



Export Non Conformance “ENC” Notification Guidance

Background

Notification to MPI of specific *events* associated with exporting animal material or product (including live animals and germplasm) is a duty of exporters under the Animal Products Act (see Appendix for detailed reference).

The *events* include situations where animal material or animal product:

- Is no longer fit for its intended purpose
- Is refused entry by importing country authorities
- No longer meets requirements for the destination market
- No longer has the required official assurances

There is a reason for this. When things go wrong with any aspect of the export chain, it can have a serious impact on trade, and compromise New Zealand’s reputation as a trusted supplier of food and food related products. The impact can extend well beyond the initial cause of the event to include a whole food sector or even the whole of NZ’s export trade and “Brand New Zealand”. MPI needs to know about these events as soon as possible in order to minimise any potential impact.

Additionally, the information collected through ENC notification provides important intelligence for MPI, through identification of trends and awareness of wider issues in market. With this information and market intelligence, MPI can work with overseas regulators to improve market access for New Zealand products.

However, in saying that, please do not submit ENCs for minor commercial issues that may be picked up by customers once the product has cleared the border. See below under the section on post BIP ENCs.

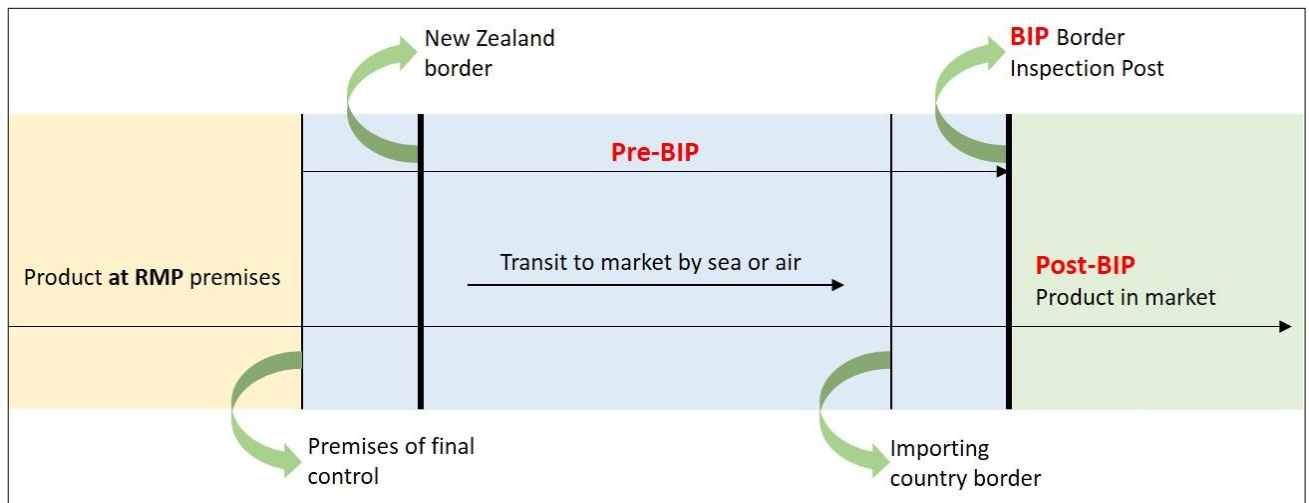
Notification to MPI should not be seen as a negative activity – in many cases MPI can assist companies with product which has been stopped at the border due to perceived non-conformance. The **consequences of not notifying** MPI within the required 24 hour period can be much more serious than hoping it will not be detected.

ENCs are received for action and analysis by the Food Assurance team within MPI. Each one is categorised and key data is stored. According to the type of non-conformance and where it has been detected, ENCs may then be passed on to others within MPI for specific action or for their information.

Figure 1 below indicates how ENCs are categorised relative to the border inspection post (BIP) of the importing country. This is the point at which the product and associated documents are presented to authorities for clearance.



Figure 1: ENC categories relative to the importing country border inspection post (BIP)



- **Pre-Border Inspection Post Notifications**

Pre-BIP extends from the point of departure from the premises of final control, to the point of clearance (BIP) in the importing country. This includes bonded storage areas and other customs zones where product is held in market pre-clearance. Any non-conformances identified within this zone, even if the product is still in New Zealand, must be notified.

Examples of ENCs Pre-BIP:

- Errors on export certificates (due to incorrect data or product despatch anomaly)
- Certificates signed too late
- Container or container seal issues

- **Border Inspection Post Notifications**

Depending on the importing country, ENCs at BIP can vary widely according to the particular clearance requirements for that country.

The legislation refers to products that are “*refused entry by the foreign government*”.

When product is stopped on arrival in a country by border officials, for any actual or potential non-compliance, it can take time to determine what the issue is. If the issue is not confirmed and product has not been cleared within 24 hours of the exporter being advised, then, at the very least, email notification must be sent to MPI Food Assurance. If the issue is confirmed as being a non-conformance, then full ENC details have to be provided.

Information and intelligence from border authorities is very valuable for MPI. It can quickly indicate possible new areas of concern, issues with inconsistent border posts, changes to market access requirements, etc.

Examples of ENCs BIP:

- Incorrect certificate template used
- Incorrect information on the export certificate



-
- Manufacturers are not listed to supply the market
 - Issues with container seals
 - Errors with product labelling
 - Product tested by importing authorities shows that it does not meet country criteria or product is not fit for purpose (micro issues, contaminants, etc.)

- **Post BIP Notifications**

If the product has cleared the border but a customer complaint is raised, an ENC **may be** required, but only if the complaint identifies that the product is not fit for intended purpose. Fitness for intended purpose in this context, is confined to issues associated with food safety, unwholesome product, incorrect or fraudulent labelling, etc.

Examples of ENCs Post BIP:

- Food safety
 - Micro levels outside specifications
 - Presence of pathogens
 - Chemical residues outside of requirements
 - Foreign matter at unsafe levels
- Labels that do not meet regulatory requirements

Product quality or commercial issues do not need to be reported, including any dispatch problems not picked up at the border such as –

- **Product quality issues (including non-regulated composition, colour, texture)**
- **Short and over shipments**
- **Incorrect product sent**

As indicated above, if a customer complaint cannot be confirmed as an ENC within 24 hours of the exporter being advised, then email notification must be sent to MPI Food Assurance. If the issue is later substantiated as being a non-conformance, then full ENC details must follow the email. If not, the ENC will not be recorded by MPI.

ENCs for Live Animals and Germplasm (LAG):

In the case of LAG products, ENCs occur when they have been confirmed as meeting the requirements of an importing country and this is identified as being incorrect. Examples include:

- importing countries refuse to clear the consignment based on the documentation provided (importer requests amendments to documentation);
- the importing country requirements change, or the exporter is advised of this change, after the export certificate has been issued even if the consignment is not in the importing country yet;
- disease status of the animals / germplasm in the consignment changes after the export certificate has been issued (contact with animals / germplasm of lower health status / disease outbreak);



- new information on the health status becomes available after the export certificate has been issued;
- errors on an issued export certificate are identified after the certificate is received from Verification Services.

Replacement Certificates

Where animal product has been refused entry at the border due to export certificate errors, and a replacement certificate or additional official assurance is needed to gain entry, the normal certificate replacement process must be followed **in addition** to the submission of the ENC notification.

Any questions or requests for replacement export certificates should be sent by email to:

va-replacement@mpi.govt.nz

For **Live Animals and Germplasm (LAG)**, questions or requests for replacement export certificates should be addressed to the MPI Verification Services office that issued the original certificate.

The following documents contain the requirements for reissue of export certificates:

[Animal Products: Official Assurances Specifications for Dairy Material and Dairy Products](#), Part 9

[Animal Products Notice: Official Assurances Specifications for Animal Material and Animal Products](#), Section 12

Guidance to determine whether an event should be notified to MPI

The attached ENC Decision Tree has been developed to assist exporters to determine whether or not an ENC notification is required.

ENC Forms

Forms for notification of ENCs can be downloaded from the MPI website: [Exporter Non-Conformances](#)

Companies can develop their own forms but need to ensure all the information required by MPI is captured.

All notifications should be sent directly to the Food Assurance Team Food.Assurance@mpi.govt.nz.

Returned Product

• Non-Dairy Products

Exporters returning any non-dairy animal products to New Zealand also need to ensure they comply with the requirements set out in OMAR 01/172 Import of Foreign Animal Material and Animal Products and Return to New Zealand of New Zealand Animal Material and Animal Products For Domestic Use or Export.

• Dairy Products

Exporters returning any dairy products to New Zealand also need to submit to MPI the form titled Exported dairy product returned to New Zealand to the Food Assurance Team for consideration.



Note – this section will change with the issue of the new Notice (Inspection for imported and returned animal products intended for re-export with official assurances) that will replace 01/172 and the current dairy return requirements.

- **Live Animals and Germplasm (LAG)**

Due to disease risks, there are limited situations where live animals can be brought back to New Zealand.

For guidance, contact AnimalExports@mpi.govt.nz

Contact

For more information relating to this information or if you have any comments or issues, please contact MPI at the following email address – Food.Assurance@mpi.govt.nz

Disclaimer: This information is not a legal interpretation of the Animal Products Act and is intended only as a guide.



Appendix

Legal Requirements for exporters to notify MPI

The Animal Products Act 1999, Part 5 Export of animal material and products, Section 51, states:

Duties of exporters

It is the duty of every exporter of animal material or products to which this Part applies—

(a) to ensure that their operations as an exporter do not contravene any relevant requirement of or under this Act; and

(b) to export only animal material or products that meet—

(i) any relevant animal product standards and specifications; and

(ii) any relevant requirements pertaining to exports notified or made available under section 60A; and

(c) It is the duty of every exporter of animal material or products to which this Part applies -

to notify the Director General as soon as possible, and in any case not later than 24 hours after the event or first knowledge of the event, in any case where animal material or products exported or to be exported by the exporter:

(i) are not fit, or are no longer fit, for intended purpose, from any event which occurred or could have occurred prior to entry into the importing country (regardless of when the event was detected); or

(ii) are refused entry by the foreign government concerned; or

(iii) do not or no longer meet relevant requirements notified or made available under section 60A; or

(iv) do not have, or no longer have, the required official assurances; and

(d) to maintain procedures and processes to demonstrate that the recordkeeping requirements of and under this Act in relation to the provenance and processing of the animal material or product exported by the exporter are being complied with.