

Council, Oklahoma City; *Site 8* (30 acres)—Airport NE, located northeast of Will Rogers World Airport, Oklahoma City; *Site 9* (200 acres)—Kelley Pointe Industrial Park, 33rd Street and Kelley Avenue, Edmond; *Site 10* (43 acres)—Kelley Avenue International Trade Center, south of 15th between Kelley Avenue and AT&SF Railroad, Edmond; and, *Site 11* (21 acres)—Tower Industrial Park, Tract II, Tower Drive and Woodview, Moore.

The applicant is requesting authority to expand *Site 1* to include an additional 185 acres (2 parcels) within the 6700-acre Will Rogers World Airport complex (new total—1,061 acres) and to expand the zone to include two new sites in the area: *Proposed Site 12* (26 acres)—ICON Center Industrial Park, 300 East Arlington, Ada; and, *Proposed Site 13* (308 acres)—within the 401-acre Guthrie/Edmond Regional Airport, 520 Airport Road, Guthrie. The proposed sites are owned by Robbie Sherrell and the City of Guthrie, respectively. The applicant is also requesting authority to remove the following sites from the zone project due to changed circumstances: South River Industrial Park (*Site 5*—292 acres); Continental Distribution Park (*Site 6*—42 acres); Kelley Pointe Industrial Park (*Site 9*—200 acres); and, Tower Industrial Park (*Site 11*—21 acres). No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. *Submissions via Express/Package Delivery Services*: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th Street, NW., Washington, DC 20005; or,

2. *Submissions via the U.S. Postal Service*: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue, NW., Washington, DC 20230.

The closing period for their receipt is April 10, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 25, 2006).

A copy of the application and accompanying exhibits will be available

during this time for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce, Export Assistance Center, 301 NW 63rd Street, Suite 330, Oklahoma City, Oklahoma 73116.

Dated: January 30, 2006.

Dennis Puccinelli,

Executive Secretary.

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DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, application no. 05-00001.

SUMMARY: On January 30, 2006, The U.S. Department of Commerce issued an export trade certificate of Review to Central America Poultry Export Quota, Inc. ("CA-PEQ"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482-5131 (this is not a toll-free number), or by e-mail at oitca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2005).

Export Trading Company Affairs ("ETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Chicken leg quarters, (or parts of chicken leg quarters, including legs or thighs), fresh, chilled or frozen, seasoned or unseasoned, marinated or

not marinated, classifiable under HTS 0207.13.99, 0207.14.99 and 1602.32.00.

Export Markets

Chicken leg quarters for which awards will be made will be exported to El Salvador, Guatemala, Honduras and Nicaragua.

Export Trade Activities and Methods of Operation

I. *Purpose.* CA-PEQ will manage on an open tender basis the tariff-rate quotas ("TRQs") for poultry products granted by El Salvador, Guatemala, Honduras, and Nicaragua to the United States under the terms of the United States—Dominican Republic—Central America Free Trade Agreement ("DR-CAFTA") or any amended or successor agreement providing for Central American poultry TRQs for the United States of America. CA-PEQ also will provide for distributions of the proceeds received from the aforementioned tender process ("the TRQ System") for the benefit of the poultry industries in El Salvador, Guatemala, Honduras, Nicaragua, and the United States.

II. *Implementation. A. Administrator.* CA-PEQ shall contract with a neutral third party Administrator who is not engaged in the production, sale, distribution or export of poultry or poultry products and who shall bear responsibility for administering the TRQ System, subject to general supervision and oversight by the Board of Directors of CA-PEQ.

B. *Membership.* CA-PEQ has been formed jointly by the USA Poultry and Egg Export Council ("USAPEEC") on behalf of the U.S. poultry industry; by Asociación Nacional de Avicultores de Guatemala ("ANAVI") on behalf of the Guatemalan poultry industry; by Asociación Nacional de Avicultores de El Salvador ("AVES") on behalf of the Salvadoran poultry industry; and by Asociación Nacional de Avicultores y Productores de Alimentos de Nicaragua ("ANAPA") on behalf of the Nicaraguan poultry industry.

C. *Open Tender Process.* CA-PEQ shall offer TRQ Certificates for duty-free shipments of chicken leg quarters to El Salvador, Guatemala, Honduras, and Nicaragua solely and exclusively through an open tender process with certificates awarded to the highest bidders ("TRQ Certificates"). CA-PEQ shall hold tenders in accordance with tranches established in the relevant regulations of El Salvador, Guatemala, Honduras or Nicaragua, or in the absence of such, at least three times each year. The award of TRQ Certificates under the open tender process shall be determined solely by

the Administrator in accordance with Section I without any participation by the Board of Directors.

D. Persons or Entities Eligible to Bid. Any person or entity incorporated or domiciled in the United States of America shall be eligible to bid in the open tender process.

E. Notice. The Administrator shall publish notice ("Notice") of each open tender process to be held to award TRQ Certificates in the Journal of Commerce and, at the discretion of the Administrator, in other publications of general circulation within the U.S. poultry industry. The Notice will invite independent bids and will specify (i) the total amount (in metric tons) that will be allocated pursuant to the applicable tender; (ii) the shipment period for which the TRQ Certificates will be valid; (iii) the date and time by which all bids must be received by the Administrator in order to be considered (the "Bid Date"); and (iv) a minimum bid amount per ton, as established by the Board of Directors, to ensure the costs of administering the auction are recovered. The Notice normally will be published not later than 30 business days prior to the first day of the shipment period and will specify a Bid Date that is at least 10 business days after the date of publication of the Notice. The Notice will specify the format for bid submissions. Bids must be received by the Administrator not later than 5:00 p.m. EST on the Bid Date.

F. Contents of Bid. The bid shall be in a format established by the Administrator and shall state (i) the name, address, telephone and facsimile numbers, and email address of the bidder; (ii) the quantity of poultry bid, in an amount that is a multiple of 25 metric tons; (iii) the bid price in U.S. dollars per metric ton; and (iv) the total value of the bid. The bid form shall contain a provision, that must be signed by the bidder, agreeing that (i) any dispute that may arise relating to the bidding process or to the award to TRQ Certificates shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules; and (ii) judgment on any award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

G. Performance Security. The bidder shall submit with each bid a performance bond, an irrevocable letter of credit drawn on a U.S. bank, cashier's check, wire transfer or equivalent security, in a form approved and for the benefit of an account designated by the Administrator, in the amount of \$50,000

or the total value of the bid, whichever is less. The bidder shall forfeit such performance security if the bidder fails to pay for any TRQ Certificates awarded within five (5) business days. The bidder may choose to apply the performance security to the price of any successful bid, or to retain the performance security for a subsequent open tender process. Promptly after the close of the open tender process, the Administrator shall return any unused or non-forfeited security to the bidder.

H. Confidentiality of Information. The Administrator shall treat all bids and their contents as confidential. The Administrator shall disclose any such information only to another neutral third party or authorized government official of the United States, El Salvador, Guatemala, Honduras or Nicaragua, signatories to the DR-CAFTA, and only where necessary to ensure the effective operation of the TRQ System or where required by law (including appropriate disclosure in connection with the arbitration of a dispute). However, after the issuance of all TRQ Certificates from an open tender process, the Administrator shall notify all bidders and shall disclose publicly (i) the total tonnage for which TRQ Certificates were awarded, and (ii) the lowest price per metric ton of all successful bids.

I. Award of TRQ Certificates. The Administrator shall award TRQ Certificates for the available tonnage to the bidders who have submitted the highest price conforming bids. If two or more bidders have submitted bids with identical prices, the Administrator shall divide the remaining available tonnage in proportion to the quantities of their bids, and offer each TRQ Certificate in the resulting tonnages. If any bidder declines all or part of the tonnage offered, the Administrator shall offer that tonnage first to the other tying bidders, and then to the next highest bidder.

J. Payment for TRQ Certificates. Promptly after being notified of a TRQ award and within the time specified in the Notice, the bidder shall pay the full amount of the bid, either by wire transfer or by certified check, to an account designated by the Administrator. If the bidder fails to make payment within five (5) days, the Administrator shall revoke the award and award the tonnage to the next highest bidder(s).

K. Delivery of TRQ Certificates. The Administrator shall establish an account for each successful bidder in the amount of tonnage available for TRQ Certificates. Upon request, the Administrator will issue TRQ Certificates in the tonnage designated by

the bidder, consistent with the balance in that account. The TRQ Certificate shall state the delivery period for which it is valid.

L. Transferability. TRQ Certificates shall be freely transferable except that (i) any TRQ Certificate holder who intends to sell, transfer or assign any rights under that Certificate shall publish such intention on a Web site maintained by the Administrator at least three (3) business days prior to any sale, transfer or assignment; and (ii) any TRQ holder that sells, transfers or assigns its rights under a TRQ Certificate shall provide the Administrator with notice and a copy of the sale, transfer or assignment within three (3) business days.

M. Deposit of Proceeds. The Administrator shall cause all proceeds of the open tender process to be deposited in an interest-bearing account in a financial institution approved by the CA-PEQ Board of Directors.

N. Disposition of Proceeds. The proceeds of the open tender process shall be applied and distributed as follows:

1. The Administrator shall pay from tender proceeds, as they become available, all operating expenses of CA-PEQ, including legal, accounting and administrative costs of establishing and operating the TRQ System, as authorized by the Board of Directors.

2. Of the proceeds remaining at the end of each year of operations after all costs described in (1) above have been paid—

(a) Fifty percent (50%) shall be distributed to fund export market development, educational, scientific and technical projects to benefit the United States poultry industry. CA-PEQ shall accept proposals for the funding of projects approved by the Board of Directors of USAPEEC. The Administrator shall disburse funds to those projects approved for funding by the CA-PEQ Board of Directors.

(b) Fifty percent (50%) shall be distributed to fund market development, educational, scientific and technical projects to benefit the poultry industries of El Salvador, Guatemala, Honduras, and Nicaragua. CA-PEQ shall accept proposals for funding of projects approved by the Boards of Directors of ANAVI, AVES, and ANAPA, as the case may be. The Administrator shall disburse funds to those projects approved for funding by the CA-PEQ Board of Directors.

O. Arbitration of Disputes. Any dispute, controversy or claim arising out of or relating to the TRQ System or the breach thereof shall be settled by arbitration administered by the

American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

P. *Annual Reports.* CA-PEQ shall publish an annual report including a statement of its operating expenses and data on the distribution of proceeds, as reflected in the audited financial statement of the CA-PEQ TRQ System.

III. *Cooperation with the U.S.*

Government and with the Governments of El Salvador, Guatemala, Honduras, and Nicaragua. CA-PEQ will provide whatever information or consultations may be useful in order to ensure effective consultations between the government of the United States of America and the governments of El Salvador, Guatemala, and Nicaragua concerning the implementation and operation of the TRQ System. In particular, while maintaining the confidentiality of information submitted by bidders and Members, CA-PEQ will provide its annual report, regular reports following each tender held, reports on distributions of tender proceeds, and any other information that might be requested by the U.S. Government. Directly or through the U.S. Government, CA-PEQ will endeavor to accommodate any information request from the governments of El Salvador, Guatemala, Honduras, and Nicaragua, while protecting confidential information; and will consult with officials of those governments as appropriate.

IV. *Miscellaneous Implementing Provisions.* CA-PEQ and/or Members may (i) meet, discuss and provide for an administrative structure to implement the foregoing tariff-rate quota management system, assess its operations and discuss modifications as necessary to improve its workability; (ii) meet, exchange and discuss information regarding the structure and method for implementing the foregoing tariff-rate quota management system; (iii) meet, exchange and discuss the types of information needed regarding the bidding process and distribution of the bid proceeds, that are necessary for implementation of the system; (iv) meet, exchange and discuss information regarding U.S. and foreign government agreements, legislation and regulations affecting the tariff rate quota management system; and (v) otherwise meet, discuss and exchange information as necessary to implement the activities described above and take the necessary action to implement the foregoing tariff-rate quota management system.

Terms and Conditions of Certificate

1. Except as authorized in Paragraphs 2.H and 2.N of the Export Trade Activities and Methods of Operation, in engaging in Export Trade Activities and Methods of Operation, neither CA-PEQ, the Administrator, any Member, nor any neutral third party shall intentionally disclose, directly or indirectly, to any Member (including parent companies, subsidiaries, or other entities related to any Member) any information regarding any other Member's or bidder's costs, production, inventories, domestic prices, domestic sales, capacity to produce Products for domestic sale, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless such information is already generally available to the trade or public.

2. CA-PEQ and Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Definition

Neutral third party, as used in this Certificate of Review, means a party not otherwise associated with CA-PEQ or any Member and who is not engaged in the production, distribution, or sale of chicken.

Members (Within the Meaning of Section 325.2(1) of the Regulations)

Members (in addition to applicant): USA Poultry and Egg Export Council; Asociación Nacional de Avicultores de Guatemala; Asociación Nacional de Avicultores de El Salvador; and Asociación Nacional de Avicultores y Productores de Alimentos de Nicaragua.

Protection Provided by Certificate

This Certificate protects CA-PEQ; Members; and their directors, officers, and employees acting on their behalf from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits CA-PEQ and Members from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to CA-PEQ by the Deputy Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary of Commerce or by the Attorney General concerning either (a) the viability or quality of the business plans of CA-PEQ or Members or (b) the legality of such business plans of CA-PEQ or Members under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 2, 2006.

Jeffrey C. Anspacher,

Director, Export Trading Company Affairs.
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COMMODITY FUTURES TRADING COMMISSION

In the Matter of the New York Mercantile Exchange, Inc. Petition To Extend Interpretation Pursuant to Section 1a(12)(C) of the Commodity Exchange Act

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: On February 4, 2003, in response to a petition from the New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") the Commodity Futures Trading Commission ("Commission"), issued an order¹ pursuant to section 1a(12)(C) of the Commodity Exchange Act ("Act").

¹ 68 FR 5621 (February 4, 2003).