

§ 103.4

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the United States Customs Service are familiar with its location and scope. The provisions of 5 U.S.C. 552(a)(1) and 1 CFR part 20 control any incorporation of matter by reference.

(2) *Effect of failure to publish.* Except to the extent that a person has actual and timely notice of the terms of any matter referred to in paragraph (a) of this section which is required to be published in the FEDERAL REGISTER, that person is not required in any manner to resort to, or be adversely affected by, that matter if it is not published or incorporated by reference. That is, any matter which imposes an obligation and which is not published or incorporated by reference can not adversely change or affect a person's rights.

§ 103.4 Public inspection and copying.

(a) *In general.* Subject to the application of the exemption described in §103.12 the United States Customs Service is required, by 5 U.S.C. 552(a)(2) and §§174.32 and 177.10 of this chapter, to make available for public inspection and copying or, in the alternative, promptly publish and offer for sale, the following information:

(1) Final opinions and orders, including concurring or dissenting opinions, made in the adjudication of cases;

(2) Within 120 days of issuance, any precedential decision (including any ruling letter, internal advice memorandum, or protest review decision) issued under the Tariff Act of 1930, as amended, with respect to any Customs transaction;

(3) Those statements of policy and interpretations which have been adopted by the United States Customs Service but are not published in the FEDERAL REGISTER; and

(4) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) *Indexes.* The United States Customs Service is required by 5 U.S.C. 552(a)(2) to maintain and make available for public inspection and copying those current indexes which identify any item described in paragraphs (a) (1) through (3) of this section that is issued, adopted, or promulgated after July 4, 1967, and that is required to be made available for public inspection or

published. Unless the Commissioner determines by an order published in the FEDERAL REGISTER that publication is unnecessary and impracticable, these indexes are published on a quarterly or more frequent basis and are available for purchase at each of the public reading rooms listed in §103.1, at a cost not to exceed the direct cost of duplication.

(c) *Effect of failure to publish or make available.* No matter, described in paragraphs (a) (1) through (3) of this section which is required by this section to be made available for public inspection or published, may be relied upon, used, or cited as precedent by the United States Customs Service against a party, other than an agency, unless that party has actual and timely notice of such matter or unless the matter has been indexed and either made available for inspection or published, as provided by this section. This paragraph applies only to matters which have precedential significance and does not apply to matters which have been made available pursuant to §103.3.

(d) *Deletion of identifying details.* To prevent an unwarranted invasion of personal privacy, in accordance with 5 U.S.C. 552(a)(2), identifying details contained in any matter described in paragraphs (a) (1) through (3) of this section are deleted before making that matter available for inspection or publication. However, in every case where identifying details are deleted, the basis for the deletion is explained in writing, giving specific reasons for the deletion and citing the applicable provision of 5 U.S.C. 552 and §103.12, in an attachment to the document from which the identifying details have been deleted.

(e) *Public reading rooms.* The United States Customs Service has available for inspection and copying, in a reading room or otherwise, the matters described in paragraphs (a) (1) through (3) of this section which are required by paragraph (a) to be made available for public inspection or published in the current indexes. Facilities are provided whereby a person may inspect and obtain copies of the material. There is no fee for access to materials, but a fee is charged in accordance with §103.10 for a copy of any material provided.