

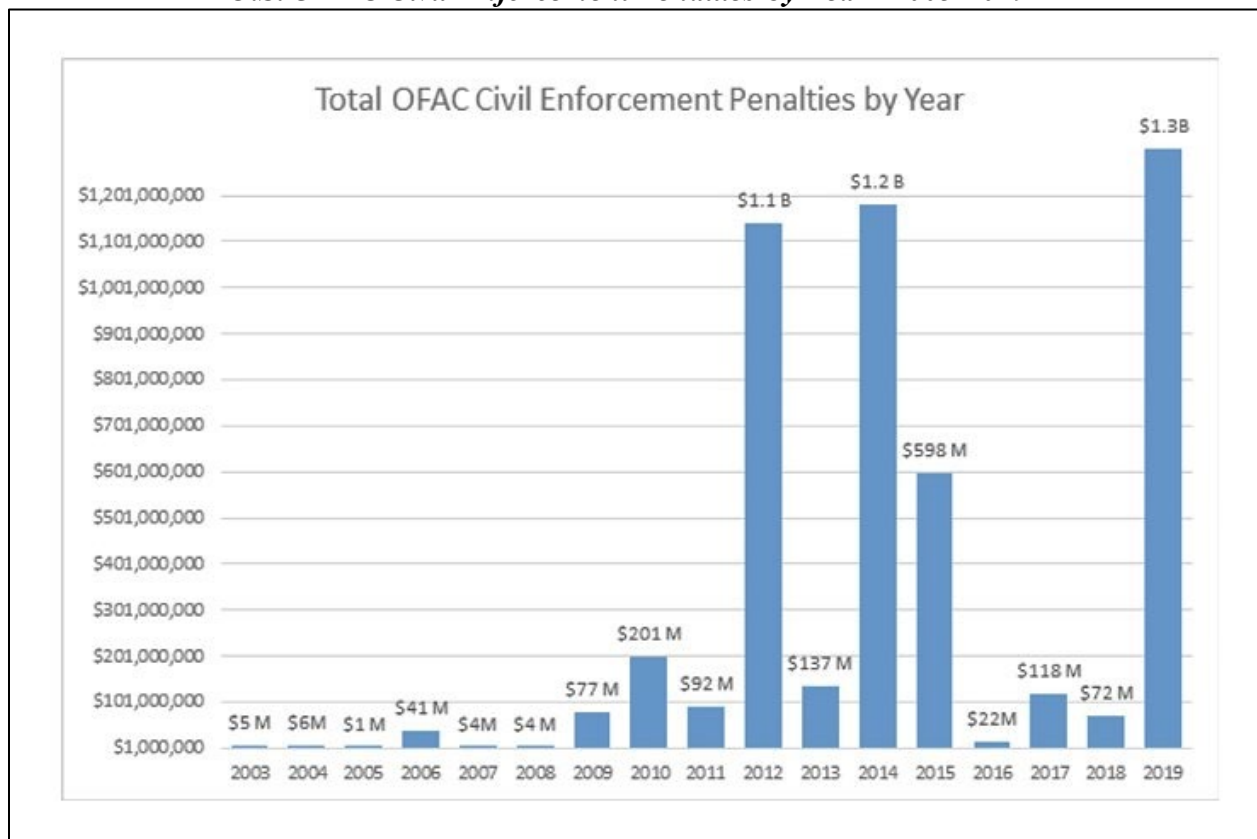


# Outreach

## August 19, 2020

Thank you for your membership in and work with NAEGA

*Graphic of the Week*  
**U.S. OFAC Civil Enforcement Penalties by Year– 2003-2019**



Source: U.S. Office of Foreign Assets Control & Gibson, Dunn & Crutcher

**Recent Actions:**

- Webinar on Food and Agricultural Exports to Sanctioned Countries
- Japan Proposed Phytosanitary Certificate Requirement
- Grades & Inspections Committee Meeting

**Current Opportunities & Actions:**

- MRLs – Japan
- USDA APHIS List of Animal and Plant Pest and Disease Threats

- USDA APHIS Invites Comment on NAPPO Documents

***News:***

- U.S. ITC Releases Report on Trade Impact of MRLs
- U.S. Foreign Corrupt Practices Act Ruling

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- Policy Teams
- Contracts and Best Practices Seminars – Your advice requested
- Office Reopening and Communication

***Recent Actions:***

**Webinar on Food and Agricultural Exports to Sanctioned Countries**

On August 13<sup>th</sup>, the U.S. Food and Agriculture Dialogue for Trade (USFADT) hosted a NAEGA-organized and led webinar entitled *U.S. Food and Agricultural Exports to Sanctioned Countries*. Over 100 attendees joined the virtual, confidential, and off the record briefing and discussion with the U.S. Department of Treasury Office of Foreign Assets Control (OFAC) and the United States Department of Agriculture (USDA) FAS. Presentations included “Sanctioned Country Market Assessment,” “Overview of U.S. Sanctions,” and “Iran and the Swiss Humanitarian Trade Arrangement.” These presentations covered topics such as utilizing the general license for agricultural commodities and current developments related to Iran.

Following the presentations by U.S. government, a panel featuring Tom Erickson, NAEGA Counsel, Helena Sullivan, Assistant General Counsel at Bunge Limited, and John Barker, Partner, Arnold & Porter provided a perspective from U.S. Industry. The webinar concluded with a question & answer session. A list of resources mentioned throughout the presentations and Q&A can be found [here](#). If you would like additional information on the webinar, please contact Sydnie Sousa at [ssousa@naega.org](mailto:ssousa@naega.org).

**Japanese Proposed Phytosanitary Certificate Requirement**

Japan’s Ministry of Agriculture, Forests and Fisheries (MAFF) responded to our comments on their plans to enforce a Phytosanitary Certificate (PC) requirement for certain agricultural imports, including grains and oilseeds under Japans Plant Protection Act. As reported in the December 3, 2019 NAEGA Outreach, NAEGA submitted comments, [which can be found here](#), on the proposal encouraging grains & oilseeds be placed on the exempt list. MAFF’s response to NAEGA, [linked here](#), notes the following:

1. Occurrences of several quarantine pests have been recently confirmed in some production areas of Japan and the Government sees a need to mitigate the risk of the introduction of these pests.
2. Under the Japanese Plant Protection Act, plants imported by cargo, including grains & oilseeds, have been allowed to import without phytosanitary certificates unless a quarantine pest is detected at the import inspection.

3. The purpose of the proposed revision is to clearly designate which plants require a phytosanitary certificate. Based on the results of a risk assessment conducted by MAFF, the Japanese Government has decided to end the practice of allowing imports of at risk plants without phytosanitary certificates after a sufficient transition period.

NAEGA is following up with industry partners and seeking member advice to better understand the decision and how we should proceed.

### **Grades & Inspections Committee Meeting**

The NAEGA Grades & Inspections Committee met on Thursday, August 13 to discuss and address key issues facing the industry. The meeting featured a discussion of USDA Federal Grain Inspection Service (FGIS) contingency planning, a report on U.S. Congressional efforts to renew the U.S. Grains Standards Act, operational issues and issues related to trade with China. If you are not a member of the Committee and would like information on joining, please contact NAEGA staff (Patrick Hayden, [phayden@naega.org](mailto:phayden@naega.org); Sydnie Sousa, [ssousa@naega.org](mailto:ssousa@naega.org) and Gary Martin, [gcmartin@naega.org](mailto:gcmartin@naega.org)) for assistance.

### ***Current Opportunities & Actions:***

#### **MRLs – Japan**

Japan notified the World Trade Organization (WTO) of proposed changes in their Maximum Residue Levels (MRLs) for the agricultural chemicals Heptachlor and Fipronil. The notifications [can be found through this link](#).

USDA's Foreign Agriculture Service (USDA/FAS) is collecting comments and is asking industry for comment on if these proposed changes concerns. Input from members on if and how we should comment is welcome. Please review the documents linked above and let us know if there are any MRLs you are concerned about. Comments are due to the WTO on August 30, 2020. If you have any items of concern, please let us know as soon as possible so we can submit them to FAS.

#### **USDA/APHIS List of Animal and Plant Pest and Disease Threats**

The U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) has announced that it is "seeking feedback on its proposed list of pests and diseases of concern that are likely to pose a high risk to U.S. agricultural and natural resources." The 2018 Farm Bill APHIS to develop a uniform list of pests and diseases that represent the gravest threat to the United States and to develop comprehensive response plans to ensure Federal and State governments are prepared to respond to them. APHIS's list of 60 pests and disease can be found [through this link](#).

APHIS will review comments regarding the list, including suggestions of pests or diseases that should be added or removed. In providing comments, please note that the Farm Bill definition of a pest or disease of concern is one that is "likely to pose a significant risk to the food and agricultural critical infrastructure sector" and is not meant to be a list of all possible pests or diseases. APHIS may adjust or update its current list based on these comments, and then develop response plans to address each pest or plant disease.

NAEGA is considering a response. Your advice is welcome. Please review the list on the APHIS website, linked above, and let us know if there are any pests or diseases of concern that are not included on the list or do not need to be included on the list.

### **USDA/APHIS Invites Comment on NAPPO Documents**

The North American Plant Protection Organization (NAPPO) 2020 NAPPO Country Consultation period, which provides an opportunity for stakeholders to comment and review, is open until the end of August 2020 for the two NAPPO documents on Regional Phytosanitary Standards [found here](#).

The U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) is encouraging U.S. stakeholders to submit comments on these documents, through the APHIS Plant Protection & Quarantine (PPQ) service. Comments should fall into one of three categories: substantial, technical, or editorial. Details on how to comment to NAPPO through PPQ [can be found here](#). The country consultation is open for 90 days (June 1 – August 31, 2020) for the two regional standards.

NAEGA's Grades and Inspections Committee is considering a response. Your advice is welcome.

### ***News:***

#### **U.S. ITC Releases Report on Impact of MRLs on Agricultural Trade**

The U.S. International Trade Commission (USITC) has released the first volume of its report on the impact that policies related to pesticide maximum residue levels (MRLs) have on international agricultural trade. The investigation, *Global Economic Impact of Missing and Low Pesticide Maximum Residue Levels*, was requested by the U.S. Trade Representative (USTR) in August 2019.

This volume documents the impacts of pesticide MRLs, including when they are missing and low, on farmers and exporters in countries representing a range of income classifications. The report contains an overview of the role of plant protection products and their MRLs in relation to global production, international trade, and food safety for consumers; a description of approaches to establishing national and international MRLs; a description of how MRLs for plant protection products are developed, administered, and enforced in major markets for U.S. agricultural products; a description of challenges and concerns faced by exporting countries in meeting importing country pesticide MRLs; case studies describing the costs and effects of MRL compliance and non-compliance for producers in foreign countries; and an economic literature review. The report as delivered to USTR, including an executive summary, [can be found here](#).

The second volume of the report, delayed in part due to COVID-19, is expected to be released in January 2021 and will include case studies that describe the costs and effects of MRL compliance and noncompliance for U.S. producers and a quantitative analysis on the global impact of MRLs.

#### **U.S. Foreign Corrupt Practices Act Advisory Opinion**

On August 14, 2020, the U.S. Department of Justice (DOJ) [issued a Foreign Corrupt Practices Act \(FCPA\) advisory opinion](#), the first in nearly six years. The FCPA generally prohibits U.S. companies or individuals from giving or offering bribes to foreign officials to obtain or retain business. The FCPA requires a procedure that allows companies to seek guidance on specific FCPA compliance concerns, which take the form of advisory opinions. In this case, DOJ advised a U.S. investment company that the transaction fee the company paid to a foreign state-owned bank's subsidiary would not trigger an FCPA enforcement action.

FCPA advisory opinion requests have become a rare occurrence. DOJ observers believe the decline is due to several reasons. For one, it is a time-intensive public process that can potentially divulge sensitive information about a prospective transaction, often taking many months for an opinion to be issued. Additionally, some companies are reluctant to draw federal prosecutors' attention to a potential illegal transaction and instead opt for legal opinions and compliance oversight from outside law firms.

The DOJ's advisory has no precedential value for companies other than the requestor, but the rulings are helpful to obtain insight into the DOJ's interpretation and application of the FCPA. For additional guidance, the DOJ and SEC recently released an FCPA Resource Guide, [which can be found here](#).

### ***Ongoing Opportunities & Actions:***

#### **Policy Teams**

With the evolving global trade environment, we expect many more fast-paced and dramatic developments that could greatly change the terms of trade for NAEGA members. Your involvement is needed!

Ad hoc policy teams of member personnel working largely through virtual meetings to help guide our multifaceted effort to address the evolving trade environment. A policy team focused on the Asia-Pacific Market is very active at this time. Full Details on policy team activity can be found in the Meetings & Events Section of the [NAEGA Member's Only Page](#).

#### **Contracts and Best Practices Seminars – Your interest requested**

We are currently scheduling virtual Contracts and Best Practices Seminars. Please let us know when, how and where you would like to participate in the NAEGA Senior Advisor led seminars.

The seminars are an intensive and informative review of commercial and official practices taught in an interactive environment. Both public/multiple company and private/single company seminars are available and can be tailored to your needs. [Click here](#) for more information on the in-depth, interactive programs NAEGA conducts!

#### **Office Reopening and Communication**

The NAEGA office in Arlington, VA is operating under a limited reopening until at least August 31, 2020 staff will continue to work remotely the majority of the time and have no travel planned.

We are conducting and participating in many virtual meetings. Most NAEGA hosted virtual meetings use Microsoft Teams. Teams ability to share documents and instantly connect with multiple users will enhance our ability to serve you. All you need to do is email NAEGA staff and request a consultation via Teams and we will set up a virtual meeting with you as soon as we can. We can always be reached via email or cell phone as well.

This [5-minute video tutorial](#) provides an introduction to using Microsoft Teams for virtual meetings. If you have had trouble using Teams and would like additional assistance, please contact Patrick at [phayden@naega.org](mailto:phayden@naega.org).

### ***Calendar & Member Notices:***

Click [here](#) for a copy of the IGTC Calendar

#### **2020**

**Events that have been cancelled, postponed or changed to virtual events due to COVID-19 are italicized**

#### **September**

**10** – NAEGA Board of Directors Meeting – Via MS Teams

**15-30** – 75th annual United Nations General Assembly - New York, NY

#### **October**

**5 - 6** - DBTG Operational & Technical Conference – Rotterdam, The Netherlands – Hybrid with virtual participation

**5** – G-20 Meeting in Riyadh, Saudi Arabia

***TBD*** – *Convention on biological diversity (CBD) COP 15– Kunming, China – Postponed*

***TBD*** – *China World Grain Forum - Postponed*

#### **November**

**3-4** – *IGTC General Assembly – Now Taking Place Virtually*

**3** - U.S. Presidential Election

**12** - APEC in Kuala Lumpur, Malaysia.

**21-22** – G-20 Annual Summit in Riyadh, Saudi Arabia.

***TBD*** – *NAEGA Contracts & Best Practices Seminar – Tokyo, Japan - Tentative*

#### **December**

**TBD** – International Grains Council's 52nd Session – London, UK

#### **2021**

#### **March**

**14-16** – NGFA Annual Convention – San Diego, CA

#### **June**

**7-11** – London Grains Week – London, UK

**2022**

**December**

**TBD – COP 16 – CBD – Turkey**

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