

for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

#### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 03-00008." A summary of the application follows.

#### Summary of Application

*Applicant:* California Pistachio Export Council, LLC ("CPEC"), 5497 E. Olive Avenue, Fresno, California 93727.

*Contact:* Carter Brown, Esquire, Consultant to the applicant, Telephone: (202) 543-4455.

*Application No.:* 03-00008.

*Date Deemed Submitted:* November 19, 2003. Expedited Review of the application has been requested.

*Members (in addition to applicant):* A&P Growers Cooperative, Inc., Tulare, CA; Gold Coast Pistachios, Inc., Fresno, CA; Keenan Farms, Inc., Avenal, CA; Monarch Nut Company, Delano, CA; Nichols Pistachio, Hanford, CA; Primex Farms, LLC, Wasco, CA; and Setton Pistachio of Terra Bella, Inc., Terra Bella, CA.

CPEC seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operation:

#### Export Trade

1. *Products:* California in-shell and shelled pistachios, raw and roasted. Included within this definition are organically produced pistachios and flavored pistachios.

2. *Export Trade Facilitation Services (as they Relate to the Export of Products):* All export trade-related facilitation services, including but not limited to: development of trade strategy; sales, marketing, and distribution; foreign market development; promotion; and all aspects of foreign sales transactions, including export brokerage, freight forwarding, transportation, insurance, billing, collection, trade documentation, and foreign exchange; customs, duties, and taxes; and inspection and quality control.

#### Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

#### Export Trade Activities and Methods of Operation

1. CPEC, on its own behalf or on behalf of all or less than all of its Members, through CPEC or through Export Intermediaries (to the extent provided in section 1.g) may:

a. *Export Sales Price.* Establish sales price, minimum sales price, target sales price and/or minimum target sales price, and other terms of sale;

b. *Marketing and Distribution.* Conduct marketing and distribution of Products;

c. *Promotion.* Conduct joint promotion of Products;

d. *Quantities.* Agree on quantities of Products to be sold, provided each Member shall be required to dedicate only such quantity or quantities as each such Member shall independently determine;

e. *Market and Customer Allocation.* Allocate geographic areas or countries in the Export Markets and/or customers in the Export Markets among Members;

f. *Refusals to Deal.* Refuse to quote prices for Products, or to market or sell Products, to or for any customers in the Export Markets, or any countries or geographical areas in the Export Markets;

g. *Exclusive and Nonexclusive Export Intermediaries.* Enter into exclusive and

nonexclusive agreements appointing one or more Export Intermediaries (as defined under "Definitions" paragraph 1) for the sale of Products with price, quantity, territorial and/or customer restrictions as provided in sections 1.a through 1.f, inclusive, above;

h. *Non-Member Activities.* Purchase Products from non-Members to fulfill specific sales obligations, provided that CPEC and/or its Members shall make such purchases only on a transaction-by-transaction basis and when the Members are unable to supply, in a timely manner, the requisite Products at a price competitive under the circumstances. In no event shall a non-Member be included in any deliberations concerning any Export Trade Activities; and

i. *Transportation Activities.* Negotiate favorable transportation rates (volume discounts) and consolidate shipments.

2. CPEC and its Members may exchange and discuss the following information:

a. Information about sales and marketing efforts for the Export Markets, activities and opportunities for sales of Products in the Export Markets, selling strategies for the Export Markets, sales for the Export Markets, contract and spot pricing in the Export Markets, projected demands in the Export Markets for Products, customary terms of sale in the Export Markets, prices and availability of Products from competitors for sale in the Export Markets, and specifications for Products by customers in the Export Markets; b. Information about the price, quality, quantity, source, and delivery dates of Products available from the Members to export;

c. Information about terms and conditions of contracts for sale in the Export Markets to be considered and/or bid on by CPEC and its Members;

d. Information about joint bidding or selling arrangements for the Export Markets and allocations of sales resulting from such arrangements among the Members;

e. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans-or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes;

f. Information about U.S. and foreign legislation and regulations, including federal marketing order programs, affecting sales for the Export Markets;

g. Information about CPEC or its Members' export operations, including without limitation, sales and distribution networks established by