



NAEGA FOB No. 2 Export Contract
Clause 21, Prohibition
Process and Procedures Guidance Document
Approved by the NAEGA Board of Directors – March 18, 2024

Note: To best understand the information in this Guidance Document, Buyers and Sellers should reference the provisions of the NAEGA FOB No. 2 Export Contract (April 15, 2024) (“NAEGA 2”), the NAEGA Addendum No. 1 (April 15, 2024), NAEGA’s Terms of Use, and NAEGA’s Glossary of Terms.

Pursuant to the provisions of Clause 21 of the NAEGA FOB No. 2 Contract (April 15, 2024) a **Seller may invoke** said Clause where it determines the existence of conditions and circumstances causing a Prohibition to the delivery of commodities under a contract.

Separately, the NAEGA President* may, at any time, certify Clause 21 conditions or provide public notice identifying that Clause 21 circumstances may exist.

Where a Seller requests NAEGA certification, as provided for in Clause 21, the following guidance applies:

1. A Seller who has invoked Clause 21 may request a NAEGA certification within one year of Seller’s notice to Buyer.
2. The Seller applying for certificate must provide an application that is substantially complete before it can be considered. Determination of whether

All users of NAEGA Information and Services Expressly Understand and Agree to indemnify and hold harmless, NAEGA, their officers, employees and agents from any and all liability including claims, demands, losses, costs damages, and expenses of every kind and description, or damages to persons or property arising out of or in connections with or occurring during the course of interaction with NAEGA.



an application is substantially complete lies solely with the NAEGA President. Their determination is final. A substantially complete application includes all necessary and appropriate information and documentation as determined by the NAEGA President and consistent with the attached "Application to the North American Export Grain Association for a Clause 21 Certificate".

3. An application under Clause 21 may be specific to elevators, ports, port ranges, regions, the country or countries of origin for which a Clause 21 certification is requested.
4. A substantially complete application requires no fee from NAEGA members in good standing. A substantially complete application may require the payment of a fee to NAEGA (as determined by the NAEGA President) from applicants who are either not members or not members in good standing.
5. Upon acceptance of a substantially complete application, there shall be a consideration period of not more than 15 consecutive days, unless otherwise extended at the sole discretion of the President. Upon reaching a conclusion, the President shall either:
 - a. Issue certificates confirming the events listed in Seller's application;
 - or
 - b. Issue a letter to Seller applicant declining certification.
6. The President will conduct all proceedings in a manner consistent with terms of the NAEGA 2 and obligations of NAEGA personnel.
7. Any certification or communication to the Seller applicant is held confidential by all NAEGA staff.

All users of NAEGA Information and Services Expressly Understand and Agree to indemnify and hold harmless, NAEGA, their officers, employees and agents from any and all liability including claims, demands, losses, costs damages, and expenses of every kind and description, or damages to persons or property arising out of or in connections with or occurring during the course of interaction with NAEGA.

8. The President shall sign and seal any certification or letter declining certification.
9. All aspects of a Clause 21 Application and the certification review process such as details and information collected are confidential and may be privileged. The Application, records of consideration, and communications with Seller applicant and any third parties, shall not be revealed to anyone other than the NAEGA President, counsel and NAEGA staff. NAEGA will not provide anyone other than the Seller applicant with a certificate or letter declining certification.
10. The Seller applicant may further distribute certification or letter to the applicant declining certification it receives from NAEGA.
11. NAEGA will maintain a file of the proceedings for each substantially complete application received. NAEGA will hold these files as confidential information and may be privileged.
12. Notwithstanding anything in the paragraphs above, NAEGA may report on actions related to Clause 21. Such reporting will be in general, or summary form only, and may not include confidential information.

*For purposes of this document, "President" shall include a person(s) identified by the NAEGA President or Board of Directors to perform the specific responsibilities for and on behalf of the Association described in this Guidance Document.

All users of NAEGA Information and Services Expressly Understand and Agree to indemnify and hold harmless, NAEGA, their officers, employees and agents from any and all liability including claims, demands, losses, costs damages, and expenses of every kind and description, or damages to persons or property arising out of or in connections with or occurring during the course of interaction with NAEGA.



NAEGA

North American Export Grain Association

Application to the North American Export Grain Association for a Clause 21 Certificate

Please complete the following:

Date:

Requesting Company

Company Name:

Address:

City:

State or Province:

Country:

Telephone:

Fax:

Point of Contact:

Title:

Telephone:

Email:

Applicable Port, Elevator, Region or Country of Origin:

Description of actions prohibiting delivery:

- Identification of specific actions prompting invocation of Clause 21;
- Identification of a connection to a NAEGA II FOB Model contract, including at least one applicable contract; and
- Proof that a notice was sent.

Attached Supporting Documentation shall include (where available and otherwise necessary to support a conclusion that an Application is substantially complete):

- List of documents;
- Copies of any other relevant contracts;
- Documentation – copies of original source documents from entities whose actions created conditions for invocation of Clause 21 (e.g. laws, rules, regulations, orders, notices, etc.); and
- Any other supporting third-party documentation, information or material.

All users of NAEGA Information and Services Expressly Understand and Agree to indemnify and hold harmless, NAEGA, their officers, employees and agents from any and all liability including claims, demands, losses, costs damages, and expenses of every kind and description, or damages to persons or property arising out of or in connections with or occurring during the course of interaction with NAEGA.