance of all existing CFW operators.

## **Post Audit.** All documents, books and records of accounts concerning the operation of the CFW shall, upon demand, be made available to the District Collector for examination or audit. For record purposes, all documents shall be kept for three (3) years.[[69]](#footnote-69)

# Responsibilities of Operators of CBWs and CFWs.

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

## Upon lawful demand, the operators shall allow authorized representatives of the Bureau access to the premises at a reasonable time, and to inspect all documents, books and records of accounts pertaining to the operations of the warehouse.

## In case of loss of the goods stored in customs warehouses due to the operator's 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 any customs warehouse, yard, or premises.[[70]](#footnote-70)

## Operators shall ensure a secured and safe environment for both persons and goods stored in the facilities by implementing effective security measures, such as the employment of a 24-hour security scheme and the installation of closed circuit television camera (CCTV) and similar devices.

# Customs Supervision and Control over CBWs and CFWs.[[71]](#footnote-71)

## The Bureau shall exercise supervision and control over customs warehouses and the same shall, for all intents and purposes, be considered as extension of the customs zone insofar as the dutiable goods stored and introduced therein are concerned.

## The Bureau however, shall not be liable for any loss or damage of the goods stored in any customs warehouse.

# Issuance of Customs Memorandum Order. The Commissioner shall issue the necessary CMO containing the detailed guidelines and procedures for the effective implementation of this CAO.

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

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

This notwithstanding, customs warehouses 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 31, 2017.

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

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

# 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.

# 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**

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.

1. **History.**
   * CMO No. 32-2015. Revised Rules and Regulations for the Establishment, Supervision and Control of Off-Dock Container Yards and Container Freight Stations (OCC) and other Off-Dock Customs Facilities (OCF) outside of the Customs Zone
   * CMO No. 30-2015. Rules and Regulations for the Establishment, Supervision and Control of Wharves, Container Yards, Container Freight Stations, Warehouses, Examination Areas and Other facilities with the Customs Zone, otherwise known as Authorized Customs Facility (ACF)
   * CAO No. 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
2. **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 111.3.1 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
* CMO No. 4-2000. Guidelines In The Implementation Of The Automated Board Management System (ABMS)
* 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. 3-2003. Issuance Of Clearance To Customs Bonded Warehouse
* CAO No. 7-2003. 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 CBW’s
* 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

1. **Webpage, Forms, Handbooks and other References.**

* Magna Carta on SMEs, RA 9501
* Revised Kyoto Convention
* WCO Safe Framework
* Annex 1- Certificate of Authority Form

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

   [↑](#footnote-ref-1)
2. *cf* CAO No. 1-2009, Title II, Section 2.11. [↑](#footnote-ref-2)
3. *cf* CAO No. 1-2009, Title II, Section 2.11. [↑](#footnote-ref-3)
4. CMTA, Title I, Chapter 2, Section 102(r). [↑](#footnote-ref-4)
5. CMTA, Title I, Chapter 2, Section 102(s). [↑](#footnote-ref-5)
6. CAO No. 1-2009, Title II, Section 2.16. [↑](#footnote-ref-6)
7. CMTA, Title I, Chapter 2, Section 102 (w). [↑](#footnote-ref-7)
8. CMTA, Title I, Chapter 2, Section 102 (x). [↑](#footnote-ref-8)
9. CMTA, Title I, Chapter 2, Section 102 (y). [↑](#footnote-ref-9)
10. CMTA, Title I, Chapter 2, Section 102 (z). [↑](#footnote-ref-10)
11. CMTA, Title I, Chapter 2, Section 102 (dd). [↑](#footnote-ref-11)
12. CMTA, Title I, Chapter 2, Section 102 (gg). [↑](#footnote-ref-12)
13. RKC and WCO Safe Framework [↑](#footnote-ref-13)
14. CMTA, Title I, Chapter 2, Section 102 (mm). [↑](#footnote-ref-14)
15. Revised Kyoto Convention (RKC), Specific Annex D, Chapter 1, Standard 3. [↑](#footnote-ref-15)
16. CMTA, Title VIII, Chapter 2, Section 801. [↑](#footnote-ref-16)
17. ## RKC, Specific Annex D, Chapter 1, Standard 4.

    [↑](#footnote-ref-17)
18. CMTA, Title VIII, Chapter 3, Section 817. [↑](#footnote-ref-18)
19. CMTA, Title VIII, Chapter 2, Section 802. [↑](#footnote-ref-19)
20. cf CAO No. 1-2009, Title III, Section 3.3.6. [↑](#footnote-ref-20)
21. *cf* CAO No. 1-2009, Title III, Section 3.3.3. [↑](#footnote-ref-21)
22. *cf* CAO No. 1-2009, Title III, Section 3.3.5. [↑](#footnote-ref-22)
23. *cf* CAO No. 1-2009, Title III, Section 3.3.9. [↑](#footnote-ref-23)
24. *cf* CAO No. 1-2009, Title III, Section 3.3.8. [↑](#footnote-ref-24)
25. *cf* CAO No. 1-2009, Title IV, Section 4.7. [↑](#footnote-ref-25)
26. *cf* CMTA, Title VIII, Chapter 2, Section 803, par. 2. [↑](#footnote-ref-26)
27. *cf* CAO No. 1-2009, Title IV, Sections 4.1 and 4.2. [↑](#footnote-ref-27)
28. *cf* CMO No. 39-91 [↑](#footnote-ref-28)
29. *cf* CAO No. 1-2009, Title IV, Section 4.3. [↑](#footnote-ref-29)
30. *cf* CAO No. 1-2009, Title IV, Section 4.4. [↑](#footnote-ref-30)
31. *cf* CAO No. 1-2009, Title IV, Section 4.5. [↑](#footnote-ref-31)
32. *cf* CAO No. 1-2009 [↑](#footnote-ref-32)
33. *cf* CAO No. 1-2009 [↑](#footnote-ref-33)
34. *cf* CAO No. 1-2009 [↑](#footnote-ref-34)
35. *cf* Magna Carta on SMEs, RA 9501 [↑](#footnote-ref-35)
36. *cf* Magna Carta on SMEs, RA 9501 [↑](#footnote-ref-36)
37. *cf* CAO No. 1-2009, Title IV, Section 4.2. [↑](#footnote-ref-37)
38. *cf* CAO No. 1-2009, Title V, Section 5.3. [↑](#footnote-ref-38)
39. *cf* CAO No. 1-2009, Title IV, Section 4.12. [↑](#footnote-ref-39)
40. *cf* CAO No. 1-2009, Title IV, Section 4.7. [↑](#footnote-ref-40)
41. *cf* CAO No. 1-2009, Title IV, Section 4.7. [↑](#footnote-ref-41)
42. *cf* CAO No. 1-2009, Title IV, Section 4.8. [↑](#footnote-ref-42)
43. *cf* CAO No. 1-2009, Title IV, Section 4.9. [↑](#footnote-ref-43)
44. *cf* CAO No. 1-2009, Title IV, Section 4.10. [↑](#footnote-ref-44)
45. CMTA, Title VIII, Chapter 2, Section 813, par.2. [↑](#footnote-ref-45)
46. CMTA, Title VIII, Chapter 2, Section 805, par.2. [↑](#footnote-ref-46)
47. *cf* CMTA, Title VIII, Chapter 2, Section 813, par.2. [↑](#footnote-ref-47)
48. *cf* CAO No. 1-2009, Title IV, Section 4.14. [↑](#footnote-ref-48)
49. CAO No. 1-2009, Title IV, Section 4.18. [↑](#footnote-ref-49)
50. *cf* CAO No. 1-2009, Title IV, Section 4.19. [↑](#footnote-ref-50)
51. *cf* CAO No. 1-2009, Title IV, Section 4.20. [↑](#footnote-ref-51)
52. *cf* CMTA, Title VIII, Chapter 2, Section 811, par.1, last sentence. [↑](#footnote-ref-52)
53. *cf* CAO No. 1-2009, Title IV, Section 4.16. [↑](#footnote-ref-53)
54. CMTA, Title VIII, Chapter 2, Section 811. [↑](#footnote-ref-54)
55. CMTA, Title VIII, Chapter 2, Section 812. [↑](#footnote-ref-55)
56. *cf* CAO No. 1-2009, Title V, Section 5.7. [↑](#footnote-ref-56)
57. *cf* CMO 02-2003. [↑](#footnote-ref-57)
58. *cf* CMTA, Title VIII, Chapter 2, Section 807. [↑](#footnote-ref-58)
59. *cf* CAO No. 1-2009, Title V, Section 5.4. [↑](#footnote-ref-59)
60. CAO 1-2006, Title V, Section 5.6. [↑](#footnote-ref-60)
61. *cf* CMO No. 30-2015 [↑](#footnote-ref-61)
62. CMO No. 30-2015 [↑](#footnote-ref-62)
63. *cf* CMO No. 30-2015 [↑](#footnote-ref-63)
64. *cf* CMO No. 30-2015 [↑](#footnote-ref-64)
65. *cf* CMO No. 30-2015 [↑](#footnote-ref-65)
66. *cf* CMTA, Title VIII, Chapter 2, Section 807 [↑](#footnote-ref-66)
67. *cf* CMO No. 30-2015 [↑](#footnote-ref-67)
68. ## *cf* CMO 32-2015, Section 4.7

    [↑](#footnote-ref-68)
69. *cf* CMTA, Title VIII, Chapter 2, Section 813, par.2. [↑](#footnote-ref-69)
70. CMTA, Title VIII, Chapter 2, Section 805. [↑](#footnote-ref-70)
71. CMTA, Title VIII, Chapter 2, Section 806. [↑](#footnote-ref-71)