



U.S. Citizenship
and Immigration
Services

HOOPRD 70/6.2.8

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MAR 19 2007

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Re: California Consortium for Agricultural Export (CCAЕ) Amendment

Pursuant to Section 610 of the Appropriations Act of 1993, on February 27, 2002, the California Consortium for Agricultural Export (CCAЕ) was approved and designated as a regional center by the former Immigration and Naturalization Service for the purpose of attracting immigrant investor capital into the nine-county region of Central California known as the San Joaquin Valley. CCAЕ's originally approved regional center application focused on the following eight commercial agriculture and business activities:

1. Almond growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
2. Pistachio growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
3. Walnut growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
4. Wine or table grape growing, harvesting, processing, wine making, warehousing, and sales to both domestic and overseas buyers.
5. Citrus growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.

6. Plum growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
7. Peach growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
8. Agricultural fertilizer and nutrient manufacturing, marketing and shipping.

On November 8, 2006, CCAE requested approval to amend its business plan and refine its job creation multipliers to encompass a ninth area for immigrant investment through CCAE, that being investment into the California Manufacturing and Engineering Company (C-MEC) engaged in the design, engineering, manufacture and sale of scissor lift and telehandler aerial work platforms. In support of its amendment request, CCAE noted that C-MEC meets the definition for a “troubled business,” i.e. a business that for the past 1-2 year period has sustained a loss in net worth equal to 20% or more. As a troubled business C-MEC could qualify for job credits both in preserving and sustaining the pre-investment level of direct full time jobs and credit for any new jobs created which subsequently result from the planned total investment of \$24.5 million to be contributed by as many as 49 immigrant investors.

In addition to the financial and accounting evidence supporting C-MEC as a troubled business, CCAE submitted the following additional evidence in support of its requested amendment:

- A Job Creation Analysis and Econometric Model prepared by a professional economist;
- A revised business plan reflecting the timing, scale and planned use within C-MEC of the alien investor capital;
- A proposed Private Placement Memorandum (PPM) and an Operating Agreement, both reflecting revisions/changes based on USCIS review comments to ensure full compliance with the applicable EB-5 regulations at 8 CFR 204.6 and USCIS precedent decisions;
- Proposed escrow instructions to the financial institution designated to serve as the escrow agent for each immigrant investor’s irrevocable escrow account regarding disbursement of the investor’s contributed capital; and
- The business model for capitalization from as many as 49 immigrant investors and \$24.5 million in aggregate immigrant investor funds into C-MEC.

Based on its review and analysis of the November 8, 2007, request to amend the previous CCAE Regional Center designation, USCIS approves this amendment to the regional center designation, business plan and job creation multipliers for the CCAE Regional Center reflecting the addition of C-MEC by which the CCAE business plan projects stabilization and growth into a job creating enterprise by the infusion of capital invested through the CCAE Regional Center from immigrant investors. In accepting the amendment, USCIS has updated its records of CCAE’s Regional Center approval and designation, business plan, and job creation multipliers to encompass these amendments to provide for immigrant investor capital into the following nine commercial enterprise activities:

1. Almond growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
2. Pistachio growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
3. Walnut growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
4. Wine or table grape growing, harvesting, processing, wine making, warehousing, and sales to both domestic and overseas buyers.
5. Citrus growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
6. Plum growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
7. Peach growing, harvesting, processing, warehousing, and sales to both domestic and overseas buyers.
8. Agricultural fertilizer and nutrient manufacturing, marketing and shipping.
9. The California Manufacturing and Engineering Company's Design, Engineering, Manufacture and Marketing of aerial work platforms (scissor lifts and telehandlers).

As such, aliens seeking immigrant visas through the Immigrant Investor Pilot Program may file individual petitions with USCIS for these new commercial enterprises located within the CCAE regional center area comprised of the nine contiguous counties known as the San Joaquin Valley, made up by the following individual counties in Central California: Fresno, Madera, Tulare, Kings, Kern, Mariposa, Merced, Stanislaus and San Joaquin. The geographic focus of this area is comprised of both rural areas and certain urban areas which have been designated as a Targeted Employment Area (TEA) by the State of California as defined in 8 CFR 204.6(e). Therefore, the minimum capital investment threshold for any individual immigrant investment into a new commercial enterprise through the CCAE Regional Center shall be not less than \$500,000.

Alien entrepreneurs who file petitions for commercial enterprises located in the CCAE regional center area must fulfill all of the requirements set forth in 8 CFR 204.6, except that the petition need not show that the new commercial enterprises created ten new jobs indirectly as a result of the alien entrepreneur's investment. This determination has been established by way of the USCIS' acceptance of the economic analysis which is contained as part of the USCIS-approved CCAE Regional Center's initially approved proposal and its expanded indirect job creation analysis within the approved CCAE amendment.

However, where preservation or creation of "direct jobs" are claimed in support of an immigrant investor's individual I-526 petition affiliated with the CCAE Regional Center, then:

- To be credited for preserving/maintaining pre-existing direct jobs for "qualified employees" within C-MEC as a "troubled business" as defined by the regulations at Part

204.6(e), the individual I-526 petition must be supported by probative evidence of the number of full time (35 hours per week) qualified employees for the 1 to 2 years prior to filing the petition whose positions shall be preserved/maintained throughout the alien's period of conditional residency. Such evidence should include copies of quarterly state employment tax reports, Forms W-2, Forms I-9, and any other pertinent employment records sufficient to demonstrate the number of "direct" qualifying pre-existing full time jobs in C-MEC preserved/maintained, and any other pertinent employment records sufficient to demonstrate the number of employees before the investment.

- To be credited with projected creation of new "direct" jobs for "qualifying employees" upon filing the I-526 petition, then the petition must be supported by a comprehensive detailed C-MEC business plan and supporting financial, marketing and related data and analysis providing a reasonable basis for projecting creation of the new direct jobs.

Each individual petition, in order to demonstrate that it is associated with the CCAE Regional Center, in conjunction with addressing all the requirements for an individual alien entrepreneur petition, shall also contain as supporting evidence relating to this amended regional center designation, the following:

1. A copy of this letter for the amended approval and designation.
2. A copy of the approved regional center narrative proposal, business plan, and the approved amendments.
3. A copy of the job creation methodology required in 8 CFR 204.6(j)(4)(iii), as contained in both the initial and amended regional center economic analysis which has been approved by USCIS, which reflects that investment by an individual alien investor of at least \$500,000 into a commercial agricultural or aerial work platform manufacturing enterprise within the geographic area of the amended CCAE Regional Center will preserve and/or create full-time employment positions, either directly or indirectly, for not fewer than ten qualified employees.
4. A legally executed copy of:
 - a. the Private Placement Memorandum;
 - b. the C-MEC Operating Agreement; and
 - c. the escrow instructions

The reaffirmation by USCIS of the designation of the CCAE as a regional center does not reflect any determination on the merits of individual petitions filed by alien entrepreneurs under the Immigrant Investor Pilot Program. All petitions for alien entrepreneurs who invest within the regional center will be adjudicated by the USCIS on a case-by-case basis and each petition must be fully documented. The individual petitions must be submitted to the California Service Center.

If you have any questions concerning the CCAE Regional Center amendment approval and reaffirmation of your designation under the Immigrant Investor Pilot Program, please contact Maurice Berez, Chief Adjudications Officer, Foreign Trader, Investor and Regional Center Program.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Allen", with a stylized flourish at the end.

John M. Allen
Acting Chief
Service Center Operations