

Office of the Port of Grays Harbor, 111 S. Wooding Street, Aberdeen, WA 98520.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: July 10, 2000.

**Dennis Puccinelli,**

*Executive Secretary.*

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BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Application No. 00-00003]

#### Export Trade Certificate of Review

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice of Issuance of an Export Trade Certificate of Review.

**SUMMARY:** The Department of Commerce has issued an Export Trade Certificate of Review to North American Fruit Trading Alliance, L.L.C. ("NAFTA"). This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-482-5131. This is not a toll-free number.

**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 (1999).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate 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

##### 1. Products

Processed red cherries (*prunus cerasus*); cherry products including but

not limited to cherry pie filling, water pack cherries, cherry juice concentrate, dried cherries, frozen pack cherries, individually quick frozen cherries, cherry sausage, cherry jams, jellies and sauces.

Processed sweet cherries including but not limited to individually quick frozen and stored in freezer (IQF); cherries canned in water, light syrup, heavy syrup, extra heavy syrup or as a pie fill; and juice from sweet cherries.

##### 2. Technology Rights

Patents, trademarks, service marks, copyrights, trade secrets, know-how, and semiconductor mask works, involving cherry processing.

##### 3. Export Trade Facilitation Services (as they Relate to the Export of Products and Technology Rights)

Trade promotion, marketing, sales, and transportation services (including packing, transportation, wharfing and handling, trade documentation, freight forwarding, storage, and customs clearance).

##### 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 the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

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

Graceland Fruit, Inc., Frankfort, MI; Burnette Foods, Inc., Elk Rapids, MI; Milne Fruit Products, Inc., Prosser, WA (Controlling Entity: Ocean Spray Cranberries, Inc., Lakeville, MA); and Northern Michigan Fruit Co., Omena, MI.

##### Export Trade Activities and Methods of Operation

NAFTA and its Members may engage in the following activities with respect to Export Markets:

1. Negotiate and enter into agreements with buyers in the Export Markets;
2. Negotiate and enter into agreements with foreign governments and other persons in the Export Markets regarding the quantities, time periods, prices, terms, and conditions upon which the Members will export Products and/or Technology Rights through NAFTA;
3. Allocate export sales and/or Export Markets among the Members on the basis of each Member's commitment of Products and/or Technology Rights for export;

4. Establish prices and terms of sale for the Export Markets;

5. Use the NAFTA or other common brand or label;

6. Negotiate and enter into agreement, on behalf of and with the advice of the Members, for the provision of Export Trade Facilitation Services (including trade shows, advertising, and contract marketing services);

7. Share among the Members the cost of Export Trade Facilitation Services;

8. Enter into exclusive distribution agreements in Export Markets for Products and/or Technology Rights with non-Members; "Exclusive" means that the non-Member distributor may agree not to represent any person or firms other than NAFTA in the export of Products and/or Technology Rights in any Export Market; and/or NAFTA may agree not to export Products and/or Technology Rights in any Export Market through any distributor other than that non-Member distributor;

9. Advise and cooperate with the United States Government or any agency of the United States Government in establishing procedures regulating the export of Products and/or Technology Rights; and

10. Conduct product research and design for Products (and develop, obtain, and license associated Technology Rights) only when conducted exclusively for export, including meeting foreign regulatory requirements and foreign buyers specifications, and identifying and designing for foreign buyer preferences; provided, however, that the Export Trade Activities and Methods of Operation do not cover activity that relates to the use of Technology Rights for the U.S. domestic market.

##### Definition

"Supplier" means a person, including each member, who produces, provides, or sells Products, Technology Rights, or Export Trade Facilitation Services.

"Member" means a person who has membership in NAFTA and who has been certified as a "Member" within the meaning of Section 325.2(l) of the Regulations.

##### Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, neither NAFTA nor any Member shall intentionally disclose, directly or indirectly, to any other Member or Supplier any information that is about its or any other Member's or Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods,

unless (1) such information is already generally available to the trade or public, or (2) the information disclosed is a necessary term or condition (e.g., price, time required to fill an order, etc.) Of an actual or potential bona fide sale and the disclosure is limited to the prospective purchasing Member.

2. Meetings at which NAFTA allocates export sales among Members and establishes export prices shall not be open to the public.

3. Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member, subject to the honoring of contractual commitments for sales of Products, Services or Technology Rights in specific export transactions. A Member may withdraw from coverage under this Certificate at any time by giving written notice to NAFTA, a copy of which NAFTA shall promptly transmit to the Secretary of Commerce and the Attorney General.

4. NAFTA and the 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 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.

5. Each Member shall determine independently the quantities of Products it will offer to export or sell through NAFTA. NAFTA may not require any Member to accept any order for sale or to export any minimum quantity of Products.

#### *Protection Provided by the Certificate*

This Certificate protects NAFTA, its Members and their directors, officers, and employees acting on their behalf, from private treble damage actions and governmental 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.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Dated: July 11, 2000.

**Morton Schnabel,**

*Director, Office of Export Trading Company Affairs.*

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**BILLING CODE 3510-DR-U**

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[Application No. 00-00002]**

#### **Export Trade Certificate of Review**

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice of Issuance of an Export Trade Certificate of Review.

**SUMMARY:** The Department of Commerce issued an Export Trade Certificate of Review to Consol Energy, Inc. ("CEI") on June 30, 2000. This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-482-5131. This is not a toll-free number.

**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 (1997). The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate 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*

##### 1. Product

Bituminous Coal.

##### *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 the Northern

Mariana Islands, and the Trust Territory of the Pacific Islands).

#### *Export Trade Activities and Methods of Operation*

CEI and its Member may engage in the following activities with respect to Export Markets:

1. Gather and share market intelligence about CEI's and Member's mutual international competition and the purchasing decisions made by foreign buyers in the Export Markets;

2. Allocate export market opportunities between CEI and Member. As sales opportunities arise in foreign countries, CEI and Member may jointly determine which one of them will bid for the business. CEI and Member will not compete against each other with respect to export market opportunities assigned to the other;

3. Jointly determine the price at which the Product will be sold for each such foreign business opportunity;

4. Predetermine which of CEI's or Member's coal production sources would be used for each foreign business opportunity;

5. Solicit non-Member Suppliers of bituminous coal as necessary to meet the quantities and/or specifications required by a particular foreign business opportunity;

6. Jointly develop logistical arrangements for the export of bituminous coal to predetermined markets, including jointly arranging shipping schedules and negotiating rates with

#### *Definitions*

1. "Member" (within the meaning of Section 325.2(1) of the Regulations) means AMCI Export Corporation.

2. "Non-Member Supplier" means a person, not a Member of the Certificate, who produces, provides, or sells bituminous coal.

#### *Terms and Conditions of Certificate*

1. In engaging in Export Trade Activities and Methods of Operation, neither CONSOL Energy Inc. nor its Member shall intentionally disclose, directly or indirectly, to each other (including parent companies, subsidiaries, or other entities related to CONSOL Energy Inc. or the Member) or to any non-Member Suppliers any information regarding CONSOL Energy Inc.'s or Member'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