



## **Wine Critical Non-Compliance (CNC) / Export Non-Compliance (ENC) - Notification Guidance**

When things go wrong with any aspect of production or 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.

### **Critical non-compliance (CNC) events**

CNC events are any departure from a regulatory requirement that is reasonably likely to:

- Result in hazards in wine; or
  - Food recall consideration - [Click Here](#) & Refer to the NZW Code of Practice
- Result in wine that has false or misleading labelling; or
- Jeopardise overseas market access.

Traceability is essential to the verification of Wine Act compliance, and any of the following may result in a critical non-compliance:

- Missing records;
- No registration;
- Incorrect WSMP details.

### **Notifying MPI of ENC events**

Notification to MPI of specific events associated with exporting wine is a duty of exporters under the Wine Act (see Appendix for detailed reference). Export non-compliance (ENC) events include situations where exported wine:

- Is not fit, or is no longer fit, for intended purpose; or
- Is refused entry by the foreign government concerned; or
- Does not meet or no longer meets the relevant overseas market access requirements (OMARs);  
or
- Does not have, or no longer has, the required official assurances.

Traceability is essential to the verification of Wine Act compliance, and any of the following may result in an export non-compliance:

- Errors on an approved export consignment application;
  - Example: incorrect wine batch details / volume;
- Random sampling programme failure.

Notification of CNC / ENC issues to MPI is important. In many cases we can assist companies with additional guidance, or with product which has been stopped at the border due to perceived non-compliance. In the case of ENCs, the **consequences of not notifying** MPI within the required 24 hour period can be much more serious than hoping it will not be detected.

The information collected through the CNC / ENC notification provides important intelligence for MPI. Through identification of trends and awareness of wider issues within the local industry or in market, MPI can improve guidance to minimise errors occurring, or work with overseas regulators to improve market access for New Zealand products.

However, please do not submit CNC / ENCs for minor commercial disputes between exporters and customers, as these are outside of MPI’s scope as a regulator.

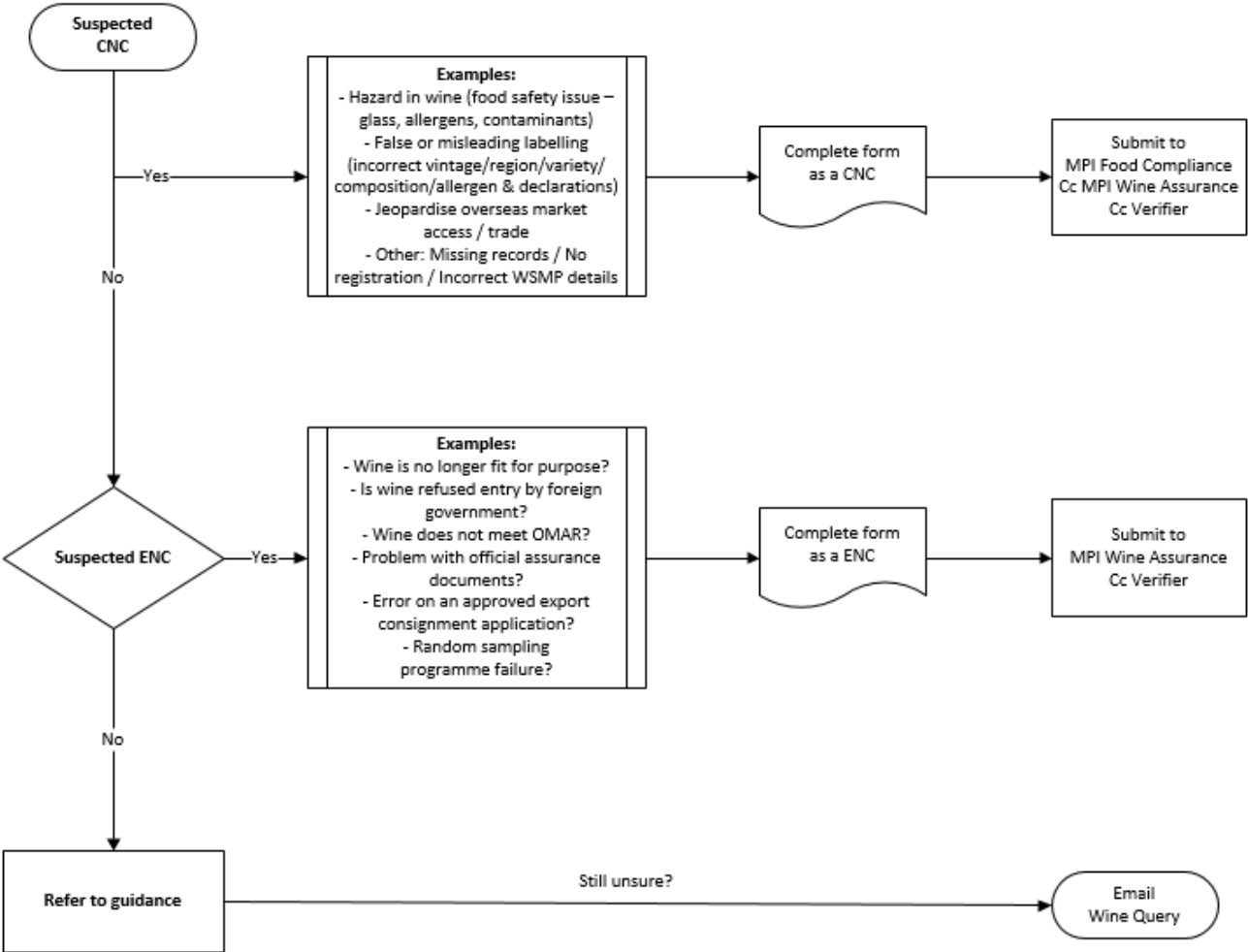
CNCs are received for action and analysis by the Food Compliance team and ENCs are received for action and analysis by the Wine Assurance team within MPI.

Refer to the Appendix for details on legal requirements for WSMP Operators and Exporters:

- Duties of operators;
- Critical non-compliance definition;
- Duties of exporters / export non-compliances;
- Notifications to MPI by operators.

**Guidance to determine whether an event should be notified to MPI – Decision tree**

Please refer to the Wine CNC / ENC - Decision Tree to help you determine whether or not a CNC / ENC notification is required.



## **CNC / ENC Forms**

Forms for notification of CNC / ENCs can be downloaded from the MPI website, Critical and export non-compliance of wine - Report non-compliance section.

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 MPI team listed on the Wine CNC / ENC – Decision tree (and cc your verifier if you have a WSMP). Email addresses are included on the Wine CNC / ENC notification form.

## **Replacement Certificates**

Where wine 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, please request these through Wine E-Cert. For more information on this process, refer to the guides in Wine E-Cert.

Any questions or requests for replacement export certificates should be sent by email to Wine Certification [wine.certification@mpi.govt.nz](mailto:wine.certification@mpi.govt.nz)

## **Returned Product**

If you are bringing your wine back into New Zealand, notify MPI by emailing details to Wine Assurance [wine.query@mpi.govt.nz](mailto:wine.query@mpi.govt.nz)

## **Contact**

For more information or if you have any comments or issues, please contact MPI by emailing Wine Assurance on [wine.query@mpi.govt.nz](mailto:wine.query@mpi.govt.nz)

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

## Appendix

For a complete list of wine legislation, refer to <https://www.mpi.govt.nz/processing/wine/requirements-for-wine/legislation/>

### Legal Requirements for WSMP Operators / Exporters:

The *Wine Act 2003*, Part 2 Winemaking and export of wine, Section 13 Duties of operators of wine standards management plans, states:

#### Duties of operators

*An operator of a wine standards management plan has the following duties:*

- a) *to ensure that the operations of the business subject to the plan do not contravene the relevant requirements of and under this Act, including the requirements set out in the plan:*
- b) *to ensure the plan is consistent with the requirements of regulations and notices in force from time to time under this Act:*
- c) *to adequately implement and resource all operations under the plan, including provision for the instruction, competency, and supervision of staff to ensure the making of wine that is fit for its intended purpose:*
- d) *to ensure that all operations under the plan are commensurate with the capability and the capacity of the premises or place, facilities, equipment, and staff to make wine that is fit for its intended purpose and, if applicable, complies with any export requirements under subpart 3 of Part 2:*
- e) *to give relevant recognised agencies and recognised persons such freedom and access as will allow them to carry out their functions and activities under the Act, including verification functions and activities:*
- f) *to notify the Director-General in advance where practicable, and otherwise as soon as possible, of any change in the operator's verifying agency.*

#### Critical non-compliance:

The *Wine Notice: Recognised Agencies and Persons 2017*, 1.2 Definition states:

**Critical Non-Compliance (CNC)**, means any departure from a regulatory requirement that is reasonably likely to:

- a) *Result in hazards in wine; or*
- b) *Result in wine that has false or misleading labelling; or*
- c) *Jeopardise overseas market access.*

The *Wine Notice: Recognised Agencies and Persons 2017*, Part 4: Performing a Verification, Section 4.3, Reporting requirements, states:

- (1) *Where a verification visit is assigned an unacceptable outcome due to a failure of the operator to identify, or effectively address a critical non-compliance, the verifier must report the critical non-compliance to the Director-General within 24 hours, and include any recommendations.*

## Export Non-Compliance:

The *Wine Act 2003*, Part 2 Winemaking and export of wine, Section 40 Duties of exporters, states:

### Duties of exporters

*It is the duty of every exporter of wine to which this subpart 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 wine that meets —*
  - i. *the relevant wine standards and any supplementary notices; and*
  - ii. *any relevant overseas market access requirements notified or made available by the Director-General under section 41; and*
- c) *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, of the event and what actions (if any) have been taken in respect of the event in any case where wine exported by the exporter —*
  - i. *is not fit, or is no longer fit, for its intended purpose; or*
  - ii. *is refused entry by the foreign government concerned; or*
  - iii. *does not meet or no longer meets relevant overseas market access requirements as notified or made available by the Director-General under section 41; or*
  - iv. *does not have, or no longer has, 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 wine exported by the exporter are being complied with; and*
- e) *in the case where the wine is subject to export eligibility requirements, to ensure that they only export wine that has been shown to comply with those requirements and any supplementary notices.*

## Operators need to notify MPI if any of the following changes - Failure to do so can result in a CNC being issued:

- a) The *Wine Act 2003*, Part 2 Winemaking and export of wine, Section 13, Duties of operators of WSMPs has the duty to notify MPI, in advance where practicable, and otherwise as soon as possible, of any change in the operator's verification agency; – WA9
- b) The *Wine Act 2003*, Part 2 Winemaking and export of wine, Section 22, registration of significant amendments to WSMPs, every operator of a WSMP must apply for registration of a significant amendment prior to the amendment being implemented; – WA6
- c) The *Wine Act 2003*, Part 2 Winemaking and export of wine, Section 23, notification of minor amendments to WSMPs, every operator of a WSMP must notify MPI of all amendments to the WSMP; – WA12
- d) The *Wine Act 2003*, Part 2 Winemaking and export of wine, Section 27, surrender of registration, where the operator or wine business concerned (or, where appropriate, the liquidator, receiver, executor, or other successor in title of the operator), must, within 20 working days of so ceasing – notify MPI in writing; - WA12 or WA55
  - i. and surrender the notice of registration;
  - ii. and notify the operator's verification agency
- e) The *Wine (Specifications) Notice 2006*, Section 17(2), recall procedures, WSMP must contain procedures for notifying MPI as soon as possible and the WSMP agency and verifier when wine is recalled from trade because it is not fit, or may not be fit, for intended purpose (refer to Food recall considerations)
- f) The *Wine (Specifications) Notice 2006*, Section 23(2), the operator must notify MPI if there is a change to the person in charge of day to day management of WSMP, within 30 days; - WA12
- g) The *Wine (Specifications) Notice 2006*, Section 23(2), the operator must notify MPI and the verification agency or person, where a WSMP is considered to be no longer effective or no longer in use, within 30 days. – WA6 / WA12
- h) For forms and templates refer to – [Requirements for wine - Forms and templates](#)