

April 1, 2004

**CONSULTATION PACKAGE FOR:**

**Importers of Denatured Alcohol and Specially Denatured Alcohol**

This consultation package gives notice of proposed fees to be implemented by the Canada Border Services Agency (CBSA), pursuant to subsection 68(4) of the *Excise Act, 2001*, for the purpose of sampling and testing importations of denatured alcohol and specially denatured alcohol. The CBSA invites all interested parties to present their comments on whether the fee proposal, which is in accordance with the CBSA costing methodology, implements the provisions of section 68 in a fashion that makes the most business sense.

**Introduction**

Provisions of the *Excise Act, 2001* (the Act) require imported denatured alcohol and specially denatured alcohol to be sampled and tested to ensure that these products meet the denaturing specifications under the Act. A policy of sampling 100% of all importations would substantially increase costs for both importers and the CBSA. As a result, risk management and cost recovery principles were incorporated into the Act. The Act permits the fixing of fees to be paid by the importer for the purpose of recovering the costs associated with sampling and testing. These fees would ensure that the program costs for sampling and testing are passed onto clients who benefit directly from these services, rather than taxpayers in general.

The CBSA, formerly the Canada Customs and Revenue Agency, re-engineered the Commercial Import Sampling Program in 2001 to support the new provisions in the Act, to streamline the import process and to improve service. The new program was implemented in Southern Ontario and Quebec in 2003 and will be implemented in the remaining regions in 2004.

### **Legislative Authority**

Subsection 68(4) of the *Excise Act, 2001* provides the legislative authority for the proposed fee and states that the Minister may fix fees to be paid by the importer of denatured alcohol and specially denatured alcohol. The fees must not exceed an amount determined by the Minister to be the cost to Her Majesty in respect of the sampling and testing. Appendix A to this consultation package sets out the text of section 68 of the Act.

### **Benefits**

Sampling and testing ensures that imported alcohol complies with Canadian denaturing standards while preserving the integrity of the Canadian alcohol market.

Section 68 allows the CBSA to deliver a newly re-engineered sampling program that promotes compliance with the Canada's border and trade legislation while improving client services.

The risk management and cost recovery provisions in section 68 of the Act allowed the CBSA to streamline the import processing of low risk shipments so that it can concentrate sampling and testing efforts in areas of higher and unknown risk. This translates into benefits for our clients in the form of improved services and reduced program costs from quicker clearance at the border for low risk shipments and sampling conducted by an independent and experienced third-party to ensure the integrity of the sampling process.

### **Fee Proposal**

The fee proposal is outlined in Appendix B of this package.

Sampling is a component of all the program costs and is one cost subject to fluctuation as a result of the procurement process. The CBSA has used the government procurement process to contract with a third-party company to provide sampling services. (The CBSA uses the services of its own Laboratory and Scientific Services Directorate to test the collected samples). A new procurement process has been initiated to seek a sampling service provider effective July 1, 2004.

To give clients a sense of the cost of the proposed fee, the CBSA determines the total program costs to deliver sampling via a third-party and testing services under the current service contracts. Item 6 of the fee proposal (Appendix B) outlines the program costs to provide sampling and testing services in accordance with the CBSA costing methodology. The current total program costs equate to an average charge of \$571.00 per set of samples<sup>1</sup>, exclusive of G.S.T. and applicable taxes. When the procurement process that is currently underway is finalized, the portion of the charge relating to sampling may increase or decrease depending on the outcome of the competitive process. This may increase or even decrease the charge to the client for sampling and testing services.

### **Competitiveness**

In the development of the fee proposal contained in this package, the CBSA considered its effect on competitiveness. The following considerations indicate that charging a fee will have little effect on competitiveness:

- A risk-managed approach to selecting shipments for sampling and testing allows the CBSA to concentrate its resources on fewer shipments (higher risk, unknown risk and random) and decreases the rate of sampling. Accordingly, when the total charges are prorated across a company's annual volume of shipments, the actual costs would be small and the cost of consumer goods should not increase significantly.
- Industry will continue to receive sampling and testing services at a reasonable cost. The fee would be uniformly applied to all importers selected for sampling and would not exceed the actual costs for providing the service. The sampling component of the program is delivered through a third-party, thus reflecting a cost component based on market pricing.
- Charging for sampling and testing imports is consistent with the United States treatment of alcohol imports. Alcohol shipments to the United States are required to report to distilled spirits plants for verification; clients are required to pay the distiller for the service.

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<sup>1</sup> One sample is analyzed by the CBSA Laboratory and Scientific Services Directorate and the second sample held as a control sample.

## **Previous Consultations**

Earlier references to a charge for sampling and testing can be found in Customs Notices N-521, *Denatured Alcohol and Specially Denatured Alcohol – Excise Act, 2001 and the Commercial Import Sampling Initiative* (July 1, 2003); N-492, *Sampling Denatured Alcohol and Specially Denatured Alcohol – Commercial Import Sampling Initiative* (January 7, 2003); and N-467, *Denatured Alcohol and Specially Denatured Alcohol – Phase 2 of the Commercial Import Sampling Initiative* (September 3, 2002).

The legislation to implement the *Excise Act, 2001* was reviewed by the House of Commons' Finance Committee and the Senate's Banking, Trade and Commerce Committee in 2002. While a number of witnesses appeared before the committees, no one raised any concerns with the proposed cost recovery measure.

The CBSA invites interested parties to submit written comments on this fee proposal to the address below by May 7, 2004:

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Commercial Import Sampling Initiative  
Tariff Classification and International Nomenclature Division  
Customs Trade, Anti-dumping and Countervailing and Appeals  
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Email: [melody.mcrae@ccra-adrc.gc.ca](mailto:melody.mcrae@ccra-adrc.gc.ca)

The CBSA will fully consider all comments and they will form part of the record of the consultation on the fee proposal. Clients will be provided notice of the fee and any amendments to the proposal by way of a Customs Notice.

Original signed by

M.R. Jordan  
Head  
Customs Trade, Anti-dumping and  
Countervailing and Appeals

Attachments

## APPENDIX A

### Excise Act, 2001

**68.** (1) Any person who imports a product that is reported under the *Customs Act* as being denatured alcohol or specially denatured alcohol shall make the product available for sampling and the product is required to be sampled by the Minister before it is released under that Act.

(2) The samples must be tested to verify that the product is denatured alcohol or specially denatured alcohol.

(3) The Minister may at any time waive the requirement to sample an imported product under subsection (1).

(4) The Minister may fix fees to be paid by the importer of the product but those fees must not exceed an amount determined by the Minister to be the costs to Her Majesty in respect of the sampling and testing.

Source: [www.laws.justice.gc.ca/en/E-14.1/51757.html](http://www.laws.justice.gc.ca/en/E-14.1/51757.html).



## APPENDIX B

### Fee Proposal

This section outlines the parameters of the revised fee proposal:

1. The sampling program applies to goods declared as denatured alcohol or specially denatured alcohol that are shipped in containers with a capacity of 100 litres or more. Applicable shipping containers would be truck tankers, rail tankers and drums.
2. Importers will be subject to a charge when their shipment is selected for sampling and testing.
3. The charge would reflect the actual cost to the CBSA to provide the program on a national basis (actual cost over the contracted number of samples).
4. Clients would be notified of the implementation of fee proposal and any amendments via a Customs Notice.
5. Sampling services will be provided at 12 locations (see Appendix C) specifically designated for sampling under section 12 of the *Customs Act*. Designating sites allows the CBSA to concentrate its resources in an efficient manner and to ensure that the required safety equipment is available at these sites.
6. A flat fee for sampling and testing would be calculated in accordance with CBSA costing policy and would be based on a number of shipments that will be selected for sampling and program delivery costs associated with sampling and testing.
  - The fee/charge would comprise of the following program delivery costs to provide sampling and testing: headquarters (salary dollars for program administration, program materials, third-party/contracted sampling costs, information technology support costs), regional and other operating costs (salary dollars for officers to witness sampling and process samples, superintendent supervision, program coordination, compliance verification and clerical support, and safety equipment for officers, courier service, uniforms, etc.).

- The charge also includes CBSA standard cost recovery and corporate costs to provide sampling and testing.
7. The CBSA Laboratory and Scientific Services Directorate analyses samples to determine whether the sampled alcohol complies with the specific grades and formulations outlined in the *Denatured and Specially Denatured Alcohol Regulations*.
  8. Clients will receive notice from the CBSA Compliance Verification office in London, Ontario, if their shipment is non-compliant. Further information will be sent by the Regional Excise Duty Office, under the Canada Revenue Agency, in cases where further action may be necessary under the provisions of section 101 of the *Excise Act, 2001*.
  9. Service standards for the sampler have been established as part of the terms of reference. The sampler is required to report to the designated sampling location when contacted by a Customs Officer within the time limits specified in Appendix D of this consultation package.
  10. A dispute resolution process has been developed based on the following two key principles:
    - (a) the process will satisfy CBSA and client needs for resolution of disputes in a quick and efficient manner; and,
    - (b) the process will provide a written determination to the client within 90 days.

Under the process, the client submits, in writing, a request to dispute the application of the fee to the region. The request must provide detailed information relating to the importation in question, the amount of the fees collected and the reason(s) for the objection to the assessment of the fee. The regional office will provide its recommendation to the Director, Tariff Classification and International Nomenclature Division (TCIN).

On receipt of the region's recommendation, the Director, TCIN, will provide to the client, in writing, a decision on whether all or a portion of the fee is waived or whether the decision to charge the fee is upheld.

11. The CBSA proposes that the cost recovery component of the Customs Sampling Program be implemented nationally on July 1, 2004.

## APPENDIX C

### **Designated Customs Offices for Sampling Denatured Alcohol and Specially Denatured Alcohol**

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In accordance with section 12 of the *Customs Act*, denatured alcohol and specially denatured alcohol will only be sampled at certain customs locations. Shipments arriving at other locations will be directed to the closest office designated for sampling.

#### **Highway**

Sampling of highway shipments will be conducted at the following customs commercial facilities:

Lacolle, QC  
Prescott, ON  
Niagara Falls, ON  
Fort Erie, ON  
Sarnia, ON  
Emerson, MB  
Pacific Highway, BC

#### **Rail**

Sampling will be conducted at the following bonded rail yard locations:

Montréal, QC  
Toronto, ON  
Hamilton, ON  
London, ON  
Winnipeg, MB

## **APPENDIX D**

### **Service Standards**

The following chart outlines the service standards that will apply to the CBSA sampler. The times reflect considerations such as the remoteness of the sampling location, its proximity to major cities, mileage, congestion, etc. The service standards apply once a Customs Officer has contacted a sampler to provide the sampling services.

<b>REGION</b>	<b>SERVICE STANDARDS DURING BUSINESS HOURS (8 a.m. to 5 p.m.)</b>	<b>SERVICE STANDARDS AFTER BUSINESS HOURS (5 p.m. to 8 a.m.)</b>
Quebec	3 hours	4 hours
Southern Ontario	1 hour	2 hours
Northern Ontario	2 hours	3 hours
Prairie	3 hours	4 hours
Pacific	3 hours	4 hours