

§ 103.6

19 CFR Ch. I (4–1–11 Edition)

20229. Requests may be delivered personally to the Disclosure Law Officer, U.S. Customs Service, Headquarters, Washington, DC.

(2) *Field offices.* A person shall request records or information maintained in a field office of the United States Customs Service by either mailing or personally delivering the request to the director of the service port, or if the records concern the Office of Investigations, the special agent in charge, where the field office is located.

(e) *Reasonable description of records.* A request for records must describe the records in reasonably sufficient detail to enable a Customs officer who is familiar with the subject area of the request to locate the records without placing an unreasonably burden upon the United States Customs Service. While no specific formula for a reasonable description of a record can be established, the requirement is usually satisfied if the requester gives the name, subject matter, and, if known, the date and location of the requested record. However, a requester should furnish any additional information which will more clearly identify the requested records. If a request does not reasonably describe the records being sought, the appropriate Customs officer shall ask the requester to refine the request. If necessary a requester may be granted a conference with knowledgeable Customs personnel. The requirement for a reasonably description is not a device for improperly withholding records from the public.

(f) *Date of receipt of request.* A request for records is considered to have been received for purposes of this part on the later of the dates on which:

(1) The requirements of paragraph (c) of this section have been satisfied; and, where applicable,

(2) The requester has agreed in writing, by executing a separate contract or otherwise, to pay the fees for search and duplication determined to be due in accordance with §103.10; or

(3) The fees have been waived in accordance with §103.10(d); or

(4) Payment in advance has been received from the requester.

A Customs officer or employee who receives a request for records and a separate agreement to pay, or a letter

transmitting prepayment, or who issues a final notification of waiver of fees, shall stamp the date of receipt or dispatch by the responsible office on the material. The latest of those dates is the date of receipt of the request. As soon as the date of receipt has been established, the appropriate Customs officer shall acknowledge receipt and inform the requester of the title of the Customs officer who is responsible for acting on the request.

(g) *Search for record requested.* Upon the receipt of a request, the appropriate Customs officer shall attempt to identify and locate the requested records. With respect to records maintained in computerized form, a search for a record includes services functionally analogous to searches for records which are maintained in a conventional form. However, Customs personnel are not required to tabulate or compile information for the purpose of creating a record. Only records in existence at the time of the receipt of the request will be treated as falling within the scope of the request and no request for the continuing production of documents created after receipt of the request will be honored.

(h) *“Request for record” defined.* For purposes of uniformity in record-keeping a “request for a record” is defined as a written request for a record of the U.S. Customs Service which has not been published in the FEDERAL REGISTER, the Customs Bulletin, by press release, or otherwise, or made available in a public reading room, or which has not previously been customarily furnished to requesters, whether or not the request makes reference to the Freedom of Information Act, as amended (5 U.S.C. 552).

[T.D. 81–168, 46 FR 32565, June 24, 1981; 46 FR 35084, July 7, 1981, as amended by T.D. 91–77, 56 FR 46114, Sept. 10, 1991; T.D. 99–27, 64 FR 13675, Mar. 22, 1999]

§ 103.6 Grant or denial of initial request.

(a) *Officers designated to make initial determinations—*(1) *Service ports.* The appropriate director of a service port, or in the case of records of the Office of Investigations, the appropriate special agent in charge (SAC), shall make any initial determination of a request for a

record which is maintained, respectively, at that service port or under the SAC's jurisdiction.

(2) *Headquarters.* For records located at Customs Service Headquarters, the initial determination to grant or deny a request shall be made by the appropriate Division Director at Customs Service Headquarters having custody of or functional jurisdiction over the subject matter of the requested records. In the event the request relates to records which are maintained in an office which is not within a division, the initial determination shall be made by the individual designated for that purpose by the Assistant Commissioner having responsibility for that office.

(b) *Time limit for initial determinations.* The time limit for making an initial determination to grant or deny a request for records, including the time for notifying the requester of that determination, is 10 days (excepting Saturdays, Sundays, and legal public holidays) after the date of receipt of the request (see §103.5(f)), unless the designated officer invokes an extension pursuant to §103.8(a) or the requester otherwise agrees to an extension.

(c) *Grant of request.* If the appropriate Customs officer grants a request, and if the requester wants a copy of the requested records, that officer shall mail a copy of those records to the requester together with a statement of the fees for search and duplication at the time of the determination or promptly thereafter. If a requester wants to inspect the record, the appropriate Customs officer who grants the request shall send written notice to the requester stating the time and place of inspection and the amount of any fee involved in the request. In such a case, the appropriate Customs officer shall make the record available for inspection at the time and place stated, but in a manner so as not to interfere with its use by the United States Customs Service or to exclude other persons from making an inspection. In addition, reasonable limitations may be placed on the number of records which may be inspected by a person on any given date. The requester is not allowed to remove a record from the inspection room. If, after making inspection,

the requester wants a copy of all or a portion of the requested record, the appropriate Customs officer shall supply the desired copy upon payment of the established fee prescribed in §103.10.

(d) *Denial of request.* The Customs officer who denies a request for records (whether in whole or in part) shall mail written notice of the denial to the requester. The letter of notification shall contain (1) the physical location of the requested records, (2) the applicable exemption(s) and reason for not granting the request, (3) the name and title or position of the Customs officer who denied the request, (4) advice on the right to administrative appeal in accordance with §103.7, and (5) the title and address of the Customs officer who is to decide any appeal.

(e) *Inability to locate records within time limits.* If a requested record cannot be located and evaluated within the initial 10-day period or the extension period allowed under §103.8(a), the Customs officer who is responsible for the initial determination shall continue to search for the records. However, that officer shall also notify the requester of the facts and inform the requester that he or she may consider the notification to be a denial of access within the meaning of paragraph (d) of this section, and provide the requester with the address for the submission of an administrative appeal. The requester may also be invited, in the alternative, to agree to a voluntary extension of time in which to locate and evaluate the records. A voluntary extension of time does not waive a requester's right to appeal any ultimate denial of access or to appeal a failure to locate the records within the voluntary extension period.

[T.D. 81-168, 46 FR 32565, June 24, 1981, as amended by T.D. 96-36, 61 FR 19838, May 3, 1996]

§ 103.7 Administrative appeal of initial determination.

(a) *To whom appeals should be submitted.* A requester may submit an administrative appeal to the FOIA Appeals Officer at Headquarters, within 35 days after the date of notification described in §103.6 or the date of the letter transmitting the last records released, whichever is later. A requester