



PARTICIPATING MANUFACTURER CERTIFICATION FOR LISTING ON OREGON DIRECTORY

GENERAL INFORMATION AND INSTRUCTIONS

Who is required to file this Certification?

Any tobacco product manufacturer who is a “participating manufacturer” as that term is defined in the Master Settlement Agreement, that intends to sell cigarettes within the State of Oregon, whether directly or through any distributor, retailer, or similar intermediary.

When is this Certification due?

Initial: A participating manufacturer not currently listed on the Directory that intends to sell cigarettes within the State of Oregon must file this Certification and qualify for listing on the Directory **prior** to any sales in Oregon.

Annual: All participating manufacturers currently listed on the Directory must file this Certification and deliver it to the Attorney General on or before **April 30th each year**.

Supplemental: A participating manufacturer must file this form as a “supplemental” Certification to add or change information in the current sales year. In completing a supplemental Certification, check the “Supplemental” box at the top of page one, enter **only** the new or changed information, then sign and date the supplemental Certification form. A Tobacco Product Manufacturer shall file a supplemental Certification no later than **thirty (30) days prior** to any change in a fabricator for any Brand Family or any addition to or modification of its Brands.

Where must this Certification be filed?

The Department of Justice required electronic submission for all certification applications and supporting documents. Please contact our office at tobaccoenforcementCERT@doj.oregon.gov or call 503.934.4400 if you need assistance.

Definitions:

- (a) “Brand” means the trade name of a specific Cigarette or RYO sold under its related trademark (regardless of style). (Example: Go to Heaven)
- (b) “Brand Styles” means all cigarettes or RYO sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, Cigarettes or RYO labeled “menthol,” “kings,” and “100s.” (Example: Go to Heaven King Soft, Go to Heaven Menthol 100 Box, etc.)
- (c) “Cigarette” has the same meaning given that term in ORS 323.800.
- (d) “Directory” means the listing of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of ORS 180.410 and all Brands and Brand styles that are listed in such certifications.
- (e) “Master Settlement Agreement” has the meaning given that term in ORS 323.800.
- (f) “Non-participating Manufacturer” means any Tobacco Product Manufacturer that is not a Participating Manufacturer.
- (g) “Participating Manufacturer” has the meaning given that term in Section II (jj) of the Master Settlement Agreement.

- (h) “Qualified Escrow Fund” has the meaning given that term in ORS 323.800.
- (i) “Stamping Agent” (“Distributor”) means a person who is licensed under ORS 323.105 and any other person who is a distributor for the purposes of ORS 323.005 to 323.482.
- (j) “Tobacco Product Manufacturer” has the meaning given that term in ORS 323.800.
- (k) “Units Sold” has the meaning given that term in ORS 323.800.

SPECIFIC INSTRUCTIONS

UNLESS OTHERWISE INDICATED, PLEASE COMPLETE THIS FORM BY TYPING OR PRINTING CLEARLY

Part 1: Liability Year and Type of Certification

Include the liability Year. Indicate whether this is an initial, annual, or supplemental certification.

Part 2 and 3: Manufacturer’s Identification

Identify the name, FEIN number, physical and mailing addresses, telephone and fax number and electronic mail address. Include the name of a contact person for the manufacturer. Indicate the date the Tobacco Product Manufacturer joined the MSA as an original or subsequent participating manufacturer.

Part 4: Licenses and Permits

Complete the requested information on Permit and/or Licenses and attach the requested documents.

Part 5: Brand and Brand Style Identification

Identify by Brands and Brand Styles all of the Cigarettes or RYO that the Tobacco Product Manufacturer intends to sell in this State whether directly or through any distributor, retailer, or similar intermediary, and seeks to have included in the Directory. **Please list Brand with Brand Styles in order by Size and Container Type.** Only the Brands and their Brand Styles identified may be included in the Directory. **Additionally, only those listed Brands and their Brand Styles with corresponding electronic color copy or artwork of cigarettes or RYO packaging submitted with your Certification will be listed on the Directory.**

FDA COMPLIANCE: Check the appropriate box and provide the requested documentation for each brand style that is new to the Oregon Tobacco Directory.

HEALTH WARNING ROTATION PLAN: For each Brand, list the name and address of the entity that filed a Cigarette health warning rotation plan with the Federal Trade Commission before the Cigarettes were distributed into the United States. Attach the Federal Trade Commission’s written approval of Applicant’s annual Cigarette Health Warning rotation plan. Attach additional pages if necessary.

INGREDIENT REPORT: For each Brand, list the name and address of the entity that submitted the ingredient reporting information to the U.S. Secretary of Health and Human Services as required by the Federal Cigarette Labeling and Advertising Act. Attach copies of all certificates of compliance received from the U.S. Health and Human Services for Applicant’s annual ingredient reporting required by the Federal Cigarette Labeling and Advertising Act. (15 U.S.C. § 1335a). Attach additional pages if necessary.

IMPORTED CIGARETTES – DOCUMENTATION AND VERIFICATION: If the Applicant sells or intends to sell Cigarettes or RYO brands that are not manufactured in the United States, Applicant must provide all of the documents requested.

FIRE STANDARD COMPLIANCE: Pursuant to Oregon law, all cigarette brand styles for which applicant seeks certification must be FSC compliant; include a letter from the Office of the Oregon Department of Justice indicating that all brand styles for which Applicant seeks certification are FSC compliant; and testing verification documentation for each corresponding brand style. See ORS 476.755 to 476.790 and 476.995; OAR 137-105-0010(1)(f).

BRAND RESPONSIBILITY: A Participating Manufacturer shall not include a Brand in its certification unless the Participating Manufacturer affirms that the Cigarettes or RYO Brands are to be considered the Participating Manufacturer's Cigarettes or RYO for purposes of calculating the Participating Manufacturer's payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined under the Master Settlement Agreement. This subsection does not limit or otherwise affect the right of the State to maintain that Cigarettes or RYO Brands are those of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement and ORS 323.800 *et seq.*

Part 6: Distributors

List the names and addresses of all distributors who sold cigarettes or roll-you-own products by the tobacco product manufacturer names in Part 2 into Oregon.

Part 7: PACT Act Compliance

The federal Prevent All Cigarette Trafficking ("PACT") Act, 15 U.S.C. §§ 375, *et seq.*, became effective on June 30, 2010. Pursuant to the PACT Act, all persons who sell, transfer, or ship cigarettes in interstate commerce for profit must: (1) register with the tobacco tax administrator of the state into which shipment is made and (2) file monthly reports with the tobacco tax administrator, no later than the 10th of each month, identifying the brands, quantities, and recipients of cigarette and smokeless tobacco shipments into such state. These provisions apply to tobacco product manufacturers. Copies of all PACT Act reports that are submitted to Oregon Department of Revenue should also be submitted to the Oregon Department of Justice.

Applicants must attach a current copy of the PACT Act registration that it submitted to the U.S. Department of Justice and the Oregon Department of Revenue.

Applicants must certify either that (1) Applicant is in compliance with all PACT Act reporting obligations to the State of Oregon; or (2) Applicant does not ship tobacco products directly into the State of Oregon. If Applicant certifies that it does not ship tobacco products into Oregon, Applicant must attach a list of Oregon-licensed distributors that Applicant sells tobacco products to.

More information on the PACT Act is available at: <https://www.doj.state.or.us/oregon-department-of-justice/publications-forms/tobacco-legislation> and <https://www.atf.gov/alcohol-tobacco>.

Part 8: Execution by Authorized Designees

The person executing the Tobacco Manufacturer Certification must be an authorized representative of the Tobacco Product Manufacturer. The Designee's name and title must be printed, and the Certification shall be executed in the presence of an authorized notary.

OTHER RELEVANT INFORMATION:

This Certification must be completed in English. For all attachments required by the Certification, if the original document is in a language other than English, attach a true and correct translation into English.

All attachments to this Certification must indicate to which question it corresponds. If any section of this Certification is not applicable to your company, be sure to check the box "not Applicable" where relevant. ANY PERSON WHO MAKES AN ASSERTION IN THIS CERTIFICATION THAT HE OR SHE KNOWS IS FALSE REGARDING A MATERIAL MATTER IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT OR FINE, OR BOTH.