

ORDINANCE N3 OF 18 APRIL 2006 ON TAKING SAMPLES AND METHODS FOR ANALYSIS FOR THE PURPOSES OF CONTROL OVER EXCISE GOODS

In force from 01.07.2006.

Issued by the Ministry of Finance

Prom. SG. 37/5 May 2006

Chapter one. GENERAL PROVISIONS

Art. 1. (1) This Ordinance shall provide for the procedure for taking samples of excise goods, including those under regime of delayed payment of excise for carrying out laboratory analyses for the purposes of control over excise goods.

(2) The Ordinance shall also define the methods for analysis for the purposes of control of excise goods.

Art. 2. Taking samples of excise goods shall be carried out by the customs bodies for the purposes of the control, carried out by them under the Act on Excise and Tax Goods.

Art. 3. The Ordinance shall apply to the following excise goods:

1. alcohol and alcoholic drinks;
2. tobacco items;
3. energy products;
4. coffee and extracts from coffee.

Chapter two. PROCEDURE FOR TAKING SAMPLES

Art. 4. (1) The customs bodies shall have the right to take samples from the premises, installations and facilities of:

1. licensed warehouse keepers;
2. persons, registered under the Act on Excise and Tax Warehouses;
3. end users of excise goods, free from excise;
4. all other persons, carrying out activities with excise goods.

(2) The customs bodies shall have the right to take samples of the fuel in the reservoirs of the motor vehicles.

Art. 5. (1) Taking samples of excise goods shall be carried out by the customs bodies.

(2) In the cases, where taking samples is connected with high risk in relation to the safety conditions or where use of specialized safety means is needed, the customs bodies may assign taking samples to be carried out by other competent persons under their supervision.

Art. 6. (1) Taking samples of excise goods shall be carried out at the presence of the checked person or his representative.

(2) The checked person or his representative shall be obliged to give assistance to the customs bodies, needed for facilitation of the sampling.

(3) Where the checked person refuses to be present during the sampling or assigns a person, who should be in condition to give the needed assistance, the customs bodies shall determine a term for fulfillment of their request.

(4) In case of failure to observe the term under Para. 3, the customs bodies shall proceed to sampling at the expense of the checked person and at his responsibility and if needed, they shall use the services of a competent person or of another person, determined under the provisions in force.

(5) Sampling under the conditions and procedure of Para. 3 and 4 shall be with the same validity, as in case that the sampling has been carried out at the presence of the checked person.

Art. 7. While carrying out the activities, related to sampling, the customs bodies may seek assistance from the bodies of the Ministry of Interior, the Ministry of Economy and Energy, the Ministry of Agriculture and Forests and the Ministry of Environment and Waters.

Art. 8. With sampling of excise goods, the customs bodies shall:

1. request the documents, certifying the type and quantity of the goods of which they will take samples;
2. carry out a monitoring of the goods of which samples will be taken;
3. take samples of the checked excise goods;

4. pack, mark with labels and seal the packages with the samples;
5. draw up a protocol about the sampling;
6. send the samples to the competent customs laboratory.

Art. 9. While taking samples of excise goods, technical procedures and safety techniques shall be applied, determined by the guidebook for taking samples for the purposes of the customs control, confirmed by the director of the Customs Agency.

Art. 10. (1) While taking samples of excise goods, the following final samples shall be formed:

1. 2 laboratory samples for testing in the customs laboratories;
2. 1 control sample for storage in the relevant customs office;
3. 1 sample for the checked person.

(2) Where in the protocol under Art. 12, Para. 1, the checked person has expressed discontent to be provided with a final sample, the sample under Para. 1, p. 3 shall not be formed.

Art. 11. (1) The final samples shall be packed, marked with a label and shall be sealed in a way, which shall not allow to be destroyed and manipulated.

(2) The appearance of the packages and the way of packing shall guaranty keeping the thoroughness of the quality characteristics of the samples.

Art. 12. (1) With the sampling, a standard protocol shall be filled in according to Annex N1.

(2) The protocol for sampling shall be drawn up in 3 copies, where the first one shall accompany the laboratory samples, the second one shall be stored in the relevant customs office, and the third one shall be provided to the checked person.

Art. 13. (1) The samples shall be marked with a standard label according to Annex N 2.

(2) The label under Para. 1 shall contain the following information:

1. the number of the sample protocol;
2. the place of taking the sample;
3. date of taking the sample;
4. name of the goods of which the sample is taken;
5. data about the volume of which the sample is taken – lot, package, shipment means, etc.;
6. total quantity of the goods of which the sample is taken;
7. purpose of the sampling – laboratory, control or for the checked person;
8. name and signature of the person, who has taken the sample;
9. name and signature of the checked person;
10. name and signature of other persons, present during the sampling.

Art. 14. The laboratory samples shall be sent to the competent customs laboratory, accompanied with a request for standard analysis under Annex N 3 and a copy of the protocol.

Art. 15. The laboratory samples shall be sent immediately to the competent customs laboratory after registering in the relevant customs office of the protocol under Art. 12, Para. 1 and of the request for analysis under Art. 14.

Art. 16. Shipment and storage of the samples shall be carried out under conditions, coordinated with the nature of the goods, so that their thoroughness is not damages and their quality characteristics are not changed.

Art. 17. For taking samples of excise goods shall be used solid, clean, dry and without any mechanical contamination appliances, instruments and vessels.

Art. 18. Samples from petro stations colons shall be taken from the pump end.

Art. 19. Samples from the reservoirs of the motor vehicles shall be taken with the help of a probe, and if needed – in any other appropriate way.

Art. 20. The control samples shall be kept at the customs offices by the enforcement of the customs bodies' decisions, taken on the basis of the results of the laboratory analysis.

Art. 21. The final samples of the relevant goods shall be taken in the minimal amount for the analyses under Annex N 4.

Art. 22. (1) The customs bodies shall not be liable to compensation for the taken samples of excise goods.

(2) the costs for the sampling shall be at the expense of the Customs Agency.

Chapter three.
ANALYSIS METHODS

Art. 23. (1) The taken samples of excise goods shall be analysed for identification, for defining the indicators on the basis of which the amount of the excise is calculated, as well as for defining other indicators, related to the control over excise goods.

(2) The costs for analysis of the samples under Art. 10. Para. 1, p. 1 shall be at the expense of the Customs Agency.

Art. 24. The samples shall be tested at the Central Customs Laboratory of the Customs Agency in Sofia or in the regional customs laboratories of the Agency in Plovdiv and Russe on competence.

Art. 25. The customs laboratories shall apply unified analysis methods, and for the obtained results, a laboratory expertise shall be issued.

Art. 26. (1) The analysis methods of the excise goods shall be indicated in the laboratory expertise.

(2) The used methods may be standard, official and internal laboratory, for which there is data for repeatability and reproducibility.

Additional provisions

§ 1. In the meaning of this Ordinance:

1. "Lot" is a quantity of goods, uniform in kind, name and quality characteristics, produced in a certain interval of time in the same conditions and accompanied by 1 document for quality.

2. "Combined sample" is a sample, obtained by combining in one vessel parts of the lot of a volume of goods and which has physical or chemical characteristics, identical to the average characteristics of the whole volume or lot.

3. "Final sample" is a packed part of the combined sample.

4. "Laboratory sample" is the final sample, which is intended for analysis in a customs laboratory for the purposes of control over excise goods.

5. "Control sample" is a final sample, intended for analysis in a judicial dispute.

Transitional and concluding provisions

§ 2. The Ordinance shall be issued on the bases of Art. 107 of the Act on Excise and Tax Warehouses.

§ 3. The Ordinance shall be enforced from 1 July 2006.

Annex N 1 to Art. 12, Para. 1

MINISTRY OF FINANCE – CUSTOMS AGENCY

PROTOCOL FOR TAKING A SAMPLE

Customs office: _____ Name and telephone N of a contact person: _____ Reg. N

.....
..... Date:

1. Description of the goods/name and quantity/:

.....
.....

2. Purpose of the sampling:

.....
.....

3. Data for results of the testing on site (site tests, peculiarities of the goods or the sample, change in color viscosity, odor, hygroscopicity, etc.):

.....
.....

4. Place of taking the sample:

Annex N 3 to Art. 14

MINISTRY OF FINANCE – CUSTOMS AGENCY

APPLICATION FOR ANALYSIS / EXPERTISE

Reg. N/..... (year)

To

/customs laboratory/

From customs office:

Official data:

...../to be filled in the laboratory/

Entr. N

Name and Telephone N for contact of the person, applied for the analysis:

Date:.....

..... Sample N

.....

Signature:

Description of goods: /name, appearance, type of packing, composition parts, purpose, etc./:

Tasks of the analysis/expertise:

Additional instructions: /ex. Urgent analysis, special treatment of the sample, etc./

Annexes: /the true is marked in the square/:

- units sample packing under Protocol for taking sample N.....
- Protocol for sampling
- Analytical certificate
- Other: /technical specifications, etc./

Annex N 4 to Art. 21

Minimal quantities of testing samples from excise goods

№	Type of goods	Minimal quantity in one sample packing
1.	Energy products (liquid)	0,250 l
2.	Wine	0,700 l
3.	Beer, ethyl alcohol, etc. alcoholic drinks	0,500 l
4.	Coffee	0,250 kg
5.	Coffee extracts	0,050 kg
6.	Tobacco for smoking	0,200 kg
7.	Cigarettes	20 pieces

8. Cigars and cigarillos

1 piece