

§ 103.21 Purpose and definitions.

(a) *Purpose.* (1) This subpart sets forth procedures to be followed with respect to the production or disclosure of any documents contained in Customs files, any information relating to material contained in Customs files, any testimony by a Customs employee, or any information acquired by any person as part of that person's performance of official duties as a Customs employee or because of that person's official status, hereinafter collectively referred to as "information", in all federal, state, local, and foreign proceedings when a subpoena, notice of deposition (either upon oral examination or written interrogatory), order, or demand, hereinafter collectively referred to as a "demand", of a court, administrative agency, or other authority is issued for such information.

(2) This subpart does not cover those situations where the United States is a party to the action. In situations where the United States is a party to the action, Customs employees are instructed to follow internal Customs policies and procedures.

(b) *Customs employee.* For purposes of this subpart, the term "Customs employee" includes all present and former officers and employees of the United States Customs Service.

(c) *Customs documents.* For purposes of this subpart, the term "Customs documents" includes any document (including copies thereof), no matter what media, produced by, obtained by, furnished to, or coming to the knowledge of, any Customs employee while acting in his/her official capacity, or because of his/her official status, with respect to the administration or enforcement of laws administered or enforced by the Customs Service.

(d) *Originating component.* For purposes of this subpart, the term "originating component" references the Customs official, or the official's designee, in charge of the office responsible for the collection, assembly, or other preparation of the information demanded or that, at the time the person whose testimony is demanded acquired the information in question, employs or employed the person whose testimony is demanded.

(e) *Disclosure to government law enforcement or regulatory agencies.* Nothing in this subpart is intended to impede the appropriate disclosure of information by Customs to federal, state, local, and foreign law enforcement or regulatory agencies, in accordance with the confidentiality requirements of the Privacy Act (5 U.S.C. 552a), the Trade Secrets Act (18 U.S.C. 1905), and other applicable statutes.

(f) *Disclosure to federal attorneys and the Court of International Trade.* Nothing in this subpart is intended to restrict the disclosure of Customs information requested by the Court of International Trade, U.S. Attorneys, or attorneys of the Department of Justice, for use in cases which arise under the laws administered or enforced by, or concerning, the Customs Service and which are referred by the Department of the Treasury to the Department of Justice for prosecution or defense.

(g) *Disclosure of non-Customs information.* Nothing in the subpart is intended to impede the appropriate disclosure of non-Customs information by Customs employees in any proceeding in which they are a party or witness solely in their personal capacities.

(h) *Failure of Customs employee to follow procedures.* The failure of any Customs employee to follow the procedures specified in this subpart neither creates nor confers any rights, privileges, or benefits on any person or party.

(i) *In camera inspection of records.* Nothing in this subpart authorizes Customs personnel to withhold records from a federal court, whether civil or criminal, pursuant to its order for such records appropriately made, for purposes of *in camera* inspection of the records to determine the propriety of claimed exemption(s) from disclosure.

§ 103.22 Procedure in the event of a demand for Customs information in any federal, state, or local civil proceeding or administrative action.

(a) *General prohibition against disclosure.* In any federal, state, or local civil proceeding or administrative action in which the Customs Service is not a party, no Customs employee shall, in response to a demand for Customs information, furnish Customs documents