

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) allocated on a country-by-country basis. The Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture (USDA) issues a certificate for quota eligibility (CQE) authenticated by a foreign country's Certifying Authority. The CQE permits entry at a low duty of raw cane sugar under the TRQ (Attachment 1).

Since inaugurating the original TRQ in 1992, the United States has ratified free trade agreements (FTAs) with various countries. Therefore, CQEs under the same terms and conditions as the original instrument serve to allow preferential 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 4):

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 1701.13.10 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 4)

- (1) Additional U. S. Note 5 (a) (ii) authorizes establishing 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 for raw cane sugar, established by the Secretary, may be allocated among supplying countries by the United States Trade Representative (USTR).
- (3) Additional U.S. Note 5 (b) (iv) authorizes USTR to promulgate a regulation to provide for TRQ raw cane sugar allocations, including the issuance of CQEs to accompany sugar imported from any country benefitting from an allocation.

15 CFR 2011:

As a condition for entry at low duty 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 (Attachments 1, 2, and 3).

Rules about issuing CQEs and administrating the CQE program come from USTR and are codified in Title 15 of the Code of Federal Regulations, Part 2011, Subpart A (Attachment 5).

TRQs AND CQEs for FY 2019:

- (1) The Secretary established in July 2018 the fiscal year 2019 TRQ for raw cane sugar at 1,117,195 metric tons raw value (Attachment 6). The amount, 1,231,497 short tons raw value in the USDA press release, equals 1,117,195 metric tons raw value, the minimum level to which the United States is committed under the Uruguay Round Trade Agreement (Attachment 7).
- (2) USTR issued its companion press release in July 2018 (Attachment 8).
- (3) USTR originally allocated the TRQ among 40 supplying countries based on historical imports between 1975 and 1981 (Attachment 9).

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 beneficiary to provide the following information:

- (1) country of origin 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 United States, expected port of arrival).

A Certifying Authority in the foreign country (as defined in sec. 2011.102 of the Regulation) must sign a CQE with an affixed seal or other form of authentication. Attachment 10 provides a current list of most Certifying Authorities.

Purpose of the CQE: Customs and Border Protection (CBP) uses the CQE as the principal document to track imports under the TRQs for raw cane sugar entering the United States or withdrawn from bonded warehouses. An importer must present a CQE to qualify to enter TRQ imports at a low tariff under HTS 1701.13.10 and 1701.14.10. Sugar entered without a CQE, is subject to a high (restrictive) tariff under HTS 1701.13.10 and 1701.14.10 (Attachment 5).

CBP decrements the quantity of raw cane sugar specified on a CQE against the aggregate TRQ amount and the specific TRQ country allocation. The CQE's main purpose involves facilitating entry of raw cane sugar imports by ensuring that both the aggregate TRQ and the TRQ country allocations cannot be oversubscribed. CQE quantities are restricted to TRQ levels. By enforcing the limits on TRQ raw cane sugar imports, 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 lack the uniformity, reliability, and authenticity of shipments under CQEs to facilitate CBP's clearing imports.

Procedure: Before October 1 (fiscal year) and January 1 (calendar year), USDA's Foreign Agricultural Service (FAS) assigns a number to each CQE for distribution via password-protected electronic files to each U.S. Embassy where the host country receives a TRQ allocation. These allocations include both fiscal year World Trade Organization (WTO) quantities and calendar year Free Trade Agreement (FTA) tonnages. CQEs remain as password-protected electronic files in an Embassy until a Certifying Authority requests CQEs for shipping raw cane sugar to be entered under that country's TRQ allocation. The Certifying Authority fills out the CQE and authenticates its accuracy. The U.S. Embassy maintains records of TRQ quantities released to certifying authorities to record the declining TRQ allocation balance. When the remaining TRQ amount reaches zero or the fiscal or calendar year ends, the Embassy stops issuing CQEs. The Embassy retains electronic copies of each CQE and returns them to FAS headquarters for recordkeeping.

3. Describe whether, and to what extent, 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 tallies by CBP officials at the ports of entry. CBP officers record the CQE import data into their automated quota system. Data entered at ports remain preliminary until approved by CBP officials in Washington, D.C. Final data are published weekly on CBP's website (<https://www.cbp.gov/trade/quota/tariff-rate-quotas>).

Cooperating with CBP through a Memorandum of Understanding, FAS integrated electronic CQEs into CBP's streamlined Automated Commercial Environment (ACE). In FY 2017, this arrangement under ACE became fully operative. The complete transition to electronic CQEs required several years of effort to resolve security and compatibility issues at the U.S. Embassies and with CBP.

CQEs qualify as secure documents, resembling bearer bonds. Therefore, FAS, CBP, and U.S. Embassies emphasize security. CQEs have monetary value (the difference between the domestic and world prices of raw cane sugar). The total value of all CQEs issued for fiscal year 2019 and calendar year 2019 is estimated at \$331 million (Attachment 11, Cell B27).

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 minimize burden.

Of the 3,716 responses, the agency cannot determine how many foreign small businesses submitted them. Foreign Certifying Authorities are generally government entities or government-endorsed trade associations. On the import side, seven U.S. sugar refiners and a host of smaller importers use CQEs to enter raw cane sugar, but these organizations do not complete CQEs.

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, FAS and CBP could not administer the raw cane sugar TRQs authorized under U.S. law. The regulation requires data collected on CQEs be compiled throughout a fiscal or a calendar year.

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;**

There are no other special circumstances.

- **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 became irrelevant with the introduction of electronic transmissions.

- **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.**

Not applicable.

FAS issues CQEs continuously throughout the fiscal and calendar years as beneficiary countries export raw cane sugar to the United States. There are no other special circumstances.

8. If applicable, provide a copy and identify the date and page number of publications 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.

Notice of this information collection appeared in the Federal Register on February 18, 2020 (Vol. 85 FR No. 32, page 8806). (Attachment 12)

Only one comment was received in late February 2020. Representing the American Sugar Alliance (2111 Wilson Blvd #700, Arlington, VA 22201), Brian Grunenfelder inquired by phone about the history, functions, and mechanics of a CQE. Drawing on the material in this Supporting Statement, we summarized the history, functions, and mechanics of a CQE.

Then, Mr. Grunenfelder focused on the CQE's age, which dates to 1992. We replied that during the past several years we have gradually created a new, more streamlined prototype CQE. Nevertheless, the CQE's Federal stakeholders, including CBP, FAS, OMB, and USTR, must review this possible improved instrument before its implementation. Mr. Grunenfelder provided no written comment.

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.

Our colleagues at U.S. Embassies receiving CQEs provide regular input about distributing CQEs. Following established protocol, only Embassy officials interact with foreign Certifying Authorities. Comments from the Embassies focus primarily on their discussions with Certifying Authorities about the probability of a country filling its allocation and the release of additional CQEs. To our knowledge, no Certifying Authority has ever commented on time required to complete a CQE.

Personnel at CBP manage entry of shipments of raw cane sugar under TRQs. They inquire about many technical matters, such as text in *Federal Register* notices and the use of CQEs to administer the free trade agreements with Colombia and Panama. Never have our CBP colleagues asked about the format of a CQE and the time needed to complete one.

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 precluding consultation in a specific situation. These circumstances should be explained.

In FY 2019, CQEs provided an estimated \$331 million in benefits to foreign entities (Attachment 11, Cell B27) and, like bearer bonds, often pass through multiple hands. Therefore, we have no direct contact with the foreigners receiving CQEs and cannot identify them to ask questions.

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

Recipients of CQEs receive no payment or gift.

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 and Foreign Agricultural Service safeguard the business confidential information on CQEs.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters 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.

No questions of a private 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.

With improved methodology, we have calculated a significant increase of 30.6-percent in estimated annual burden from the currently approved information collection, which expires on April 30, 2020.

Rather than using aggregated ranges of international salary data, we discovered through commercial websites more precise salary estimates. Our salary estimates include 3.5 percent in fringe benefits for accountants in individual countries. The profession of accountant serves as a proxy for the U.S. counterpart of compliance officer as defined by the Bureau of Labor Statistics (Attachment 13).

The public reporting burden for this information collection is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and reviewing the collected information. The annual estimated cost is \$9,760 (\$9,430 in salary plus \$330 in fringe benefits), based on estimated hourly wages for an accountant in each country (Attachment 14, Range K49..N49). The previous estimate totaled \$7,471.

Number of respondents	30 – Number of countries using CQEs
Average number of responses annually per respondent	124
Total annual responses	3,720
Total annual burden in hours	619
Total annual burden in hours per CQE	0.16 (ten minutes)
Cost per hour (The countries processing CQEs have vastly different hourly labor rates. The number \$9,430 incorporates this fact.)	\$10.00
Cost per CQE	\$2.54

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.

No capital start-up cost.

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 2019, the estimated salary cost including 3.5 percent in fringe benefits for FAS to distribute and manage CQEs totaled \$87,069 (\$84,125 salary plus \$2,944 in fringe benefits). Due to further research, a more rigorous methodology reflects a comprehensive overview of the costs behind administering the CQEs (Attachment 15, Range I13..J13).

Various, sometimes substantial, anomalies arise with FAS Washington, the FAS overseas posts, CBP, personnel elsewhere in USDA, and customs brokers. Briefing senior USDA officials about sugar policy takes time. Our overseas colleagues must regularly contact foreign Certifying Authorities to determine the quantity of sugar available and the number of CQEs requested, besides monitoring the password protected CQEs themselves. (Attachment 16's worksheet called Total World, Cells E135, H135)

TRQs and their companion CQEs only exist because of the domestic U.S. sugar supply control apparatus. Therefore, our counterparts in the domestic Farm Production and Conversation (FPAC) unit often inquire about international sugar policy and use of CQEs. Each meeting with our FPAC colleagues takes time. This estimate does not include the time of our colleagues in FPAC. Personnel at CBP headquarters and those at U.S. ports fall outside our calculations. Finally, the substantial, strategic efforts of officials at USTR remain outside our cost estimates.

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

During FY 2017, USDA/FAS fully implemented an electronic, password-protected form. This transition involved extensive cooperation with CBP.

Based on FY 2016 data, the OMB/OIRA inventory shows 3,104 responses with 519 burden hours (Attachment 17). Meanwhile, more current data have changed.

In FY 2019, the total number of CQEs issued reached 3,720, a 19.8 percent increase, from 3,104 in FY 2016 (Attachment 17). For the FY 2019 WTO TRQ, Colombia, Guatemala, India, Panama, Peru, and South Africa all requested substantially more CQEs than in FY 2016. From FY 2016 to FY 2019, the number of WTO TRQs rose from 2,364 to 2,715—a gain of 14.8 percent.

Meanwhile, suppliers of raw cane sugar in both Colombia and Panama took more advantage of the two respective free trade agreements. Using their CQE instruments, they entered into the United States more product at a lower duty. Therefore, in CY 2019 Colombia and Panama requested 1,000 FTA CQEs, expanding from 750 in CY 2016, up by one third. Total burden hours for all CQEs in FY 2019 reached 619, increasing 19.3 percent from 519 in FY 2016.

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

Using the tabulated data, CBP aggregates individual shipments under the tariff-rate quotas. It then publishes weekly on its website total imports and country imports entered under the TRQs. (<https://www.cbp.gov/document/report/commodity-status-report>)

Each month, FAS compiles and publishes the weekly CBP data for sugar imports covered by CQEs. Tables 3A, 3B, and 5 contain final FY 2019 data for both WTO and FTA tariff-rate quotas. (<https://www.fas.usda.gov/data/sugar-monthly-import-and-re-export-data-0>)

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.