

NMM

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Customs Brokers

COMPLIANCE BEYOND BORDERS

CUSTOMS GAZETTE

Updates on Customs-Related Matters

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In Brief

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CMO 06-2021

Issue Date: February 1, 2021

As provided under the Department of Trade and Industry (DTI) Order dated 29 December 2020 (Annex "A"), and pursuant to the directive dated 27 January 2021 from the Secretary of Finance (Annex "B"), the Bureau hereby imposes provisional safeguard duties on imported vehicles in the form of a cash bond amounting to the following:

- Seventy Thousand Pesos (P70,000) per unit of any four-wheeled passenger cars (PCs) designed to transport less than ten (10) persons and not primarily to transport goods classified under ASEAN Harmonized Tariff Nomenclature (AHTN) Code 8703. Imported PCs that are completely knocked-down (CKD), semi knocked-down (SKD), used, with electric motors, and those designed for a special purpose such as ambulances and hearses are excluded from the coverage of the provisional duty. Also excluded from the provisional duty are luxury PCs that have a Free On Board (FOB) value of Twenty-Five Thousand United States Dollars (US\$25,000) or higher.
- One Hundred Ten Thousand Pesos (P110,000) per unit of imported light commercial vehicles (LCVs) whether fourwheeled drive or not which are designed to carry both passenger and cargo that are classified under AHTN Codes 8704.21.19 and 8704.21.29. Imported LCVs that are completely knocked-down, semi knocked-down, used, with electric motors, and those designed for a special purpose such as ambulances, hearses, are excluded from the coverage of the provisional duty. Further, LCVs that have a FOB value of Twenty-Eight Thousand United States Dollars (US\$28,000) or higher are also excluded from the provisional duty.

Furthermore, pursuant to the Letter from the Secretary of Finance, the imposition of the provisional safeguard duties shall likewise be subject to the following:

- The imposition of provisional safeguard duty shall be reckoned from the issuance of this CMO;
- The provisional safeguard duty imposed and collected herein shall not form part of the landed cost that is used as basis for the Value-Added Tax (VAT) to be paid upon importation, and

- For purposes of computing excise tax, the provisional safeguard duty shall be deducted from the net importer's selling price and suggested retail price.

Finally, the imposition of the provisional duty will last for two hundred (200) days upon the issuance of this CMO.

All District and Sub-Port Collectors, and all others concerned are hereby directed to confirm the dissemination of this Order throughout their offices within five (5) days from receipt thereof for records purposes.

This Order shall take effect immediately.

CMO 08-2021

Issue Date: February 8, 2021

Introduction

This Order is issued pursuant to the mandate of Executive Order No. 836 series of 2009, as implemented by CAO No. 6-2009 and CMO No. 51-2009, to maintain a database of all smuggling cases and related data.

Objectives

- Establish a secured and comprehensive database of smuggling cases and related data;
- Implement a viable means of data collection;
- Establish the guidelines in the utilization of the NCEN, a system developed by the WCO to assist Customs administrations with the collection and storage of law-enforcement information on the national level; and
- Establish the roles of concerned BOC Offices in maintaining the NCEN.

Definition of Terms

Company Creator - User who can enter Company related cases in the NCEN and can submit these cases to be revised as needed by Reviewers and Validators.

Company Database — Collected data on companies and offending business entities.

Database Download - Authorized users can download the Access Database of all company related information which allows them to manipulate CEN data for analytical purpose.

Global CEN - Global seizure database managed by the WCO Secretariat, contains non-nominal data.

Initiator — The office that takes charge in safekeeping, monitoring and initial encoding of the case folder.

NCEN (WCO-OMD) User Guide Version
2.6.0 p. 4

National Contact Point (NCP) - The National Contact Point (NCP) role in the CEN is associated with additional functionality, namely allowing an NCP to have an overview of all users in his/her country, including the date of their last access and indication if their user account is active or inactive.

National Customs Enforcement Network (NCEN) - The system developed by the WCO to provide Customs Administrations the ability to collect, store, analyze and disseminate law-enforcement data effectively at the national level to establish robust intelligence capabilities, and enhance profiling on a strategic, tactical, and operational level.

NCEN (WCO-OMD) User Guide Version
2.6.0 p. 4.

Nominal Data — Refers to data containing personal or sensitive personal information as defined by the Data Privacy Act of 2013.

Non-Nominal Data - Data containing non-personal information.

Seizure Creator — The user who can enter cases in the NCEN and can submit these cases to be revised as needed by Reviewers and Validators. Said user, including, but are not limited to CIIS or ESS personnel of the port.

Seizure Database — Collected data on shipments seized based on issued WSD.

Seizure Reviewer — The user who can review submitted cases in the NCEN. Submitted cases are viewable by other Reviewers and Validators. The Reviewer is responsible for reviewing, modifying, or editing the case data collected in a particular port. Said user, including, but are not limited to the Field Station Chief of CIIS or the District Commander of ESS of a port.

Seizure Validator — The user who can view all the submitted cases and has the authority to send the case back to the Creator for redrafting. Once a case is validated by the Validator, it shall be viewable to all NCEN Users with the proper access privileges. The Validator also acts as quality assurance before uploading cases to the Global CEN.

Suspect Creator — The user who can create a new suspect case subject to the oversight of the Suspect Reviewer.

Suspect Database — Collected data on ongoing investigations that may result to a seizure.

Suspect Reviewer - The user who is responsible for reviewing, modifying, or editing suspect cases opened by the Suspect Creator. This user also has the authority to close or restore suspect cases.

Warrant of Seizure and Detention (WSD) - Refers to an order in writing issued by the District Collector's Office commanding to seize any property subject to forfeiture pursuant to Section 1113, Chapter 4. Title XI of the CMTA.

CMTA, Title XI, Chapter 4, Sec. No. 1117

Scope

This Order covers the operational structure, roles, and procedures of the BOC offices in the inclusion of specific commodities, validation and viewing of these data in the NCEN.

Roles of the BOC Offices

- **Risk Management Office (RMO)** — Analyses the data in the NCEN, translates the risks identified to Selectivity Rules and/or recommend policies and programs to address the risks identified. This office can also act as Seizure creator/ reviewer, Suspect creator/ reviewer, and Company creator/ reviewer.
 - **Chief, Risk Management Office** - acts as National Contact Point and Validator of both CEN and NCEN.
 - **Strategic Assessment Unit (SAU) Head and Analyst** - Acts as Validator of the CEN website.
 - **Research and Analysis Unit (RAU) Head and Analyst** - Oversees seizure and suspect list of the CEN website.
- **Management Information System and Technology Group (MISTG)** - Responsible for system upgrades, user account creation and coordination with NCEN Technical Experts pertaining to system upgrades or any system problems encountered and reported by the NCEN users.
- **Collection District** - District Collector's Office or Law Division has the authority to issue WSD and assign the given case to either CIIS or ESS, depending on whoever is the Initiator. Also acts as seizure creator and reviewer.
- **Customs Intelligence and Investigation Service (CIE)** — Responsible for creating and reviewing data on both seizure and suspect and ensures correct and extensive data input on both seizure and suspect cases.

- **Field Stations** - Acts as creator and reviewer.
- **Intellectual Property Rights Division (IPRD)** - Acts as creator and/or reviewer for both seizure and suspect cases.
- **Intelligence Group Production (IG-Prod)** — Acts as creator and reviewer.
- **Enforcement and Security Service (ESS)** - Responsible for creating and reviewing data on both seizure and suspect and ensures correct and extensive data input on both seizure and suspect cases.
 - **District Offices** — Acts as creator and reviewer.
 - **Customs Anti-illegal Drug Task Force (CAIDTF)** - Acts as suspect creator and reviewer, and seizure reviewer.
 - **Environmental Protection and Compliance Division (EPCD)** - Acts as suspect creator and reviewer, and seizure reviewer.
 - **Water Patrol Division** - Acts as creator and reviewer for both seizure and suspect cases.
- **Accounts Management Office** — Responsible for creating, reviewing, and updating company database in the NCEN.
- **Port Control Office** - Acts as suspect creator and reviewer.
- **X-ray Inspection Project (XIP)** - Acts as creator and reviewer. This office shall upload significant suspect and seizure details from scanned containers and possible images to the NCEN.

Operational Provisions

- **Data Input.** The Seizure and Suspect case Creator (either CIIS or ESS Officer) of the Port concerned shall encode to NCEN correct, specific and extensive details (nominal data i.e., of all seizure and smuggling incidents at the Port based on the original case folder of the seizure or investigation.
 - For any seizure or investigation data originating from other offices outside of the CIIS or ESS, the District Collector, his/her representative, or the Chief, Law Division of the Port has the responsibility to collect the original case folder and encode it into the NCEN.
 - The responsible offices are mandated to encode seizure case data in the system within 7 days from the date of issuance of Warrant of Seizure and Detention (WSD).

- **Data Process**
- Once suspect case has been created by the Creator, the Reviewer, or other possible officers on the case, may choose to edit the case or close the investigation:
 - If the Creator et. al chooses to edit the case, then it can possibly move to Seizure case database.
 - If the Creator et. al chooses to close the investigation, then it can also possibly move to seizure case, however there is higher likelihood that it may stay in suspected list/folder or could be edited by the Creator et. al.
- Suspect Reviewer (CIIS/ESS) verifies encoded suspected shipment.
- The Validator utilizes the verified files submitted.
- Upon the movement of the suspect case to seizure case and after the Seizure Creator (CIIS/ ESS Officer) encoded the case, the Reviewer (CIIS/ ESS Director) shall check and verify the accuracy of case/details submitted.
 - If the data is deemed accurate, the Reviewer shall assess the data to be forwarded to the Validator (RMO Chief) for validation for Global CEN submission, be retained in NCEN, or lastly Reviewer (RAU Analyst) may decide to retain or return the seizure case into suspect case.
 - If data is not accurate, the Field Station Chief may choose to edit the case data to correct the field report and forward it to the Reviewer (RAU Analyst) for further assessment before forwarding it to the Validator (RMO Chief) for validation for submission to the Global CEN, to remain in NCEN, or the Reviewer (RAU Analyst) may return the seizure case into suspect case.
- **Data Validation.** The Validator (RMO Chief) or his/her designated officer, shall validate and update, if necessary, the encoded data in the NCEN based on the facts of the investigation on a particular smuggling case. Only non-nominal data shall be shared to Global CEN.
- **Data Update.** The Creator of the case and/or Reviewer has the authority go update case data.
- **Data from Joint Operation.** In the case of Joint Operation/s between CIIS and ESS, the Initiator of said Seizure or Suspect case shall ensure encoding to NCEN.
- **National Reference Number.** The National Reference number is equivalent to the Warrant of Seizure and Detention number, The National Reference number is not identical to the NCEN number; NCEN number is system generated. It is necessary to include the Port code before the WSD number to avoid duplication of case files. (i.e., POI S.I. No. 001-2017)

Miscellaneous Provision

- Data sharing to other Government Enforcement Agencies is permissible and subject to existing policies created under relevant Joint Memorandum order/s.
- Non-nominal data, upon validation of the NCP, shall be approved by the Commissioner prior to data sharing through Global CEN.

Repealing Clause

If any part of this Order is declared by the Courts as unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force.

Effectivity

This Order shall take effect on 08 Feb. 2021.

JOINT CIRCULAR NO. 001-2021

Date Issued: February 1, 2021

Scope

Pursuant to the provisions of Section 244 of the National Internal Revenue Code (NIRC) of 1997, as amended, and Section 1800 of the Customs Modernization and Tariff Act (CMTA), in relation to Sections 148-A, 151, 157, 171, 172 and 265-A of the TRAIN Law, this Joint Circular is hereby promulgated to provide supplemental guidelines on the conduct of Random Field and Confirmatory Testing on gasoline, diesel and kerosene found in warehouses, storage tanks, gas stations and other retail outlets, and in such other properties or equipment, including mechanisms of transportation, of persons engaged in the sale, delivery, trading, transportation, distribution, or importation of fuel for domestic market.

cf. Section 148-A, subsection (j) of the National Internal Revenue Code as amended by RA 10963

Definition of Terms

Adulterated Fuel – shall refer to fuel whose quality has been weakened by adding inferior petroleum products or diluted by adding illegally smuggled fuels for purposes of evading duties and taxes and circumventing the provisions of RA No. 10963 and its implementing regulations

Section 2.1 of Department of Finance (DOF), Bureau of Customs (BOC), Bureau of Internal Revenue (BIR) Joint Circular 001.2019

Barges – a flat-bottomed boat for carrying freight, typically on canals and rivers, either under its own power or towed by another

Confirmatory Test – shall refer to the accurate and precise analytical test of the tested unmarked, adulterated, or diluted fuel using a device, tool or equipment, which shall validate and confirm the result of the Field Test that is immediately conducted in an accredited testing facility that is certified to ISO 17025

Section 148-A, subsection (j) 2nd par. of the National Internal Revenue Code as amended by Republic Act No. 10963

Confirmatory Fuel Test Certificate – shall refer to Certificate issued by fuel testing facilities which shall be valid for any legal purpose from the date of issue and shall constitute as admissible and conclusive evidence before any court

Section 171, last par. of the National Internal Revenue Code as amended by RA 10963

Counterfeit Fuel Marker – shall refer to a marker imitating the Official Fuel Marker or giving the appearance of the Official Fuel Marker for the purpose of circumventing the provisions of TRAIN Law and its implementing rules and regulations

Section 2.3 of DOF-BOC-BIR Joint Circular 001.2019

Depot – shall refer to a supply point of petroleum products (or bulk storage facilities) owned or leased by oil companies

cf. Section 3.1 (cc) of Department of Energy (DOE) Department Circular (DC) No. DC 2007-05-0006

Deputization Order – shall refer to a written order issued pursuant to BOC or BIR existing rules and regulations, authorizing named officers or members of Armed Forces of the Philippines and other law enforcement agencies, to assist in the exercise of police authority, particularly to search, seize and arrest in specified areas

cf. Section 3.11, Customs Administrative Order (CAO) 3-2019: Customs Jurisdiction and Exercise of Police Authority

Diluted Fuel – shall refer to fuel that does not meet the required level of Official Fuel Marker. Provided that for purposes of prosecution, assessment or seizure, fuel containing less than 95% of the marker level shall be deemed diluted

Section 2.4 of DOF-BOC-BIR Joint Circular 001.2019

Field Inspection Unit (FIU) – shall refer to a unit composed of officers from the Bureau of Customs (BOC) and Bureau of Internal Revenue (BIR) deputized to perform necessary function to effect the search, seizure and arrest in relation to petroleum products found to be unmarked, adulterated or diluted

Fuel Marking Service Provider (referred to as “Service Provider”) – shall refer to a firm engaged by the government that is responsible for providing, monitoring and administering the Official Fuel Marker, provide equipment and devices, conduct Field and Confirmatory Tests, and perform such other acts incidental or necessary to the proper implementation of the provisions of the law and its implementing rules and regulations

cf. Section 2.8 of DOF-BOC-BIR Joint Circular 001.2019

Fuel Stations – shall refer to a gasoline station, filling station or service station which services motor vehicles and dispenses fuel such as gasoline, diesel, kerosene, regardless if service is limited (i.e., own use) or for the public in general;

Fuel Testing Facility – shall refer to the testing laboratory operated by the Fuel Marking Service Provider that is certified to ISO 17025

cf Section 2.16 of DOF-BOC-BIR Joint Circular 001.2019

Fuel Supplier – shall refer to Owner or Representative of the terminal, depot, refinery that is identified as the source of the Adulterated, Diluted or Unmarked Fuel found during Field Testing

Marked Fuel – shall refer to fuel that meets the minimum level of the Official Fuel Marker required by law and this Joint Circular. Any fuel that does not contain the Official Fuel Marker shall be considered as Unmarked Fuel

Section 2.12 of DOF-BOC-BIR Joint Circular 001.2019

Mission Order – shall refer to a written directive or order given to any BOC and BIR officer or any deputized agent who shall be a government employee with regular plantilla position, issued pursuant to existing BOC and BIR rules and regulations

cf Section 3.19, Customs Administrative Order (CAO) 3-2019: Customs Jurisdiction and Exercise of Police Authority

Mobile Laboratory Unit – shall refer to the mobile testing laboratory operated by the Fuel Marking Service Provider that conducts Random Field Testing

Owner – shall refer to any Person, whether natural or juridical who refines/manufactures/processes and/or imports/exports and stores, distributes and sells petroleum products; For purposes of this Joint Circular, this shall include dealers; haulers; and other entities engaged in the Downstream Oil Industry

cf Section 3(I) of DOE Department Circular No. 2003-01-001

Dealer - refers to any person, whether natural or juridical, engaged in the marketing and direct selling of petroleum products to motorists, end users, and other consumers

Hauler - refers to any person, whether natural or juridical, engaged in the transport, distribution, hauling, and carriage of petroleum products, whether in bulk or packed form, from the oil companies and independent marketers to the petroleum dealers and other consumers

Downstream Oil Industry or Industry refers to the business of importing, exporting, re-exporting, shipping, transporting, processing, storing, distributing, marketing, and/or selling, crude oil, gasoline, diesel, liquefied petroleum gas (LPG), kerosene, and other petroleum products] as defined by Republic Act No. 8479 and its Implementing Rules and Regulations

Owner Representative – shall refer to the authorized representative of the owner of the fuel to be tested. For purposes of this Joint Circular, an employee assigned or working at the place (e.g. fuel station representative) or having possession of the fuel at the instruction or with full knowledge of the owner (i.e., driver of the Tank Truck, etc.) shall be deemed an authorized representative of the owner

Section 6.1. of DOF-BOC-BIR Joint Circular 001.2019

Probable Cause – shall refer to the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and the items or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched

Section 3.25, Customs Administrative Order (CAO) 3-2019: Customs Jurisdiction and Exercise of Police Authority

Random Field Test (referred to as “Field Testing”) – shall refer to periodic random inspections and tests performed to establish qualitative and quantitative result of fuel trafficking, which are conducted on fuels found in warehouses, storage tanks, gas stations and other retail outlets, and in such other properties or equipment, including mechanisms of transportation, of persons engaged in the sale, delivery, trading, transportation, distribution, or importation of fuel for domestic market

Section 148-A, subsection (j) of the National Internal Revenue Code as amended by RA 10963

Tank Trucks – shall refer to any single self-propelled motor vehicle, with or without a trailer, equipped with a cargo tank mounted thereon or built integral part thereof and used for transportation or handling of liquid fuels. Tank trucks shall include lorries and road tankers

Rule I, Section 3 (u) of DOE Department Circular No. DC-2017-11-0011

Vessel – shall refer to a boat or ship usually larger than an ordinary rowboat, used to hold liquid such as petroleum products.

Joint BIR and BOC Field Testing Special Task Force

The FIU shall serve as the joint special task force established by the BOC and BIR to perform the Field Testing activities. The same shall be created in coordination with other government agencies on matters concerning petroleum products.

Section 3.2 of DOF-BOC-BIR Joint Circular 001.2019

Par. 1 of Section 3.2. of DOF-BIR-BOC JC No.1-2019 is accordingly deleted.

Deputization and Police Authority. Pursuant to Sections 15 and 171 of the NIRC and Section 214 of the CMTA, the FIU are deputized to perform necessary function to effect search, seizure and arrest related thereto. For this purpose, BOC and BIR shall each provide a list of FIU officers to be included in the Deputization Order to be issued by each agency pursuant to its existing rules and regulations.

cf Section 3.3 of DOF-BOC-BIR Joint Circular 001.2019

Parties in the Field Testing Process

The parties under the program shall have the following responsibilities:

- Fuel Marking Service Provider. The Service Provider shall have the following responsibilities:
 - Develop and implement a Comprehensive Field Testing Program (CFTP), for review and approval of the Fuel Marking Program Technical Working Group (FMP-TWG), and implement the same with the FIU. The CFTP shall provide full coverage of the network of retail sites and all fuel storage facilities and warehouses in the country.
 - Generate a Field Testing Plan to be submitted daily to authorized FIU Officer(s). The Field Testing Plan shall specify the location(s) to be tested.
 - Conduct a nationwide sampling, testing and security sealing with the FIU, on petroleum product samples taken from refineries, gasoline stations and other storage/retail outlets as well as Vessels, Depots, warehouses, tank trucks or similar fuel-transporting vehicle.
 - Ensure that the signed copies of the Field Test Report and Confirmatory Fuel Test Certificates are uploaded in the Field Testing System, in real-time or at the soonest opportunity available.
 - Ensure that the Fuel Testing Facilities are certified to ISO 17025 and that the Confirmatory Fuel Test Certificates issued by Fuel Testing Facilities are valid for any legal purpose and shall constitute as admissible and conclusive evidence before any court.
- **Owner and his Representative.** The Owner and his Representative shall have the following responsibilities:
 - Allow FIU access in its premises or conveyance during the conduct of the Field Testing upon presentation of a valid Mission Order.
 - Provide FIU with information and documents during the Field Testing for purposes of identifying the Owner and his Representative having possession or control of the fuel, the source(s) of the fuel, the hauler or carrier of the fuel and other related information that may be required.
 - Direct the Service Provider to compartments or storage areas where samples of petroleum products to be tested shall be obtained.

DOF Department Order 69-2017 dated 6 November 2017: Mandating the Marking of all Petroleum Products that are refined in, manufactured in, and/or imported into the Philippines

- Witness the sampling and testing process and attest to the same by signing the Field Testing Result and Confirmatory Test Result, when applicable. In case of refusal, the FIU shall indicate such refusal, sign the document and leave a copy with the Owner or his Representative.
- **Field Inspection Unit (FIU).** The FIU shall have the following responsibilities:
 - Properly present the Mission Order and identification of the members of the FIU to the Owner or his Representative during Field Testing.
 - Ensure that appropriate protocols are observed and documented during the Field Testing process. Any deviation or incidents shall be properly reported and recorded for review.
 - Facilitate and witness the orderly conduct of sampling and testing procedure by the Service Provider in the Field Testing and Confirmatory Test at the Fuel Testing Facility.
 - Implement Field Testing activities on all the FMP-covered petroleum products found in the premises or conveyance identified in the Mission Order (MO). In case of hot pursuit or probable cause, all petroleum products in the conveyance and premises shall automatically be tested, even if not specifically identified in the MO.
 - Effect the search and seizure of petroleum products found to be Unmarked, Adulterated, or Diluted.
 - Perform other duties and responsibilities specified in the Mission Order issued pursuant to its existing rules and regulations

Field Testing Procedure

The following shall be observed in the conduct of Field Testing:

- **Field Testing Plan.** A Field Testing Plan identifying the area for testing and the designated Mobile Laboratory Unit shall be transmitted to FIU no later than 8:00AM of the day of the Field Testing.

In areas where the FIU and Mobile Laboratory Unit are not readily available, approval of the advance logistical deployment shall also be secured from the FMP-TWG. In such case, the Province subject of the Field Testing shall be allowed to be disclosed to the FIU. For this purpose, independent cities therein shall be considered part of the Province where it is geographically located.

The area identified for testing shall be based on intelligence report, risk assessment, historical test performance and other criteria as identified to be relevant in the proper implementation of the program.

Without prejudice to the Field Testing Plan to be drawn by the Service Provider, the BOC and BIR shall not be precluded from recommending locations and/or taxpayers as high priority for testing provided justification is submitted for the selection.

The frequency of testing in a location may be increased in case it is considered as high risk for fraud practice by the BOC, BIR and/or the Service Provider, and approved by the FMP-TWG.

- **Issuance of Mission Order.** Mission Order shall be issued to the FIU authorizing the conduct of Field Testing in locations identified in the Field Testing Plan.

The Mission Order shall clearly state the name of the persons carrying out the mission and the tasks to be carried out. The date of issuance and period of validity shall likewise be indicated in the Mission Order.

Republic Act. No. 10863, Section 214
par. 4

The Mission Order shall be issued in accordance with the applicable rules and regulations of BOC and BIR.

- **Testing Locations.** Field Testing shall be conducted in locations where fuel are transported, sold or stored, regardless if the facility is open to the public or for use of a limited group or person. Field Testing shall be subject to the following:
 - Any fuel found within the location specifically identified in the Mission Order and covered by the Fuel Marking Program shall be subject of Field Testing. In case of hot pursuit or probable cause, all petroleum products found in the conveyance and within the premises shall automatically be tested.
 - Field Testing shall likewise be conducted on fuel found in relation to a valid search and seizure operations by law enforcement agencies or in relation to other enforcement activities of the implementing agencies.
 - In all instances, safety standard for handling fuel shall be observed in the sampling and testing process. The applicable approved Standard Operating Procedure (SOP) shall be followed in the conduct of Field Testing regardless of location.

- For Field Testing on gas stations, storage tanks and other areas with fixed storage, the samples shall be drawn directly from the product storage.
- For Field Testing on Tank Trucks or similar fuel-transporting vehicle, general safety and security shall be considered in selecting the location of the site. In all instances, the location shall be well-lighted and identifiable as a Field Testing Check Point.
- Tank Trucks without proper safety mechanisms shall be escorted to the nearest Field Testing area or terminal with access to a testing platform.
- When a quality or safety seal is required to be broken, the Service Provider shall replace the seal and issue the necessary certification on the resealing activity after sampling is completed.
- When Field Testing is to be conducted on Vessels or Barges, assistance of the Philippine Coast Guards or other Law Enforcement Agency with capacity to provide nautical support shall be requested.
- When fuel samples cannot be obtained at sea without jeopardizing safety protocols, the Vessel shall be escorted to the nearest port where the sample can be extracted.
- When a checkpoint is established for purposes of Field Testing, the location shall be conspicuously marked as such to allow easy identification. A system to validate the check point location shall be established (i.e., distance readable/visible QR code bearing the Mission Order details and hotline for verification) prior to deployment.
- The Field Testing Check Point shall at all times be operated by the FIU, in coordination with law enforcement agencies, as necessary.
- **Presentation of Identification and Mission Order.** At all times, the appropriate protocol shall be observed by the FIU and Service Provider when conducting Field Testing activities. The following shall likewise be observed:
 - ◦ In all testing locations, the FIU shall properly identify themselves to the Owner or his Representative and present the Mission Order along with their official identification.
 - ◦ Upon service of the duly signed Mission Order by the FIU to the identified Owner or his Representative, the latter shall acknowledge receipt of the Mission Order and allow the Field Testing to proceed.
 - In case of refusal to receive the MO, the FIU shall conduct the following, as applicable:

Republic Act. No. 10863, Section 214
par. 4

cf Section 3.2 of DOF-BOC-BIR Joint
Circular 001.2019

- In case the subject for Field Testing is a conveyance, the denial shall raise a disputable presumption that the fuel to be tested is Adulterated, Diluted or Unmarked and withdrawn without payment of duties and taxes. In this case, the FIU shall proceed to stop and search the conveyance pursuant to Section 171 of the NIRC and Section 222 of the CMTA.
- In case the subject for Field Testing are fixed locations such as Fuel Stations, warehouses, refineries and Depots, the FIU shall constructively serve the Mission Order and proceed with the Field Testing.
- **Request for Documents and Information.** The Owner or his Representative shall be required to fill-out the Field Testing Information Form and provide the following documents to the FIU at applicable testing locations:
 - Fuel Station, Depot or similar storage facilities:
 - Company ID;
 - Certificate of Registration (COR);
 - Certificate of Marking; and
 - Other documents, as necessary
 - Tank Trucks or similar fuel-transporting vehicle:
 - Driver's License;
 - Delivery documents (e.g. Delivery Receipts, Withdrawal Certificate)
 - Certificate of Marking; and
 - Other documents, as necessary
 - Vessels or Barges:
 - Valid identification of the Master of the Vessel
 - Delivery documents (e.g. Delivery Receipts, Withdrawal Certificate)
 - Certificate of Marking; and
 - Other documents, as necessary
- **Fuel Sampling.** The following shall be observed during the fuel sampling process:
 - The Service Provider, witnessed by the Owner or his Representative and the FIU, shall collect 500 ml samples each of gasoline, kerosene and/or diesel from the following, as applicable:
 - All UGTs or storage tanks for locations with a single or multiple-product source UGTs;
 - All pumps for locations with single-product source UGTs only after fueling a vehicle; or
 - All compartments of Tank Trucks, Vessels or Barges
 - The samples shall be properly identified and documented for purposes of testing in the Mobile Laboratory Unit for testing.

- **Fuel Testing and Result Generation.** The following shall be observed during the fuel testing process:
 - The Service Provider shall prepare the samples in the designated container for testing. Before placing the sample in the Mobile Fuel Analyzer, the Service Provider shall present the samples to the FIU and Owner or his Representative for confirmation that the sample to be tested is the same sample drawn from the Owner or his Representative's UGT, storage or compartment.
 - The Owner or his Representative shall be allowed to view the testing process through the designated viewing window of the Mobile Laboratory Unit. The Owner or his Representative shall be requested to sign a form acknowledging he/she was offered a chance to view the testing process.
 - The test shall indicate a "PASS" or "FAIL" result.
 - "PASS" result is indicated when the marker content in the sample are detected by the fuel analyzer to be at least 95%.
 - "FAIL" is indicated when the marker content in the sample are detected by the fuel analyzer to be lower than 95%.
 - In case of a "PASS" result, the following steps shall be undertaken:
 - § The Service Provider shall print three (3) copies of the Field Test Report on-site. He shall sign it and hand over to the FIU and Owner or his Representative for their signature. Generated reports should be in compliance with the requirements of ISO 17025.

In case the tested fuel is from Tank Trucks, Vessel or Barges, said conveyance shall be re-sealed with the official seal of the Service Provider and released to the Owner or his Representative. A certificate evidencing that the original seals were replaced shall also be provided to the Owner or his Representative.

- For samples taken from the Fuel Station, Depot or similar storage facility, the same shall be released immediately to the Owner or his Representative.
- In case of a "FAIL" result, the following shall be undertaken:
 - The same sample shall be re-tested to confirm the initial result.
 - If the re-test indicates a "PASS" result, a third test shall be conducted to confirm the result.

- If the result of the third test indicates a “FAIL” result, enforcement action and procedures for Confirmatory Test shall immediately be conducted.
- If the re-test still indicates a “FAIL” result, the appropriate enforcement action and procedures for Confirmatory Test shall immediately be conducted.
- If the result of the third test indicates a “PASS” result, the subject petroleum product shall be treated as compliant. However, the tested sample shall be retained by the Service Provider for audit and investigation by the FIU.
- Samples with results indicating a marker content exceeding 100% marker presence shall also be subject to audit and investigation by the FIU.

Confirmatory Test

The following procedures shall be observed for the Confirmatory Test process:

- For the Confirmatory Test, the remaining fuel from the initially drawn 500 ml sample, shall be divided into five (5) bottles of approximately 100ml each and distributed as follows:
 - Two (2) samples for the Service Provider for use in Confirmatory Test and retention for legal proceedings.
 - One (1) sample for Owner or his Representative.
 - One (1) sample for Fuel Supplier, upon its request.
 - One (1) sample for the FIU, upon its request.

In case the Fuel Supplier does not request for his samples, it shall be disposed accordingly by the Service Provider.

- The primary sample bottle affixed with a barcoded sticker shall be sealed and used as sample for Confirmatory Test. The other four (4) sample bottles shall be prepared, sealed and affixed with a hand written sample tag to be filled-out by the Service Provider which shall include the sample ID number, fuel type, date and sample source.

Pictures may be taken by the FIU and Service Provider and printed as part of evidence or for validation purposes.

- The details of the samples shall be declared in a Confirmatory Test Form to be accomplished by the Service Provider and countersigned, upon receipt of the samples, by the FIU, Owner or his Representative, and Fuel Supplier, in case requested. Signed copies of the Confirmatory Test Form shall be distributed to the recipient of the fuel samples.

- The two (2) samples for the Service Provider and one (1) sample for the Fuel Supplier shall be placed in a cooled small secured steel box with padlock, where it shall remain until ready to be picked up by the designated Sweeper to be taken to Fuel Testing Facility.
- The FIU and the Service Provider shall ensure the security of the samples during transport until the samples are received by the Fuel Testing Facility.
- The FIU shall immediately notify the Owner or his Representative of the schedule and venue of the Confirmatory Test.
- The Confirmatory Test shall immediately be conducted after Field Testing or within the next calendar day from receipt of the samples by the Fuel Testing Facility, as applicable.
- Confirmatory Test shall proceed without the presence of the Owner or his Representative, provided that due notice was given and that the FIU is present to witness the proceedings.
- In case the Owner or his Representative is present during the Confirmatory Test, they shall be requested to sign the Confirmatory Test Result.
- The Service Provider shall conduct the Confirmatory Test in accordance with standard laboratory testing protocols.
- Confirmatory Fuel Test Certificates shall be issued by the Fuel Testing Facility within two (2) calendar days from the date of receipt of samples, with the exception of meritorious circumstances. This shall be valid for any legal purpose from the date of issue and constitute admissible and conclusive evidence before any court.
- Copies of Field Test Report, Confirmatory Fuel Test Certificates, documents and evidence gathered or prepared during the Field Testing for non-compliant petroleum product shall be transmitted to the FIU which shall maintain or designate a centralized storage for evidence purposes in case of prosecution. Digital copies of these documents shall likewise be automatically uploaded by the Service Provider to the Field Testing System.
- Samples for Confirmatory Test shall at all times, be handled by the Service Provider in the manner necessary to meet the evidentiary chain of custody requirement and sufficient to satisfy judicial evidentiary standard. The detailed handling, transport and storage process shall be indicated in the SOP.
- The samples, following the Confirmatory Test, shall be kept in special storage cabinets under controlled conditions sufficient to keep the integrity of the fuel tested. In no case shall the sample be stored or kept with other fuel samples which are not part of the Field Testing activities.

Section 148-A, subsection (j) 2nd par. of the National Internal Revenue Code as amended by Republic Act No. 10963

- The sample intended for the Fuel Supplier shall be kept by the Service Provider until it can be collected by the Fuel Supplier but shall not exceed one (1) month from the date of receipt of samples by the Fuel Testing Facility. Otherwise, the sample for the Fuel Supplier shall be disposed of accordingly.

Treatment of Unmarked Fuel, Diluted Marked Fuel or Containing Counterfeit Fuel Marker

Petroleum products found without the Official Fuel Marker or does not contain the required level of Official Fuel Marker, shall be subject to duties and taxes, inclusive of the appropriate fines and penalties, without prejudice to the confiscation and forfeiture of such Unmarked or Diluted Fuel and the filing of the appropriate criminal case.

Pending assessment and payment of the duties and taxes due thereon including penalty, the FIU shall impound the non-compliant fuel on site in accordance with the following procedures, as applicable:

- **Inventory of Non-Compliant Fuel.**
 - The FIU, with the assistance of the Service Provider, shall immediately conduct an inventory of the remaining volume of the fuel through dipstick reading or similar metering method from the source UGTs, storage tanks or compartments. A Stock Inventory Sheet shall be prepared and signed by all the parties concerned. A copy of the Stock Inventory Sheet shall be issued to the Service Provider.
 - The FIU shall require the Owner or his Representative the following information:
 - Name and address of the Fuel Supplier(s); ii. Invoices of the last two deliveries;
 - Copies of the Withdrawal and Marking Certificates of the last two deliveries; and
 - Record of the last inventory prior to the Field Testing.
- **Impounding and Seizure Actions**
 - **Fixed Location.** For refineries, Depots, warehouses and Fuel Stations, the following shall be undertaken:
 - The FIU, through the Service Provider, shall impound the fuel on site immediately after the second failed testing of the sample by posting/pasting/placing a security seal or sticker with the word "PADLOCKED." The sticker or sealing tape shall be signed by the FIU and the Service Provider.

- The FIU may be directed to underguard the facility as may be required by the circumstances.
- Confirmatory Test shall be conducted pursuant to the Confirmatory Test section of this Joint Circular.
- If the Confirmatory Test is "PASS", the Service Provider, with the presence of the FIU, shall remove the "PADLOCKED" sticker or sealing tape on all dispensing pumps, UGTs or storage tanks no later than 24 hours after the Confirmatory Fuel Test Certificate with a PASS result is generated. In case of geographical or travel limitations, the seal shall be removed as soon as practicable.
- If the Confirmatory Test confirmed the "FAIL" result, the FIU shall issue an assessment notice by computing the duties, taxes and penalties on the entire inventory of the impounded or seized products.
- The FIU shall serve the assessment notice to the concerned Owner upon receipt of the Confirmatory Test results. The Owner shall be ordered to pay duties and taxes due, including fines, penalties and Fuel Marking Fees, as applicable. Such assessment shall be without prejudice to the punishments provided for under Section 265-A of the NIRC, as amended.
- The Owner shall provide a copy of proof of payment and requests the unsealing of the dispensing pump or source UGT.
- The Service Provider, with the presence of the FIU, shall remove the "PADLOCKED" sticker or sealing tape on all dispensing pumps, UGTs or storage tanks (including those affixed by the Service Provider), after payment of the issued assessment and approval of the lifting order.
- The identified Fuel Supplier of the Unmarked/Diluted Fuel shall immediately be subjected to enforcement activity in accordance with the existing rules and regulations.
- **Non-Fixed Locations.** For Vessels, Tank Trucks or similar fuel-transporting vehicle, the following shall be undertaken:
 - The FIU shall request for a Warrant of Seizure and Detention.
 - Seized Tank Trucks shall be taken to the nearest Customs District. For Vessels, the FIU Officer shall be directed to underguard the Vessel until the fuel is taken to the nearest port.

- In the seizure proceedings, the Owner shall provide proof of payment of duties and taxes and justify to the extent possible, absence of marker or the cause of dilution. The Owner may request settlement by payment of fine provided, that there is no fraud.
- The Owner of the Vessel or Tank Truck may request the release of the Vessel or Tank Truck by proving that the means of conveyance is engaged as a common carrier and not chartered or leased, or that the agent thereof at the time, has no knowledge of the unlawful act
- Upon receipt of the result of the Confirmatory Test and the result is "PASS", the fuel shall immediately be released to its Owner within 24 hours;
- If the result is "FAIL", seizure proceedings shall continue and be completed pursuant to the existing rules and regulations of the FIU
- The identified source of the Unmarked, Diluted Fuel shall immediately be subjected to Field Testing and shall be recommended for Post Clearance Audit, without prejudice to other legal, actions that the FIU may take.

cf. Republic Act (RA) No. 10863, Section 1113 (k)

RA No. 10863, Title IV, Chapter and CAO 10-2020

Corrective Measures for Unmarked, or Diluted Fuel

In case the petroleum product is determined to be Unmarked, Diluted or Adulterated, either of the following action may be done after payment of applicable taxes, fines, penalties and Fuel Marking Fees without prejudice to Section 265-A of the NIRC, as amended:

- The Owner or his Representative shall immediately have the remaining Unmarked, Diluted or Adulterated Fuel from the source UGT, storage tank or compartment removed and replaced with a properly Marked Fuel
- The Unmarked, Diluted or Adulterated Fuel maybe be requested for marking pursuant to existing rules and regulations, provided that the request for marking shall be accompanied by the proof of payment of the taxes, fines, penalties and Fuel Marking Fees, as applicable. The Service Provider shall issue a Certificate of Marking to the Owner or his Representative as evidence of the marking

cf. Department of Energy (DOE) Circular No. 2015-06-0006, Section 5(a)

cf. Department of Energy (DOE) Circular No. 2015-06-0006, Section 5(b)

All costs, equipment and logistics relative to the corrective measures, including removal, replacement, and marking of fuel, shall be borne by/of the Owner.

Issuance of Certificate of Product Testing

To ensure that fuels are properly marked, the Service Provider shall conduct sampling and testing of the Marked Fuel from the refinery, terminal, depot, vessel, tank truck or other similar fuel storage facility. The cost of the Product Testing shall be borne by the fuel Owner.

Upon the conduct of the sampling and testing, a Certificate of Product Testing shall be issued in duplicate to the fuel Owner or his Representative. A copy of the Certificate of Testing will be transmitted to the BIR or BOC, as may be applicable pursuant to Section 4.1 and Section 4.2 of DOF-BIR-BOC JC No. 1-2019.

In case the Product Testing shall yield results indicating that the marker content is below the tolerance level, necessary validation shall be done to ensure that the declared fuel volume for marking and the marking applied is correct.

Upon determination of absence of irregularities in the declared volume of fuel for marking or other possible irregularities which may contribute to the undermarking process, the Service Provider shall conduct necessary measures to correct the marking level.

Fines, Penalties, and Offenses Relating to the Fuel Marking Program

All offenses relating to the Fuel Marking Program shall, in addition to the penalties imposed under Title X of the NIRC, as amended, Section 1401 of the CMTA and other relevant laws, be punishable under Section 265-A of the NIRC, as amended.

Disposition

Seized or impounded Unmarked, Diluted and Adulterated Fuel shall be disposed of in accordance with existing laws, rules and regulations of BOC or BIR.

Field Testing Monitoring

The Service Provider shall provide monthly reports or as frequent as necessary, detailing the activities undertaken during the Field Testing. These reports shall be submitted electronically to DOF, BIR, and BOC, while hard copies thereof shall be made available if required.

A dashboard shall be made available and maintained by the BOC and BIR to indicate the following information:

- Municipality
- No. of location tested
- No. of location with pass results 4. No. of location with failed result.

Transitory Provisions

Within reasonable time from the start of the Fuel Marking Program, Field Testing shall be done to determine the market saturation level. The Service Provider shall identify the location to be covered by the Transitory Field Testing which should include storage tanks, depots and terminal facilities.

During the community quarantine brought about by the COVID 19 Pandemic, the Omnibus Guidelines on the Implementation of Community Quarantine in the Philippines, as prescribed by the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF-EID) shall, at all times be observed.

In this regard, the implementing agencies as well as the Service Provider shall ensure that the personnel dispatched for every Field Testing complies with IATF Protocols.

Separability Clause

If for any reason, any provision/s of these Joint Circular is/are declared invalid, such parts thereof not affected shall remain in full force and effect.

Repealing Clause

All orders, circulars, memoranda, and other issuances, or parts thereof, which are inconsistent with this Joint Circular, are hereby repealed or modified accordingly.

Effectivity

This Joint Circular shall take effect immediately after its publication in a newspaper of general circulation.

MISTG MEMO NO. 03-2021

Issue Date: February 4, 2021

In accordance with CMO No. 05-2021 dated 28 January 2021, please be informed that the new procedure codes for lodgement of conditionally tax and/or duty-exempt importation under Section 800 of the CMTA will be implemented in the E2M system pursuant to the said CMO effective 08 February 2021.

The following National Procedure Code shall be used in filling up Box 37 of the Single Administrative Document (SAD):

Old Code	Description	New Code
T00	Section 800(A) of the CMTA, Duty Exempt	C01
T10	Section 800(B) of the CMTA, Duty Exempt	C02
T04	Section 800(C) of the CMTA, Duty Exempt	C03
T13	Section 800(D) of the CMTA, Duty Exempt	C04
T15	Section 800(E) of the CMTA, Duty Exempt	C05
T17	Section 800(F) of the CMTA, Duty and VAT Exempt	C06
N/A	Section 800(G) of the CMTA, Duty and VAT Exempt	C07
T21	Section 800(H) of the CMTA, Duty and VAT Exempt	C08
T25	Section 800(I) of the CMTA, Duty and VAT Exempt	C09
T27	Section 800(J) of the CMTA, Duty Exempt	C10
T56	Section 800(K) of the CMTA, Duty Exempt	C11
T30	Section 800(L) of the CMTA, Duty and VAT Exempt	C12
T33	Section 800(M) of the CMTA, Duty Exempt	C13
T35	Section 800(N) of the CMTA, Duty Exempt	C14
T37	Section 800(O) of the CMTA, Duty Exempt	C15
T52	Section 800(P) of the CMTA, Duty Exempt	C16
T39	Section 800(Q) of the CMTA, Duty and VAT Exempt	C17
T41	Section 800(R) of the CMTA, Duty Exempt	C18
T43	Section 800(S) of the CMTA, Duty Exempt	C19
T48	Section 800(T) of the CMTA, Duty and VAT Exempt	C20
T45	Section 800(U) of the CMTA, Duty Exempt	C21
T47	Section 800(V) of the CMTA, Duty Exempt	C22
T51	Section 800(W) of the CMTA, Duty Exempt	C23
T61	Section 800(X) of the CMTA, Duty Exempt	C24
T54	Section 800(Y) of the CMTA, Duty and VAT Exempt	C25
T71	Section 800(Z) of the CMTA, Duty and VAT Exempt	C26

For your information and guidance.

MISTG MEMO NO. 04-2021

Issue Date: February 18, 2021

In line with the continuous improvement of the E2M System, the Management Information System and Technology is ready to implement a new functionality in the enhanced Value Reference Information System (e-VRIS) which is the auto-substitution of value. This feature will automatically compute the invoice value once the Examiner click the "Auto-Substitute" button which the accepted value from the look-up table of the E-VRIS was adapted. Please refer to the attached step-by-step procedure on how to perform the auto-substitution value in the system.

This new feature of the e-VRIS will be available in the E2M Production server on 20 February 2021.

For your information and guidance.

OCOM MEMO NO. 24-2021

Issue Date: February 2, 2021

In line with this Bureau's efforts to intensify our border protection from the entry of illicit drugs and other anti-social commodities, you are hereby directed to:

- Ensure intensified monitoring of all empty containers including dry and empty reefer containers discharged in your respective ports and sub-ports;
- Communicate with the Philippine Drug Enforcement Agency (PDEA) for assistance and deployment of personnel for K9 sniffing, inspection and close coordination; and
- Inform Shipping Lines and Port Operators with Empty Container Depots that stringent inspection activities on all empty containers discharged in your respective ports will be conducted in close coordination with PDEA.

Further, you are also directed to submit progress reports on actions taken thereon on or before **17 FEBRUARY 2021** to the Port Operations Service (POS), Assessment and Operations Coordinating Group (AOCG).

For strict compliance.

OCOM MEMO NO. 25-2021

Issue Date: February 4, 2021

Pursuant to the Customs Modernization and Tariff Act (CMTA) in relation to Customs Administrative No. 03-2020 on the "Disposition of Seized, Abandoned and Forfeited Goods in Customs Custody" and in order to ensure that the disposition of goods, regardless of the mode, is compliant with existing customs and allied laws, rules, and regulation, all Collection Districts and Sub-Ports and all offices concerned are hereby **DIRECTED** to secure a **CLEARANCE**, *at least ten (10) days prior to the proposed disposition*, that the particular shipment for disposition is not a subject for any criminal case filed by the Bureau's Action Team Against Smugglers (BATAS), from the Legal Service, RCMG prior to the commencement of the following:

- Public Auction
- Donation
- Official Use of the Bureau
- Negotiated Sale
- Re-Exportation
- Destruction Condemnation
- Turn-Over to Proper Government Agencies

In relation thereto, the following must be submitted to the Legal Service, within five (5) days from the conclusion of the disposition:

- Final Inventory Report of the subject shipment duly prepared and certified by the assigned customs examiner; and
- All pertinent documents (including photographs) relative to the process of disposal, duly certified by the head of the disposing office.

Failure to comply with the foregoing shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provisions.

For strict compliance.

OCOM MEMO NO. 27-2021

Issue Date: February 9, 2021

This memorandum is being issued to clarify the mode of submission of goods declaration documents to the Bureau as outlined in the Zero Contact Policy for Assessment Offices in the Bureau of Customs per CMO 08-2020.

The only mode for submission of softcopies of goods declaration documents shall be through the Customer Care Portal System (CCPS). All goods declaration must have a corresponding ticket in the CCPS before they can be processed by the Bureau's Assessment Offices. Any importer or broker who fails to comply shall be penalized accordingly.

Any BOC personnel who processes a goods declaration in the absence of a corresponding ticket for such, shall be subject to administrative liability.

For your information and guidance.

OCOM MEMO NO. 29-2021

Issue Date: February 8, 2021

As provided under Customs Memorandum Order No. 06-2021 , the Bureau hereby imposes provisional safeguard duties on imported vehicles in the form of a cash bond amounting to Seventy Thousand Pesos (P70,000.00) per unit of any four-wheeled passenger cars (PCs) designed to transport less than ten (10) persons and not primarily to transport goods classified under ASEAN Harmonized Tariff Nomenclature (AHTN) Code 8703 and One Hundred Ten Thousand Pesos (PI 10,000) per unit of imported light commercial vehicles (LCVs) whether four-wheeled drive or not which are designed to carry both passenger and cargo that are classified under AHTN Codes 8704.21.19 and 8704.21.29.

In relation thereto, all concerned are hereby informed of the following operational guidelines:

- Upon lodgment of the goods declaration for goods under the AHTN Codes covered by CMO 06-2021, Box 13 (Tentative Release) of the Single Administrative Document (SAD) will be prompted mandatory by the system.
- The Customs Examiner shall indicate the letter "B" in Box 13 of the SAD upon registration/updating of the goods declaration.
- The Customs Examiner shall determine the amount of the provisional safeguard duty due and notify the importer of the total amount of safeguard duty imposed through the Customer Care Portal System (CCPS). The Customs Examiner shall ensure that the correct safeguard duty is imposed, taking into consideration the provisions of CMO 06-2021 in relation to DAO 20-11.
- The Importer shall post the cash bond, in the form of a Manager's Check, in the amount as determined by the Customs Examiner to the Cash Division or its equivalent office of the relevant Port.
- The Cash Division or its equivalent office of the relevant Port shall use the E2M's Cash Miscellaneous Module indicating the Account Code "PSG" (Provisional Safeguard Duty) and Mode of Payment "53" (Cash Bond) as payment reference. Thereafter, a copy of the bond's reference shall be transmitted to the Assessment Unit of the Port.

- The Cash Division or its equivalent office shall issue OR Form No. 51 -C. The Collection Division is directed to ensure that the cash bond is duly recorded and deposited to the Bureau of Treasury (BTr) under Account No. 3402-280408 with Fund Code 184.
- The Cash Division or its equivalent office shall maintain a Subsidiary Ledger and submit, every 10th day of the following month, a Report of Collection to the Accounting Division, Financial Management Office.
- The District Collector and others concerned are directed to ensure the validity of the Managers Check, including its renewal/re-issuance to cover the entire duration of the investigation.
- After the issuance of the BCOR, the stakeholder shall submit the same through the Customer Care Portal System (CCPS).
- Once received by the Customs Examiner/Appraiser, the Customs Examiner/Appraiser shall assess the SAD and indicate in the Inspection Act the details of the cash bond posted and shall proceed with the Final Assessment.
- If the goods declaration falls under the Super Green Lane (SGL) or Green Lane, the Cash Division or its equivalent office of the Port shall monitor and ensure the payment of the provisional safeguard duty.
- The personnel assigned at the Port handling the Electronic Certificate of Payment (E-CP) System shall ensure that payment of Provisional Cash Bond has been made before the issuance of Certificate of Payment.

Furthermore, all offices concerned are directed to ensure effective implementation and monitoring of this Memorandum and CMO 06-2021 in relation to DAO 20-11 including the exceptions from the imposition provided therein. More particularly:

- Imported passenger cars/vehicles that are described as Completely Knocked Down (CKD), Semi Knocked-Down (SKD), and used vehicles as well as Special Purpose Vehicles (SPVs) such as ambulance, hearse, electric motor vehicles, and luxury cars that have high-end features that go above and beyond the average necessities amounting to more than US\$25,000 based on the FOB Price.
- Imported light commercial vehicles that are described as CKD, SKD, and used vehicles as well as ambulance, hearse, e-motor vehicles, and luxury cars that have high-end features that go above and beyond the average necessities amounting to more than US\$28,000 based on the FOB Price.

For strict compliance.

OCOM MEMO NO. 37-2021

Issue Date: February 5, 2021

Pursuant to the issuance of CAO No. 13-2020 on the subject “Imposition of Penalties, Surcharges, Interests and Other Charges for Lifting, Claiming, or Recovering Part of the Proceeds in the Sale of Impliedly Abandoned Goods”, all ports are hereby notified on the proper application of its effectivity date, to wit:

- For penalties, surcharges, interests and other charges – CAO No. 13-2020 shall only start to apply on shipments arriving on 26 December 2020; and
- For docket and required charge, and documentary stamp tax – CAO No. 13-2020 shall be applicable as of 26 December 2020 regardless of date of arrival of imported goods.

For your reference and guidance.

OCOM MEMO NO. 44-2021

Issue Date: February 26, 2021

Under Customs Memorandum Order (CMO) No. 30-2020, transfer of shipments to the PEZA Zones from the Port of Discharge are required to be covered by a Bond Policy/Account created under the Bureau's Automated Bonds Management System or ABMS. However, there are instances where bulk shipment of PEZA-registered enterprises are discharged directly through their own private wharves or piers located inside the PEZA Zone thus negating the rationale for the posting of the required General Transport Surety Bond (GTSB).

To satisfy the requirements for the implementation of the ABMS for PEZA-bound shipments, a staging (dummy) Bond Policy/Account shall be required for concerned PEZA-registered enterprises which shall be created to be kept and monitored by the Bonds Division or equivalent unit of the Port concerned. Creation of the staging Bond Policy/Account shall be governed by the following guidelines:

- The PEZA-registered enterprises shall write the District Collector/Sub-Port Collector/OIC Customs PEZA Office, requesting for the creation of the staging Bond Policy/Account. The request must include the TIN number of the registered PEZA enterprise which will be used in creating the staging Bond Policy/Account.
- The bond amount shall be fixed at the Five Hundred Million Pesos (Php500,000,000.00).
- Upon approval of the request for the creation of a staging Bond Policy/Account, the District/Port Collector shall forward his approval to the Deputy Collector for Assessment and the Bonds Division, or their equivalent at the Port.
- The Deputy Collector for Assessment or his equivalent shall create the staging Bond Policy/Account following the below format:

DUM + Importers TIN Number

Ex. DUM001234567000

Consistent with CMO 30-2020, the staging Bond Policy/Account shall also expire on the 31st day of January of the following year.

- The Bonds Division/equivalent unit shall tag the staging Bond Policy/Account as examined and approved in accordance with the procedures prescribed in CMO 14-2012.
- The Office of the Deputy Collector for Operations/equivalent unit, during the processing of the Goods Declaration shall thoroughly check the declarations made in the Transit Single Administrative Document (TSAD), making sure that the use of the staging Bond Policy/Account under the Terms of Payment shall only be for those shipments directly discharged at the registered-enterprise' private wharf/pier located inside the PEZA Zone.
- For ports where there is no arrastre operator to confirm ownership of the shipment and tag the shipments as "RELEASED" in the OLRs, the Chief of the Piers and Inspection Division (PID) or equivalent unit shall be given access to the OLRs for the tagging of the shipment as "RELEASED".
- Once the shipment is fully discharged, the TSAD covering the same shipment shall be tagged "ARRIVED" by the PID or equivalent unit. The Chief of the PID or equivalent unit shall assign personnel therefrom who shall be given the authority and the access to tag as "Confirmed Ownership" and "RELEASED".
- Once the shipment is tagged "ARRIVED" the amount charged shall be reverted to the original balance of the staging Bond Policy.

All other provisions of CMO 14-2012 and 30-2020 not consistent herewith shall remain in force and effect.

AOCG MEMO NO. 55-2021

Issue Date: February 1, 2021

In order to prevent the spread of disease carried by illegally imported meat and poultry products and to prevent the possible entry into the market of said products, all ports are ordered to immediately take action by disposing thru burning all seized illegally imported meat and poultry products.

All actions to be taken against illegally imported meat and poultry products should be coordinated with the Department of Agriculture (DA) in your respective areas of responsibility.

For immediate compliance.

AOCG MEMO NO. 67-2021

Issue Date: February 5, 2021

In accordance with the Rules of Origin set under Operational Certification Procedures of Various Free Trade Agreements (FTA) and pursuant to Administrative Provision No. 2 of CMO No. 2-2010, Export Coordination Division shall carry out pre-examination of the goods and issue Product Evaluation Report (PER) on each export product applied before the Certificate of Origin can be issued to determine that goods to be exported quality for the issuance of the same.

Correspondingly, the Product Evaluation Report shall be valid for three (3) years [note: The three-year validity period may still be subject to review periodically or whenever appropriate.] but can still be subject to review periodically or whenever appropriate. Thus, Exporters who previously applied for Product Evaluation Report that lapsed the three-year validity period are directed to re-apply [note: For application of product evaluation within Metro Manila, it shall be submitted to Export Coordination Division, Port Operations Service, AOCG pursuant to CMO No. 28-2020 re: Revocation of CMO No. 11-2020 re: Temporary Delegation by Export Coordination Division (ECD) to Export Division (ED) the function of pre-evaluation of exporters and their export products for certificate of origin issuance purposes.] for its updated evaluation.

For locally produced and/or wholly obtained export products, self-declaration by the exporter, manufacturer, and/or trader exporting under various FTA shall be used as the basis when applying for the issuance of the Certificate of Origin in compliance to the existing laws, rules, and regulations thereon.

In this regard, all Exporters are given the period of **two (2) months** from the date of publication of this Memorandum within which to comply with the Product Evaluation requirement, otherwise, no Certificate of Origin can be issued.

For your information.

AOCG MEMO NO. 75-2021

Issue Date: February 10, 2021

In consistence with the existing customs laws, rules, and regulations, and to be uniform with Section 10.3 of CMO 15-2019 although the same is only applicable for ATIGA, the Product Evaluation Report of other FTAs shall now be valid for a period of **five (5) years from the date of issuance.**

Thus, for Product Evaluation Reports, previously issued to exporters with a validity period of three (3) years, the same shall be extended to five (5) years in compliance with the abovementioned regulations, subject to periodic review or whenever appropriate.

Further, as a matter of clarification, all provincial applications for the issuance of Product Evaluation Report and Certificates of Origin are still to be filed with and processed by provincial Export Division pursuant to AOCG Memorandum Order No. 228-2020 re: Clarification on the Applicability of CMO 28-2020.

All orders, memoranda, circulars, or parts thereof which are inconsistent with this Memorandum are deemed revoked, amended, or modified accordingly.

Please be guided accordingly.

AOCG MEMO NO. 79-2021

Issue Date: February 10, 2021

Pursuant to the provision of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) and Section 4.9 of Commission Order no. 2017-1 (Procedure on Application for an Advance Ruling on Tariff Classification related to Importation of Goods), the Tariff Commission furnished copies of the Advance Ruling (AR) on Tariff Classification with Tariff Classification Circulars (TCC/AR) issued on 08 February 2021 and the same having been reviewed and summarized as follows:

TCC NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2021 RATES OF DUTY
20-233	"DRYSURF TF-3500EL"	3403.99.19	MFN - 1% Ad Valorem PJEPA - Zero* AJCEPA - Zero*
20-235	"PRETON R-303PX2"	2710.19.43	MFN - Zero PJEPA - Zero* AJCEPA - Zero*
21-240	"TOYOLAC RESIN ASA TA50-X02 NB642 BLK"	3903.90.99	MFN - 10% Ad Valorem ATIGA - Zero*
21-246	"PRETON R-303P"	2710.19.43	MFN - Zero PJEPA - Zero* AJCEPA - Zero*
20-248	"SANFOAM RC-1037"	3907.20.90	MFN - 3% Ad Valorem ATIGA - Zero*
20-270	"DXN GEGEN PLUS CAPSULE"	2106.90.72	MFN - 7% Ad Valorem ATIGA - Zero*
20-275	"POPSOCKETS POPMOUNT 2 CAR VENT"	3926.90.99B	MFN - 15% Ad Valorem ACFTA - Zero*

****Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).***

AOCG MEMO NO. 95-2021

Issue Date: February 5, 2021

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) and Section 4.9 of Commission Order No. 2017-1 (Procedure on Application for an Advance Ruling on Tariff Classification related to Importation of Goods), the Tariff Commission furnished copy of the Advance Ruling (AR) on Tariff Classification with Tariff Classification Circular (TCC/AR) issued on 05 January 2021 and the same having been reviewed and summarized as follows:

TCC NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2020 RATES OF DUTY
20-241	"SANFOAM RC-1254"	3907.20.90	MFN - 3% Ad Valorem ATIGA - Zero*
<i>*Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).</i>			

AOCG MEMO NO. 122-2021

Issue Date: February 24, 2021

With reference to above mentioned subject and pursuant to Section 5.14.2 of CAO No. 13-2019, you are hereby directed to furnish the Warehouse Coordination Division thru the Imports and Assessment Service within three (3) days from receipt, copies of all requests for extension of storage period for perishable goods.

For strict compliance.

ABOUT US

Nague Malic Magnawa & Associates Customs Brokers (NMM) is a general professional partnership of customs brokers duly registered by the Securities and Exchange Commission and the Bureau of Customs. As the first general professional partnership of customs brokers registered with SEC and BOC, it complies with RA 9280, or the Customs Brokers Act of 2004. It has offices in Metro Manila and Cebu, and brokers in Clark, Subic, Davao, Cagayan de Oro, Batangas, and other major ports and special economic zones in the Philippines.

To learn more about the company, please visit our website at:

<http://www.nmmcustomsbrokers.com/>

If you have questions or comments, you may send them to:

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