

SUPPORTING STATEMENT
CERTIFICATE FOR QUOTA ELIGIBILITY (CQE)
15 CFR Part 2011

- 1. Explain circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate action of each statute and regulation mandating or authorizing the collection of information.**

Imports of raw cane sugar are subject to a tariff-rate import quota (TRQ) that is allocated on a country-by-country basis to foreign countries or areas. A U.S. certificate for quota eligibility (CQE) issued by USDA and authenticated by a certifying authority in the foreign country permits entry of raw cane sugar under the TRQ (Attachment 1).

Since inauguration of the original TRQ, the United States has ratified free trade agreements (FTAs) with various countries. Therefore, CQEs under the same terms and conditions as the original document serve to permit entry of raw cane sugar from Colombia (Attachment 2) and Panama (Attachment 3).

Legal Requirements – TRQ Quota Quantity, Allocation, and CQEs

Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) Additional U.S. Note 5 (Attachment 6):

Additional U.S. Note 5 (a) (i) of chapter 17 requires the Secretary of Agriculture (the Secretary) to establish a TRQ for raw cane sugar (entered under HTS 1701.12.10 and 1701.14.10) during each fiscal year with a minimum TRQ amount of 1,117,195 metric tons, raw value. Raw sugar, as defined by the Subheading Note of chapter 17, is “sugar whose content of sucrose by weight, in a dry state, corresponding to a polarimeter reading of less than 99.5 degrees.” (Attachment 6)

- (1) Additional U. S. Note 5 (a) (ii) authorizes the establishment of a higher TRQ amount whenever the Secretary believes that domestic supplies of sugars may be inadequate to meet domestic demand at reasonable prices.
- (2) Additional U. S. Note 5 (b) (1) states that the TRQ established by the Secretary of Agriculture for raw cane sugar may be allocated among supplying countries and areas by the United States Trade Representative (USTR).
- (3) Additional U.S. Note 5 (b) (iv) authorizes the USTR to promulgate a regulation to provide for TRQ raw cane sugar allocations, including the issuance of a CQE to accompany sugar imported from any country for which an allocation has been provided.

15 CFR 2011:

As a condition of entry under the raw cane sugar TRQ and TRQs created under subsequent free trade agreements, the Bureau of Customs and Border Protection (CBP) , Department of Homeland Security, requires that imports be accompanied by a CQE (form FAS-961) (Attachments 1, 2, and 3). Rules governing the issuance of CQEs and administration of the CQE program were promulgated by

the United States Trade Representative (USTR) and codified in Title 15 of the Code of Federal Regulations, Part 2011, Subpart A (Attachment 7).

TRQ AND CQES for FY 2015:

(1) The Secretary of Agriculture established the TRQ for raw cane sugar at 1,117,195 metric tons for fiscal year 2015 in September 2014. (Attachment 8) The amount, 1,231,497 short tons raw value in the USDA press release, equals 1,117,195 metric tons. This level is the minimum to which the United States is committed under international trade obligations (Uruguay Round Trade Agreement).

(2) USTR allocated the raw cane sugar TRQ among 40 foreign supplying countries based on historical trade between 1975 and 1981. (Attachment 10)

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information collection (CQE): The CQE (form FAS-961, Attachments 1, 2, and 3) requires the following information to be provided:

- (1) country of origin or area of the eligible raw cane sugar;
- (2) quota period;
- (3) quantity of raw cane sugar to be exported;
- (4) details of the shipment (shipper, vessel, port of loading); and
- (5) additional details if available at the time of shipment (consignee, address of consignee, expected date of departure, expected date of arrival in the U.S., expected port of arrival).

A CQE must be signed by a certifying authority in the foreign country (as defined in sec. 2011.102 of the Regulation) and have an affixed seal or other form of authentication. (Attachments 1, 2, and 3)

Purpose of the CQE: U.S. Customs and Border Protection (CBP) uses the CQE as the principal document to track imports of raw cane sugar entered into the United States, or withdrawn from warehouse, that are imported under the TRQs for raw cane sugar. An importer must present the CQE to CBP to qualify to enter imports under the TRQ at a low or free-duty tariff under HTS 1701.12.10 and 1701.14.10. Sugar entered outside the TRQ, without a CQE, is subject to a high (restrictive) tariff under HTS 1701.12.10 and 1701.14.10. (Attachment 6).

The quantity of raw cane sugar specified on a CQE is decremented by CBP against the aggregate TRQ amount and the specific TRQ country allocation at the time imports are entered for consumption. The principal purpose of the CQE is to facilitate entry of raw cane sugar imports by ensuring that both the aggregate TRQ, and also the TRQ country allocations, cannot be oversubscribed – CQE quantities are restricted to TRQ levels. Sugar that is shipped to a country other than the United States, refined in a third country, and transshipped to the United States, is not eligible for entry into the United States under a CQE. By enforcing the limit on TRQ raw cane sugar imports, the CQEs serve as a crucial element in maintaining the integrity of the domestic price support program for raw cane sugar. Alternatives to CQEs, such as export certificates issued by foreign governments, would not provide the uniformity of CQEs or reliability of authenticity of shipments under CQEs, which facilitates CBP's clearance of imports.

Procedure: Prior to October 1 (fiscal year), the Department's Foreign Agricultural Service (FAS) assigns a number to each CQE that is distributed via encrypted electronic files to those U.S. Embassies where the host country has a TRQ allocation. CQEs remain as encrypted electronic files

in Embassy offices until a certifying authority (e.g., trade association, foreign government agency) requests a CQE for a shipment of raw cane sugar to be entered under that country's TRQ allocation. The certifying authority completes the information collection on the CQE and authenticates its accuracy. The U.S. Embassy maintains records of TRQ quantities released to certifying authorities on CQE forms to record the declining TRQ allocation balance. When the remaining TRQ amount is zero, the Embassy issues no further CQEs for that fiscal year. Electronic copies of each CQE are retained by the Embassy and returned to FAS/USDA headquarters in Washington, D.C. for recordkeeping.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Earlier, automation of the process was limited to recordkeeping by Customs officials at the port of entry. CBP officers record the import data on a CQE into the automated Customs quota system. Data entered at ports remains preliminary until approved by Customs officials in Washington, D.C. Final data are published on CBP's electronic bulletin board (<https://www.cbp.gov/trade/quota/tariff-rate-quotas>) on an approximately weekly basis.

Cooperating with CBP for several years through a Memorandum of Understanding, USDA/FAS integrated electronic CQEs into CBP's streamlined Automated Commercial Environment (ACE). In FY 2016, this arrangement under ACE became fully operative. The complete transition to electronic CQEs required several years to resolve security and compatibility issues at the U.S. Embassies and with CBP.

CQEs remain secure documents, resembling bearer bonds. Therefore, USDA/FAS, CBP, and U.S. Embassies continue to focus on security at all levels. CQEs have monetary value (i.e., the differences between the domestic and world price of sugar). The total value of all CQEs issued for the total TRQ quantities for fiscal year 2015 is estimated at \$244 million. (Attachment 11)

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

There is no duplication of information or data available elsewhere.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimized burden.**

Of the 3,104 of responses, the agency cannot determine how many foreign small businesses submitted them. Foreign certifying authorities are generally government-related entities or government-endorsed trade associations. On the import side, three major U.S. sugar refiners account for all raw cane sugar imports.

- 6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Without CQEs, USDA/FAS and CBP could not administer the raw cane sugar TRQs authorized under U.S. law. The data collected on CQE forms is required by the regulation and cannot be collected less frequently than annually.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**

CQEs are issued continuously throughout the fiscal year as raw cane sugar is exported to the United States.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

None.

- **requiring respondents to submit more than an original and two copies of any document;**

This item is no longer relevant with the introduction of electronic encryption.

- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

Not applicable.

- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

Not applicable.

- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

Not applicable.

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use;**

None.

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no other special circumstances.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice. Summarize public comments received in response to

that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Certificates for Quota Eligibility (CQEs) provide benefits to foreign entities and, like bearer bonds, often pass through multiple hands. Therefore, USDA/FAS has no direct contact with these foreign individuals who received CQEs and is not even sure of their identities.

Notice of this information collection was published in the Federal Register on Thursday, July 7, 2016 (81 FR 44258). FAS did not receive any comments. (Attachment 13)

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Respondents do not receive any payment or gifts for participation in the reporting program.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Customs and Border Protection maintains the confidentiality of quantities of imports entered by individual firms and related business confidential information provided on CQEs.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a private sensitive nature.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burden in Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

The public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and reviewing the collected information. The annual costs are estimated at \$7,688 (519 hours at an average cost of \$14.81 per hour for the certifying authority) based on data from the International Monetary Fund. (Attachment 14)

Table: Estimated Annual Reporting and Recordkeeping Burden	
Number of respondents	32 – Number of countries receiving a TRQ allocation in FY 2015. This number could theoretically be 40, but some countries do not ship sugar in a given year, while other countries have abandoned their sugar industries.
Average number of responses annually per respondent	97
Total annual responses	3,104
Total annual burden in hours	519
Total annual burden in hours per CQE	0.16 (ten minutes)
Cost per hour	\$14.81
Cost per CQE	\$2.47

13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

There exist no costs as defined by question 13. All costs include only labor.

14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

During FY 2015, the estimated cost for distributing CQEs totaled \$5,865. At the step 10 category, estimated personnel expenditures at all levels (International Trade Specialist, GS-13; Branch Chief, GS-14; and Division Director, GS-15) in Washington totaled \$4,675. Program Assistants at overseas posts (GS-8, step 10) in 32 countries received, catalogued, and disseminated the encrypted, electronic CQEs at an estimated cost of \$1,190. (Attachment 15)

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

During FY 2015, USDA/FAS completed the transition from a paper three-carbon form to an encrypted, electronic form. This new format substantially reduced the time needed to complete and to manage CQEs.

The number of CQEs issued rose from 1,240 in FY 2012 to 3,114 in FY 2015, because the United States now maintains free trade agreements with Colombia and Panama. Therefore, suppliers of raw

cane sugar in Colombia and Panama now have two instruments to enter their product at a lower duty into the United States. This change amplifies more participation by the 40 countries covered under the tariff-rate quota under the World Trade Organization.

Responding to increased demand for CQEs, both USDA/FAS headquarters staff and colleagues based overseas devoted more time to handling CQEs. Hence, the estimated wage bill went from \$4,586 in FY 2012 to \$5,865 in FY 2015.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

The information collection is tabulated by CBP, which aggregates individual shipments under CQEs. CBP then publishes total imports and country imports entered under the TRQ on its electronic bulletin board. (www.cbp.gov/xp/cgov/import/textiles_and_quotas/commodity/)

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There is no request.

18. Explain each exception to the certification statement identified in Item 19 “Certification for Paperwork Reduction Act.”

There are no exceptions.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of data does not employ statistical methods.