



WORLD CUSTOMS ORGANIZATION

Model AEO Appeal Procedures

The WCO Authorized Economic Operator guidelines (see AEO guidelines, II. Validation and Authorization; Application and Authorization, paragraph 4) specify as follows:

The AEO authorization will be valid until suspended, revoked or withdrawn for a material failure to abide by the terms and conditions of the authorization. National AEO programmes need to include a means of appeal against decisions by Customs administrations regarding AEO authorization including denial, suspension, revocation or withdrawal.

The following Draft Model Appeal Programme, to be annexed to the SAFE Framework, is offered for consideration by Members. The unspecified time limits appearing in paragraphs (e), (f), and (g) are to be determined by the adopting Members. These draft voluntary provisions are not in conflict with those found in the Revised Kyoto Convention, General Annex, Chapter 10.

Denial, Suspension, Revocation or Withdrawal of Authorization

- (a) Authority for Denial, Suspension, Revocation or Withdrawal: The National Customs administration or its controlling authority (hereinafter referred to jointly as the Granting Authority) may deny, suspend, revoke or withdraw the authorization which it has granted an Authorized Economic Operator. The reasons for such actions are totally within the competence and discretion of such Granting Authority.
- (b) Prior Consultation: Before denying, suspending, revoking or withdrawing a pending or existing AEO authorization, the Granting Authority may consult with the applicant or AEO in an attempt to determine if resolution other than denial, suspension, revocation or withdrawal is appropriate.
- (c) Action on Denial, Suspension, Revocation or Withdrawal: If the Granting Authority determines under the preceding section that an alternative resolution is not appropriate, it may for a material failure to abide by the terms and conditions of the authorization deny, suspend, revoke or withdraw a pending or existing AEO authorization.
- (d) Notice Regarding Denial Suspension, Revocation or Withdrawal: The Granting Authority may deny, suspend, revoke or withdraw existing or pending AEO authorization by serving notice of the proposed action in writing upon the AEO or applicant. Such notice should specifically set forth the grounds for the proposed action, and would be final and conclusive upon the party served unless the AEO or applicant files a written notice of appeal with the Granting Authority in accordance

with paragraph (e) of this document. Any action to deny suspend, revoke or withdraw AEO authorization should become effective only after the conclusion of an initial administrative appeal to the Granting Authority which results in an adverse decision, or upon expiration of the period specified in paragraph (e) for the filing of such initial appeal.

- (e) Notice of Appeal: The party served may file a written notice of appeal from the proposed action of the Granting Authority within **XX** days following receipt of the written notification of proposed action. The notice of appeal should set forth the response of the AEO/applicant to the statement of the Granting Authority. The AEO/applicant may request a hearing as part of a notice of appeal.
- (f) Hearing on Appeal: (1) Notification of place and time of hearing : If a hearing is requested, it should be held before a hearing officer designated by the senior official of the Granting Authority or his or her designee within **XX** days following the date of application therefore. The AEO/applicant should be notified of the time and place of the hearing at least **XX** days prior thereto. (2) Conduct of Hearing: The AEO/applicant may have a representative of his or her choice at the denial, suspension, revocation or withdrawal hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, should be presented with both parties having the right of cross-examination. A record of the proceedings should be made and a copy thereof be delivered to the AEO/applicant. At the conclusion of such proceedings or review of a written appeal, the hearing officer should expeditiously transmit all papers and the record of the hearing, if held, to the senior official of the Granting Authority or his or her designee, together with a recommendation for final action. (3) Additional Arguments: Following a hearing and within **XX** calendar days after delivery of a copy of the record, the AEO/applicant may submit additional views and arguments on the basis of such record to the senior official of the Granting Authority or his or her designee. (4) Failure to Appear: If neither the AEO/applicant nor any designated representative appears for a scheduled hearing, the hearing officer should conclude the hearing and transmit all papers with a recommendation to the senior official of the Granting Authority or his or her designee.
- (g) Decision on the Appeal: The senior official of the Granting Authority or his or her designee should within **XX** calendar days after the date of the hearing render a decision, in writing, stating the reasons therefor, with respect to the action proposed by the hearing officer. Such decision should be transmitted to the proper party in the Granting Authority and served by that party on the AEO/applicant.
- (h) Further Administrative Appeal: National legislation may provide an AEO/Applicant receiving an adverse opinion following initial appeal procedures with the opportunity for a final administrative appeal to an authority independent of the Granting Authority.
- (i) Court Review: Subject to provisions of National Law, any AEO/applicant adversely affected by a decision of the Granting Authority may appeal the decision in the appropriate Court of competent jurisdiction.