

**CHAPTER 70**  
**CERTIFICATION OF EXPORT**  
**TRADING COMPANIES**

**Authority**

N.J.S.A. 52:27H-22.7 to 52:27H-22.14; P.L.  
1981, c.122 and P.L. 1995, c.275.

**Source and Effective Date**

R.1997 d.69, effective February 18, 1997.  
See: 28 N.J.R. 4775(a), 29 N.J.R. 578(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 70, Certification of Export Trading Companies, expires on August 17, 2002. See: 34 N.J.R. 374(a).

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**12A:70-1.1 Purpose**

The purpose of this chapter is to create a program for certifying qualified export trading corporations and to establish minimum standards for certification. These rules are intended to ensure a standard of proficiency and reliability in the export services provided. These rules require any qualified expert trading corporation obtaining certification

under N.J.S.A. 52:27H-22.7 et seq. (P.L. 1995, c.275) to “serve as an incubator facility for eligible businesses.”

**12A:70-1.2 Scope**

These rules establish the process to certify export trading corporations in New Jersey on a voluntary basis. The rules apply to qualified export trading corporations organized solely to assist new entrants into the export market. The rules describe the eligibility requirements and procedures businesses in this State must satisfy before certification is granted.

**SUBCHAPTER 2. ELIGIBILITY CRITERIA**

**12A:70-2.1 Eligible applicants**

(a) Any business doing business in New Jersey that intends to engage in those activities prescribed by N.J.S.A. 52:27H-22.7 et seq., and that satisfies the minimum eligibility requirements, as specified in (b) below, shall be eligible to apply to become a certified export trading corporation.

(b) The minimum eligibility requirements to apply for qualification as an export trading corporation shall be as follows:

1. An applicant shall:

i. Provide in its by-laws that its sole purpose is to serve as an incubator facility to be used by eligible businesses only, and for the period of time prescribed under the certification standards contained in this chapter;

ii. Demonstrate by the submittal of employment or biographical background information that a majority of the members of the board of the corporation have had experience in export trade for a period of five years prior to filing its application;

iii. Demonstrate, by the submittal of the financial papers prescribed in N.J.A.C. 12A:70-3.2, that the applicant is financially sound, at a minimum showing that the assets of the applicant exceed its liabilities prior to the date of application;

iv. Demonstrate the applicant’s ability to determine the receptivity and viability of its clients’ products or services in international markets, and to design, develop and implement an incubator program to assist its clients’ entry into export markets and develop their exporting self-sufficiency; and

v. Demonstrate that the applicant has established, in connection with community colleges and other public or private institutions of higher learning, an internship

or job training program(s) for students enrolled in a curriculum in such institution for which knowledge of export trade will enhance the student's ability to find employment and for employees of a business which exports, or intends to export, and may be eligible for funding under the terms of the Workforce Development Partnership Program, governed by N.J.S.A. 34:15D-1 et seq., and rules promulgated under the authority of that law.

(c) In order to qualify for certification under these proposed new rules, an applicant is required to have as its sole purpose and function to "serve as an incubator facility for eligible businesses." An applicant shall demonstrate that nothing in its existing by-laws conflicts or disallows meeting any of the minimum eligibility requirements, as stated in this rule, or satisfying the purpose and function of the export trading company.

#### 12A:70-2.2 Eligible conduct

(a) Certification shall only be issued to applicants able to undertake those activities prescribed by N.J.S.A. 52:27H-22.7 et seq. As a requirement of certification, the Commissioner of the Department of Commerce and Economic Development or his or her designee shall determine whether the applicant shall be able to at least provide the following services:

1. Provide or contract for assistance in researching of foreign markets;
2. Provide or contract for assistance in advertising, marketing, and participation in foreign trade events;
3. Provide or contract for assistance in the placement of bids with foreign buyers;
4. Provide or contract for lease assistance in arranging export trade transactions;
5. Provide or contract for assistance in pricing of goods to be exported, arranging the terms of sale, and facilitating foreign exchange transactions;
6. Assist in arranging loans or loan guarantees to clients, including loans or guarantees from the New Jersey Economic Authority, domestic banking institutions, foreign banking institutions, or the Export-Import Bank of the United States;
7. Provide or contract for translation, interpretation, or other services to facilitate communication between exporters and foreign purchasers;
8. Assist in arranging for the training of employees or prospective employees of clients with respect to the conducting for export trade;
9. Obtain, or assist in obtaining, bankers acceptances pursuant to section 207 of Title II of the Export Trading Company Act of 1982, P.L. 97-290 (12 U.S.C. § 372);

10. Purchase or take title to the receivables of exporters, or arrange purchases through independent factoring houses;

11. Assist in arranging for the packing, transportation, and shipment of goods;

12. Assist in, or contract for assistance in, the preparation of appropriate shipping and collection documents;

13. Assist in, or contract for assistance in, the selection and purchase of appropriate insurance, including marine and export credit insurance, provided through private carriers, or at the discretion of the board, through an umbrella or blanket policy obtained by the corporation;

14. Assist in, or contract for assistance in, the processing of foreign orders to and for exporters or with a foreign entity;

15. Assist in arranging joint ventures with other exporters or with foreign entities;

16. Assist in, or contract for assistance in, negotiating license agreements with foreign firms;

17. Assist in arranging financing through the New Jersey Economic Development Authority, the Export-Import Bank of the United States, through private sources, or a combination thereof; and

18. Assist clients in applying for export trade-related job training assistance pursuant to the Workforce Development Partnership Program established pursuant to P.L. 1992, c.43 (N.J.S.A. 34:15D-1 et seq.).

(b) Certification shall only be given to those applicants that will provide the aforementioned services to "eligible businesses" as defined under N.J.S.A. 52:27H-22.8. Eligible businesses are those New Jersey companies that are relative newcomers to export activities with little or no export experience, which can reasonably be determined to be able to sustain and expand export capability after the business is no longer eligible to use the facilities of the certified export trading corporation.

(c) Certified export trading corporations may provide services to a client for a period not exceeding three years commencing from the first date of delivery of exported goods or services following an agreement with the certified export trading corporation. The certified export trading corporation may only continue advising the client past the three year period upon a showing of compelling reasons, such showing to be made in writing to the Department of Commerce and Economic Development, no later than three weeks subsequent to the end of the three year period. Compelling reasons for extension shall include, but not be limited to:

1. Death of a principal of an eligible business;

2. Death or other circumstances leading to the temporary unavailability of expertise essential to an ongoing export transaction; or
3. Other unanticipated circumstances which have, or will, cause a transaction to be temporarily delayed.

### SUBCHAPTER 3. APPLYING FOR A CERTIFICATE

#### 12A:70-3.1 Place and form of filing

An applicant for certification as a certified export corporation shall submit an original and two copies of an application letter and supporting documentation, as specified in N.J.A.C. 12A:70-3.2, by personal delivery during normal business hours or by first class mail to the Department of Commerce and Economic Development, at the Department's offices at 20 West State St., CN 820, Trenton, New Jersey 08625-0820.

#### 12A:70-3.2 Contents of application

(a) The applicant shall submit an application letter addressed to the Department of Commerce and Economic Development, Office of the Commissioner, with the following information:

1. The name and principal address of the applicant, including any registered agent(s) in New Jersey who accepts mail on behalf of the applicant. The telephone and fax numbers of the applicant shall also be provided;
2. The name and principal addresses of each executive officer, board member, partner and director, and a summary of the professional background of each executive officer, board member, partner and director, prior to the applicant submitting its application with the required, showing that some of the applicant's board members have had some international business at some time during their working lives prior to the applicant submitting its application;
3. A copy of any legal instrument under which the applicant is organized or will operate, which shall include copies, if applicable, of the applicant's articles of incorporation corporate charter, bylaws, partnership, joint venture, membership or other agreement or contracts under which the applicant is organized; and
4. A plan for the internship program required to be established by the applicant in cooperation with New Jersey institutions of higher learning pursuant to N.J.S.A. 52:27H-22.7 et seq.

(b) The chief executive officer/applicant shall sign the application and certify that:

1. Each board member has authorized the applicant to submit the application; and
2. To the best of its belief the information in the application is true, correct, and fully responsive.

#### 12A:70-3.3 Application fee

Upon making application, the applicant shall include a check payable to the "New Jersey Dept. of Commerce—ETC" in the amount of \$250.00, constituting an initial application fee. Failure on the part of an applicant to pay the assessed certification application fee shall result in the applicant's application being returned to the applicant.

#### 12A:70-3.4 Annual renewal fee

Every certified export trading corporation shall mail to the Department of Commerce and Economic Development a letter requesting renewal of its certification within two months before the end of each year of the anniversary date of the issuance of its certification. Each renewal letter submitted to the Department before the anniversary date shall be accompanied by a check made payable to the "New Jersey Dept. of Commerce—ETC" in the amount of \$100.00, constituting the renewal fee. Failure on the part of a corporation to pay the assessed renewal fee shall result in the denial of renewal of certification.

#### 12A:70-3.5 Completeness of application

No application shall be deemed complete unless it complies with the application requirements contained in this chapter or satisfies any request for information made by the Department after the application is received. Applicants are encouraged to seek guidance and assistance from the Department of Commerce and Economic Development, and its Division of International Trade, in preparing and documenting their applications.

#### 12A:70-3.6 Review and acceptance

The Department of Commerce and Economic Development shall stamp the application as having been received upon applicant's submittal on the day it is received in its offices. From that date, the Department shall have 45 working days to decide whether the application is complete and can be deemed submitted under the Act. On the date on which the application is deemed submitted, the Department shall stamp it with that date and notify the applicant that the application has been accepted for review. If the application is not accepted for review, the Department of Commerce and Economic Development shall advise the applicant that it may file the application again after correcting the deficiencies that the Department has specified. If the Department has not taken action on the application within the 45 day period, the application shall be deemed complete and submitted as of the 45th day.

**12A:70-3.7 Supplemental information**

After an application has been deemed complete and submitted, if the Department of Commerce and Economic Development finds that additional information is necessary to make a determination on the application, the Department shall ask the applicant to supply the supplemental information. The running of the time period for a determination on the application shall be suspended from the date on which the request for supplemental information is made until the supplemental information is received and is deemed complete. The applicant shall be given 45 days from certification by the Department of the need for applicant's supplemental information to submit such information. If applicant's supplemental information is not submitted by the close of business on the 45th day, the application shall be returned to the applicant and the application review process shall be terminated as to the applicant.

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**SUBCHAPTER 4. ISSUANCE OF CERTIFICATE  
AND REVIEW OF CERTIFICATION  
DECISION**

**12A:70-4.1 Time period**

The Commissioner of the Department of Commerce and Economic Development shall determine whether to issue a certificate within 90 days after the application is deemed complete.

**12A:70-4.2 Issuing the certificate**

Upon a determination by the Commissioner that the applicant satisfies all the minimum eligibility requirements listed under the eligibility criteria at N.J.A.C. 12A:70-2, the Commissioner shall issue a certification to the applicant. Upon the granting of the certification, the corporation may use the title "New Jersey Certified Export Trading Corporation."

**12A:70-4.3 Denial of the certificate**

(a) If the Commissioner makes a determination to deny an application, he or she shall notify the applicant in writing of his or her decision. Within 30 days after receiving a notice of denial, the applicant may request the Commissioner to reconsider his or her determination. Such request shall include a written statement setting forth the reasons why the applicant believes the decision should be reconsidered, addressing specifically the reasons stated by the Commissioner for the denial, and any additional information that the applicant considers relevant.

(b) The Commissioner shall notify the applicant in writing of his or her final determination after reconsideration and of his or her reasons for the final determination within 45 days after the request for reconsideration has been received.

**SUBCHAPTER 5. REVIEW AND CONTINUATION  
OR REVOCATION OF CERTIFICATE****12A:70-5.1 Review of certification**

(a) The Department of Commerce and Economic Development shall review the qualifications of each corporation certified pursuant to this chapter every five years from the date certification was issued. To maintain its certification eligibility, the corporation is required to submit on an annual basis not more than 20 days before or 10 days after the date of initial certification notice a verification statement, attesting that there have been no material changes to the corporation that would affect the certification, or, if material changes have occurred, submit within 20 days of notice a description thereof.

(b) The Commissioner shall consider whether the export trading corporation continues to meet the minimum eligibility requirements as defined under this chapter. If the Commissioner determines that the certified corporation no longer meets the minimum eligibility requirements, or that the corporation's business practices do not meet the professional standards in conformance with N.J.S.A. 52:27H-22.7 et seq., the Department of Commerce and Economic Development shall notify the corporation in writing of the deficiencies.

**12A:70-5.2 Revocation of certification**

If the deficiencies are not corrected within three months from the date of the written notice of deficiency, the Commissioner may revoke the corporation's certification. A corporation which has had its certification revoked may reapply for certification following the procedures under N.J.A.C. 12A:70-3.

**12A:70-5.3 Reinstatement of certification**

(a) Any corporation may apply for reinstatement after revocation of certification within one year following revocation.

(b) Upon applying for reinstatement after receiving notification of revocation of certification, the applicant shall reapply for certification by following the procedures contained in N.J.A.C. 12A:70-3, and shall submit a check to the Department of Commerce and Economic Development, payable to the "New Jersey Dept. of Commerce-ETC" in the amount of \$100.00, constituting an assessed reinstatement fee. Failure to submit this fee when reapplying for certification shall result in the Department of Commerce and Economic Development not considering its reinstatement.