

NOTICE TO ALL INTERESTED PERSONS

Notice is hereby given that the Attorney General will consider the adoption of these Amended Rules on June 4, 2010, at 1:00 p.m. in Room 332 of the Judicial Building, 40 Capitol Square SW, Atlanta, Georgia. All interested persons may submit data, comments, views, or arguments, orally or in writing. Written submissions should be addressed to Sidney R. Barrett, Jr., Senior Assistant Attorney General, Consumer Interest Section, Dept. of Law, 40 Capitol Square, Atlanta, Georgia 30334, and must be received by the close of business on June 3, 2010.

Synopsis of Proposed Rules:

The purpose of the proposed amendments is to promote compliance with O.C.G.A. § 10-13-1, *et seq.* and O.C.G.A. § 10-13A-1, *et seq.* by requiring all Non-Participating Manufacturers (“NPM”) to make quarterly escrow payments and certifications. Rule § 60-1-1-.05. Previous rules required most, but not all, NPMs to make quarterly escrow payments. The proposed rules also clarify the definition of “units sold” with regard to “roll-your-own” tobacco, and specify non-exclusive grounds upon which approval for the Tobacco Directory may be denied or revoked. Rule §§ 60-1-1-.03; 60-1-1-.12. The amendments also set forth procedures regarding administrative appeals of decisions of the Attorney General. Rule § 60-1-1-.11. The amendment to the “Wholesaler’s Monthly Report” form contained in Rule 60-1-1-.15(4) adds a new requirement for licensed tobacco wholesalers and distributors to report to the Attorney General all cigarette and roll-your-own tobacco products stamped in a particular month. The amendment requires the inclusion of products manufactured by both Participating and Non-Participating Manufacturers.

These Amended Rules are promulgated pursuant to O.C.G.A. §10-13A-7(e) and O.C.G.A. § 10-13A-9(d).

RULES GOVERNING ESCROW
PAYMENTS FROM NON-PARTICIPATING
TOBACCO PRODUCT MANUFACTURERS

Chapter 60-1-1

RULES OF THE DEPARTMENT OF LAW
CONSUMER INTEREST SECTION

CHAPTER 60-1-1

RULES GOVERNING ESCROW PAYMENTS
FROM NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURERS

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60-1-1-.01 Organization

(1) The office and duties of the Attorney General are established by the Georgia Constitution, Article V, Section III. The authority of the Attorney General to promulgate rules and regulations necessary to effect the purposes of O.C.G.A. Section 10-13A-1 *et seq.* is set forth in O.C.G.A. Sections 10-13A-7(e) and 10-13A-9(d). Matters relating to these rules are handled by the Consumer Interests Section, Department of Law.

(2) The public may obtain information regarding these rules or make submissions or requests by contacting the Consumer Interest Section, Department of Law, 40 Capitol Square, Atlanta, Georgia 30334, phone (404) 656-3202.

Authority: Ga. Constitution Article V, Section III, O.C.G.A. § 10-13A-7(e), O.C.G.A. § 10-13A-9(d).

60-1-1-.02 Purpose.

The purpose of these Rules is to promote compliance with O.C.G.A. § 10-13-1, *et seq.* (“Chapter 13”) and O.C.G.A. § 10-13A-1, *et seq.* (“Chapter 13A”) by establishing guidelines for yearly and quarterly certifications and escrow deposits. The Attorney General is authorized to require Non-Participating tobacco product manufacturers to make quarterly escrow deposits during the year in which the sales covered by such deposits are made.

Authority: O.C.G.A. § 10-13A-7(e), O.C.G.A. § 10-13A-9(d).

60-1-1-.03 Definitions.

(1) “Brand Family” means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, “menthol”, “lights”, “kings,” and “100s,” and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) “Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) tobacco in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(d) “roll-your-own” tobacco. For purposes of this definition, 0.09 ounces of “roll-your-own” tobacco constitutes one individual “cigarette.”

(3) “Commissioner” means the State Revenue Commissioner.

(4) “Directory” means the Attorney General’s list of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of O.C.G.A. § 10-13A-3 and all Brand Families that are listed in such certifications.

(5) “Master Settlement Agreement” means the settlement agreement (and related documents) entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers.

(6) “Non-Participating Manufacturer” means any tobacco product manufacturer that is not a Participating Manufacturer.

(7) “Participating Manufacturer” has the meaning given that term in subsection II(jj) of the Master Settlement Agreement and all amendments thereto.

(8) “Qualified Escrow Fund” means an escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1 billion where such arrangement requires that such financial institution hold the escrowed funds’ principal for the benefit of the releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing use of the funds’ principal except as consistent with O.C.G.A. § 10-13-3(2)(B). Such fund must be approved by the Attorney General as being in compliance with O.C.G.A. § 10-13A-2(9).

(9) “Tobacco Product Manufacturer” means any entity that either:

(a) Physically manufactures cigarettes anywhere in the world that are intended for sale in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is a participating manufacturer, as that term is defined in the Master Settlement Agreement, that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement), and provided further that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States; or

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere by others, and that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in subparagraph (a) or (b) of this paragraph.

(10) “Units sold” means the number of a Non-Participating Manufacturer’s individual cigarettes sold in the state, as measured by excise taxes collected by the state on packs (or “roll-your-own” containers) bearing the excise tax stamp of the state or collected pursuant to the alternate method of taxation for roll-your-own tobacco.

Authority: O.C.G.A. §§ 10-13-2, 10-13A-2, 10-13A-7(e), 10-13A-9(d). Amended

60-1-1-.04 Annual Escrow Deposits and Certifications.

(1) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver in the manner prescribed by the Attorney General, a certification to the commissioner and Attorney General, no later than the thirtieth day of April each year, certifying that, as of the date of such certification, such tobacco product manufacturer either is a Participating Manufacturer or is in full compliance with Chapter 13 including all annual deposits required by paragraph (2) of Code Section 10-13-3.

(2) A Participating Manufacturer shall include in its certification a list of its brand families. A Participating Manufacturer shall update such list 30 calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General and commissioner. A Participating Manufacturer may not include a brand family in its certification unless the Participating Manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement.

(3) A Non-Participating Manufacturer shall include in its certification a list of all of its brand families, the number of units sold for each brand family that were sold in this state during the preceding calendar year, and a list of all of its brand families that have been sold in this state at any time during the current calendar year. The list shall indicate by an asterisk any brand family sold in this state during the preceding calendar year that is no longer being sold in this state as of the date of such certification, and shall identify by name and address any other manufacturer of such brand families in the preceding or current calendar year. The Non-Participating Manufacturer shall update such list 30 calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General and to the commissioner. A Non-Participating Manufacturer may not include a brand family in its certification unless such Non-Participating Manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of Chapter 13. The certification must also certify:

(a) That such Non-Participating Manufacturer is registered to do business in this state and has appointed a resident agent for service of process and provided notice thereof as required by Code Section 10-13A-6. Proof of appointment and availability of the resident agent for service of process shall be submitted in the form set out in Rule 60-1-1-.15(2);

(b) That such Non-Participating Manufacturer has established and continues to maintain a qualified escrow fund as required by Code Section 10-13-3 and has executed a

qualified escrow agreement that has been reviewed and approved by the Attorney General and that governs the qualified escrow fund;

(c) That such Non-Participating Manufacturer is in full compliance with Chapter 13 and Chapter 13A, and with any regulations promulgated pursuant to either such chapter; and

(d) The name, address, and telephone number of the financial institution where the Non-Participating Manufacturer has established such qualified escrow fund required pursuant to Chapter 13 and all regulations promulgated pursuant to such chapter; the account number of such qualified escrow fund and any subaccount number for this state; the amount such Non-Participating Manufacturer placed in such fund for cigarettes sold in this state during the preceding calendar year, the date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Attorney General to confirm the foregoing; and the amount and date of any withdrawal or transfer of funds the Non-Participating Manufacturer made at any time from such fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to Chapter 13 and all regulations promulgated pursuant to such chapter.

(e) In addition to the information required to be submitted under this rule, the Attorney General may require a tobacco product manufacturer to submit additional information as is necessary to determine whether a manufacturer is or will be in compliance with Chapter 13 and Chapter 13A, and with this Rule.

(f) Certification in accordance with this Rule shall be deemed to be in compliance with both Code Section 10-13-3(2)(C) and Code Section 10-13A-3.

(g) Certification in accordance with this Rule shall be in the form set out in Rule 60-1-1-.15(1).

Authority: O.C.G.A. § 10-13A-3; 10-13A-7(d); 10-13A-9(d).

60-1-1-.05 Quarterly Escrow Deposits.

In addition to the requirements of Rule 60-1-1-.04 above, all Non-Participating Manufacturers shall make escrow deposits on a quarterly basis.

Authority: O.C.G.A. § 10-13A-7(e). Amended

60-1-1-.06 Deadline for Quarterly Escrow Deposits.

All Non-Participating Manufacturers must deposit quarterly escrow payments into a Qualified Escrow Account no later than thirty (30) days after the end of the quarter in which the sales are made.

Authority: O.C.G.A. § 10-13A-7(e). Amended

60-1-1-.07 Deadline for Submitting Quarterly Certification and Notifying the Attorney General of Quarterly Escrow Deposit.

All Non-Participating Manufacturers must provide the Attorney General with a quarterly certification in the form prescribed by the Attorney General in Rule 60-1-1-.15(3) along with official notification from the escrow agent of the quarterly escrow deposit. The quarterly certification and official notification must be submitted no later than ten (10) days after the deadline for payment of the quarterly escrow deposit. For example, the escrow deposit for sales made in January, February, and March is due April 30 of the same year, and the quarterly certification and official notification of such deposit are due May 10 of the same year.

Authority: O.C.G.A. § 10-13A-7(e). Amended

60-1-1-.08 Quarterly Periods Defined

For purposes of this chapter, the calendar year shall be divided into the following quarters: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

Authority: O.C.G.A. § 10-13A-7(e).

60-1-1-.09 Calculating Escrow Deposits.

For purposes of this chapter, Non-Participating Manufacturers who are required to make escrow deposits must place into a qualified escrow account, within the time specified in this chapter, the following amounts (as such amounts are adjusted for inflation):

- (a) For each of 2003 through 2006: \$.0167539 per unit sold; and
- (b) For each of 2007 and each year thereafter: \$.0188482 per unit sold.

The inflation-adjusted per unit sold amount necessary for deposit is available by contacting the Attorney General.

Authority: O.C.G.A. § 10-13A-7(e), O.C.G.A. § 10-13-3(2).

60-1-1-.10 Burden of Establishing Units Sold and Entitlement to be Listed in the Directory.

(1) A written determination of the Attorney General to exclude or to remove from the directory a brand family or tobacco product manufacturer may be appealed to the Office of State Administrative Hearings. The notice of appeal shall be sent by certified mail, return receipt requested, addressed to "Section Chief, Consumer Interests Section,

Department of Law,” and must be received no later than thirty days from the date of notice of such written decision from the Attorney General.

(2) The burden of proof shall be on the tobacco product manufacturer to establish the number of units sold in Georgia in any particular quarter or year.

(3) The burden of proof shall be on the tobacco product manufacturer to establish that it or a particular brand family is entitled to be listed in the Directory.

Authority: O.C.G.A. §§ 10-13A-3(c), 10-13A-9(d).

60-1-1-.11 Appeal Procedures

(1) Within a reasonable period after receipt of a notice of appeal, the Attorney General shall transmit the appeal to the Office of State Administrative Hearings for hearing and initial decision.

(2) Within thirty (30) days from the initial decision by the Office of State Administrative Hearings, the Attorney General shall either issue his own final decision, allow the OSAH decision to become his final decision by operation of law, or extend the time for final decision pursuant to Section 50-13-17(c).

(3) Any party dissatisfied with the initial decision must request review by the Attorney General within fifteen (15) days from the initial decision. The request for review should include a proposed final decision with citations to the administrative record as appropriate, and supporting brief, if desired. The opposing party shall submit its response, or its own proposed final decision, if any, within ten (10) days of the request for review.

(4) On review from the initial decision of the representative of the Office of State Administrative Hearings, the Attorney General shall have all the powers he or she would have in making the initial decision and, if deemed advisable, may take additional testimony or remand the case to the hearing representative for such purpose.

(5) A final decision or order in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated, and the effective date of the decision or order. Findings of fact shall be accompanied by a concise statement of the underlying facts supporting the findings. A copy of the decision or order and accompanying findings and conclusions shall be delivered or mailed promptly to each party or to his attorney of record.

(6) The Attorney General shall render a final decision in contested cases within 30 days after the close of the record required by Code Section 50-13-17 except that the Attorney General, by order, may extend such period in any case in which he or she shall find that the complexity of the issues and the length of the record require an extension of the period, in which event a decision shall be rendered at the earliest date practicable.

(7) Appeal of the final decision of the Attorney General shall be made in accordance with O.C.G.A. § 50-13-19.

Authority: O.C.G.A. §§ 10-13A-3(c), 10-13A-9(d), 50-13-17. Amended. Formerly “Untimely or Incomplete Certifications or Escrow Deposits” renumbered as 60-1-1-.13

60-1-1-.12 Grounds for Denial of Listing in the Directory or Removal from the Directory.

In addition to all other grounds for removal or denial of listing in the Directory stated in this Rule or in Chapters 13 and 13A, the Attorney General may deny listing of a Tobacco Product Manufacturer and/or Brand Family in the Directory, or remove a Tobacco Product Manufacturer and/or Brand Family from the Directory, on one or more of the following grounds:

- (1) Manufacturer submitted incomplete quarterly or yearly certification, or failed to provide all information requested to determine compliance;
- (2) Manufacturer made material misrepresentations in any information provided to the Attorney General or on any certification form;
- (3) Manufacturer failed to establish a Qualified Escrow Account as defined in this Rule;
- (4) Manufacturer failed to fully escrow for all units sold in Georgia in any quarter or year;
- (5) Current or former Tobacco Product Manufacturers of a Brand or Brand Family failed to fully escrow for all units sold of such Brand or Brand Family in any quarter or year;
- (6) Current or former manufacturer of Brand or Brand Family failed to submit all required certification forms in any quarter or year;
- (7) Manufacturer has underreported the number of units sold in this state by ten (10) percent on two or more occasions (quarterly or yearly);
- (8) Manufacturer is denied listing or removed from the Directory of another state;
- (9) Manufacturer failed to fully pay escrow when due for sales in another state;
- (10) Manufacturer failed to comply with federal or state laws or regulations governing the payment of federal or state excise tax on tobacco products; or
- (11) the Attorney General’s determination that the Manufacturer shares common management or ownership with a Tobacco Product Manufacturer or other party that has failed to satisfy its legal obligations under Chapter 13, Chapter 13A and these Rules, or

has failed to satisfy its legal obligations under substantially similar laws or regulations of another state.

Authority: O.C.G.A. §§ 10-13A-3(c), 10-13A-9(d). Amended. Formerly Effective Date renumbered 60-1-1-.14.

60-1-1-.13 Untimely or Incomplete Certifications or Escrow Deposits.

If any quarterly or yearly escrow deposit is not made in full or if an accurate and fully completed certification with official notice of the escrow deposit is not provided to the Attorney General within the time required by law, the delinquent Non-Participating Manufacturer and its brand families may be removed from the Directory.

Authority: O.C.G.A. §§ 10-13A-7(e), 10-13A-9(d). Amended. Formerly Forms renumbered 60-1-1-.15.

60-1-1-.14 Effective Date

These Amended Rules shall become effective 20 days after filing with the Secretary of State of Georgia

Amended. Formerly Petition to Enact, Amend or Repeal Rules renumbered 60-1-1-.16.

60-1-1-.15 Forms

(1) Annual Certification Form required by Rule 60-1-1-.03(f), Code Section 10-13-3(2)(C) and Code Section 10-13A-3.

**CERTIFICATION PURSUANT TO O.C.G.A. § 10-13A-3
STATE OF GEORGIA**

Part 1: Tobacco Product Manufacturer Identification

Company: _____

Address: _____

Address: _____

Phone: _____ FAX: _____

Email: _____ Web Address: _____

Name/Title of person completing report: _____

If located in the U.S.: Manufacturer's Federal I.D #: _____

If located in the U.S.: TTB Tobacco Manufacturer Permit #: _____

**The Tobacco Product Manufacturer identified above is, as of the date of this
Certification: (check one)**

_____ **A Participating Manufacturer under the Tobacco Master Settlement
Agreement**

_____ **A Non-Participating Tobacco Product Manufacturer in full compliance
with O.C.G.A. § 10-13-1, *et seq.***

Part 2: Certification Type

This form is a (check one):

_____ Initial Certification: manufacturer is not currently listed on the Georgia
Directory of Compliant Tobacco Product Manufacturers

_____ Annual Certification:

_____ Supplemental Certification: change of information previously provided –
change must be submitted 30 days prior to change.

Part 3: A. Brand Family Identification (Attach additional Sheets if Necessary)

Participating Manufacturers complete A & B; Non Participating Manufacturers complete A through E.

| A. Brand Family ¹ | B. Brand Name | C. Units Sold in calendar year just completed | D. Units Sold in previous year | E. Fabricator |
|------------------------------|---------------|--|-----------------------------------|---------------|
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Note: By including a brand family in its certification, a Participating Manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of calculating its payments under the MSA. By including a brand family in its certification, a Non-Participating Manufacturer affirms that the brand family is deemed to be its cigarettes for escrow purposes. However, the Attorney General retains the discretion to determine whether the listed brand family constitutes the cigarettes of another tobacco product manufacturer.

It is unlawful to offer for sale in Georgia any cigarette that is not compliant with the Georgia Fire Safety Standards & Firefighter Protection Act, O.C.G.A. § 24-4-1, et seq. ("fire safe" cigarette act) Do not list a brand family unless the required information has been submitted to the Georgia Fire Safety Commissioner and required package markings approved.

B. For each brand family listed above, list the name and address of any other manufacturer who has fabricated or is currently fabricating the brand family: _____

C. Factory Identification

Name of Factory: _____ Phone Number: _____

Owner of Factory: _____ Fax Number: _____

Address of Factory: _____

Factory's Manufacturing Permit Number: _____

Part 4: Non-Participating Manufacturer Certification

¹ INDICATE WITH AN ASTERISK (*) THOSE BRANDS NO LONGER BEING SOLD IN GEORGIA.

A. Registered Agent / Approved Agent for service of process

Agent Name: _____

Company: _____

Address, including **county**: _____

Address: _____

Phone: _____ FAX: _____

Email: _____

Complete and submit an Appointment of Registered Agent for the State of Georgia and
Registered Agent's Statement form. (Form AG-02)

B. Qualified Escrow Fund – Financial Institution

Name of Institution: _____

Address: _____

Representative Name: _____

Phone: _____

Escrow Acct No: _____ State Account No: _____

Has the Qualified Escrow Agreement been approved by the Attorney General? _____

By Whom: _____ Approval Date: _____

Attach an executed copy of your Escrow Agreement with all amendments and
attachments.

Part 5: Escrow Deposit Calculation

A. Sales Year: The sales year for this certificate is January 1 through December 31, _____.

B. Units Sold: The number of individual cigarettes sold in Georgia by brand is:

Brand Name: _____ Number of individual cigarettes: _____

Brand Name: _____ Number of individual cigarettes: _____

Brand Name: _____ Number of individual cigarettes: _____

Brand Name: _____ Number of individual cigarettes: _____

Total: _____

C. Calculating the Deposit Amount

Follow these steps to calculate the appropriate amount to be deposited for the sales year:

(1) Enter the total number from Part 5 Section B above: _____

(2) Multiply that amount by the appropriate rate for the liability year as set forth in Rule 60-1-1-.09: _____

(3) Enter the total here: _____

The amount that must be deposited on or before April 15 for the sales year will be the amount shown in Line C(3).

D. Escrow Deposit/Withdrawal History for Georgia

| Date | Deposit | Withdrawal ² | Balance |
|------|---------|-------------------------|---------|
| | | | |
| | | | |
| | | | |
| | | | |

Attach a copy of your receipt or other proof of deposit from your financial institution.

E. Describe the source of funds for previous year's escrow payments and anticipated source of funds for future escrow payments: _____

Part 6. Execution by Authorized Designee

This certification must be signed by a qualified company officer authorized to bind the applicant company.

By executing this document, I confirm that my position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements. I understand the Georgia Attorney General may require additional information or documentation to determine if the applicant company or brands qualify for the Georgia Directory.

Under penalty of perjury, I state that the information contained in this Certification and attachments is true and accurate.

Designee (Print Name): _____ Title: _____

Signature of Designee: _____ Date: _____

² WITHDRAWALS MUST COMPLY WITH O.C.G.A. § 10-13-3-(2)(B). VERIFICATION OF COMPLIANCE MUST BE PROVIDED

Subscribed and sworn to before me on this date: _____

Signature of Notary Public: _____ City or County of _____

My Commission expires: _____

Mail the completed certificate of compliance to:

Consumer Interests Section
Office of the Attorney General
40 Capitol Square
Atlanta, Georgia 30334

and Georgia Department of Revenue
Alcohol and Tobacco Tax Division
1800 Century Center Boulevard
Atlanta, Georgia 30345-3205

Form AG-03

(2) Registered Agent form

**NON-PARTICIPATING MANUFACTURER'S (NPM) APPOINTMENT OF
REGISTERED AGENT FOR THE STATE OF GEORGIA AND REGISTERED
AGENT'S STATEMENT**

*Please print or type in permanent dark ink
Sign, date, and return original to:*

**Office of the Attorney General for the State of Georgia
Georgia Department of Law
Consumer Interest Section
40 Capitol Square, SW
Atlanta, GA 30334**

NON-PARTICIPATING TOBACCO MANUFACTURERS:

The undersigned Non-Participating Manufacturer ("NPM") _____
hereby appoints and authorizes _____ as its
registered agent to receive service of process on our behalf. The undersigned NPM
agrees to provide notice to the Office of the Attorney General for the State of Georgia
("Attorney General"), at least 30 calendar days prior to termination of the authority of the
registered agent, and to provide proof to the satisfaction of the Attorney General of the
appointment of a new agent at least five calendar days prior to the termination of an
existing agent appointment.

Under penalty of perjury, I certify and declare that all of the statements and information
contained in this Certification, including but not limited to any accompanying statements
or attachments herewith, are true, accurate and complete in every particular and that I am
a person authorized to bind the NPM making the Certification either under the laws of the
State of Georgia or of the jurisdiction where the manufacturer resides or is organized.
**Any violation of the requirements of O.C.G.A. 10-13A-6 is a basis for removal of the
applicant's Brand Families from the list of compliant NPMs.**

**** This Certification must be signed and dated by an authorized notary public. ****
**Under penalty of perjury, I state that the information contained in this document is
true and accurate.**

Signature of Designee for Non-Participating Manufacturer: _____
Designee (Print Name): _____
Title: _____
Principal Place of Business (physical address): _____

STATE OF _____ }
COUNTRY OF _____ }

Subscribed and sworn to before me on this date: _____

Signature of Notary Public: _____ City or County of _____

My Commission expires: _____

NAME AND ADDRESS OF GEORGIA STATE REGISTERED AGENT:

Name: _____

Street Address (*Required – Must be within Georgia*): _____

P.O. Box: _____

City & State: _____ County: _____

Zip Code: _____

Telephone: _____

Facsimile: _____

Email Address: _____

I consent to serve as Registered Agent in the State of Georgia for _____
_____, the above-named NPM, pursuant to O.C.G.A. 10-13A-6. I understand it will be
my responsibility to receive Service of Process on behalf of the NPM; to forward mail to
the NPM; and to immediately notify the Office of the Attorney General if I resign or
change the office address of the Registered Agent.

**** This Certification must be signed and dated by an authorized notary public. ****

Signature: _____ Date: _____

Print Name: _____

Title: _____

STATE OF _____ }

COUNTRY OF _____ }

Subscribed and sworn to before me on this date: _____

Signature: _____

My Commission expires: _____

Form AG-02

(3) Quarterly escrow payment certification

**CERTIFICATE OF NON-PARTICIPATING MANUFACTURER
REGARDING QUARTERLY ESCROW PAYMENT
STATE OF GEORGIA**

PART 1: TOBACCO PRODUCT MANUFACTURER'S IDENTIFICATION

Company: _____

Address: _____

Address: _____

Phone: _____ FAX: _____

Email: _____ Web Address: _____

Name/Title of Person Completing Report: _____

PART 2: SALES YEAR

The sales year for this certificate is _____. The quarter being reported is (check one):

☐

Jan.-Mar.

☐

Apr.-June

☐

July-Sept.

☐

Oct.-Dec.

PART 3: BRAND SALES

A. The number of individual cigarettes or ounces of Roll Your Own tobacco sold in Georgia during the period specified above is as follows:

Brand Name: _____ Cigarettes or ounces sold: _____

Brand Name: _____ Cigarettes or ounces sold: _____

Brand Name: _____ Cigarettes or ounces sold: _____

Brand Name: _____ Cigarettes or ounces sold: _____

Total cigarettes: _____

Total ounces: _____

B. The party listed in Part 1 (check one) ☐ is ☐ is not the fabricator of the brands listed above.

C. For each brand listed above, list the name and address of any other manufacturer who fabricated the brand and the time period during which such fabrication occurred: _____

PART 4: CALCULATING THE DEPOSIT AMOUNT

Follow these steps to calculate the appropriate amount to be deposited for quarterly period:

- (1) Enter the total number from Part 3 Section A above: _____
- (2) Multiply that amount by the appropriate rate for the _____
reporting period as set forth in Rule 60-1-1-.09:
- (3) Enter the total here: _____

The amount that must be deposited for the quarterly period will be the amount shown in Line C(3). Attach a copy of your receipt or other proof of deposit from your financial institution.

Part 5: Qualified Escrow Fund – Financial Institution

The NPM certifies that it has established, and continues to maintain, a fully funded, qualified escrow account.

Name of Institution: _____

Address: _____

Representative Name: _____

Phone: _____

Escrow Acct No: _____ State Account No: _____

Total amount held in this account solely for the State of Georgia: _____

Part 6. Execution by Authorized Designee

This certification must be signed by a qualified company officer authorized to bind the applicant company.

By executing this document, I confirm that my position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements. I understand the Georgia Attorney General may require additional information or documentation to determine if the applicant company or brands qualify for the Georgia Directory.

Under penalty of perjury, I state that the information contained in this Certification and attachments is true and accurate.

Designee (Print Name): _____

Title: _____

Signature of Designee: _____

Date: _____

Subscribed and sworn to before me on this date: _____

Signature of Notary Public: _____ City or County of _____

My Commission expires: _____

Mail the completed certificate of compliance to:

Consumer Interests Section
Office of the Attorney General
40 Capitol Square
Atlanta, Georgia 30334

Form AG-04

Authority: O.C.G.A. § 10-13A-7(e), O.C.G.A. § 10-13A-9(d). Amended. Formerly
Declaratory Rulings renumbered 60-1-1-.17

(4) Wholesaler's Monthly Report of "Non-Participating" and "Participating" Manufacturers' Cigarettes form:

**WHOLESALE MONTHLY REPORT OF "NONPARTICIPATING" AND
"PARTICIPATING" MANUFACTURERS' CIGARETTES**

| | | | |
|----------------------------------|---|------------------------------|---|
| WHOLESALE DISTRIBUTOR | PERSON COMPLETING REPORT | STATE LICENSE NO. | FOR CALENDAR MONTH/YEAR /20__ |
| E-MAIL ADDRESS | STREET ADDRESS | CITY, STATE, ZIP | PHONE () |

O.C.G.A. 10-13A-7 directs the Attorney General to collect information from Wholesalers/Distributors on the number of individual cigarettes the Distributor affixed tax stamps or otherwise paid the tax due for RYO. If you stamp any cigarettes with a Georgia tax stamp, then you must list them on this Form AG-01 and file it with the Attorney General within ten days after the end of the month for which the report is filed. If you do not stamp any cigarettes during the month, this report must be filed with "NONE" reported. A complete list of authorized "Nonparticipating Manufacturers" (tobacco product manufacturers who did not sign the Master Settlement Agreement entered into on November 23, 1998) and authorized "MSA Participating Manufacturers" and their brands can be found at www.law.ga.gov (click on "Tobacco Manufacturer and Brand Compliance").

DIRECTIONS: PART A: NONPARTICIPATING MANUFACTURERS: List each "Nonparticipating Manufacturer" and brand family once and state the total number of individual cigarettes stamped with an orange Georgia excise tax stamp during the month and number of ounces of Roll-Your-Own tobacco you paid taxes on under the alternate method of taxation. If you receive these cigarettes from another wholesaler who has already affixed the Georgia excise tax stamp, do not list them on this report. If you do not receive or ship any cigarettes during the month from "Nonparticipating Manufacturers", write "NONE" in this section.

PART B: PARTICIPATING MANUFACTURERS: List each "MSA Participating Manufacturer" and brand family once and state the total number of individual cigarettes stamped with a blue Georgia excise tax stamp during the month and number of ounces of Roll-Your-Own tobacco you paid taxes on under the alternate method of taxation. If you receive these cigarettes from another wholesaler who has already affixed the Georgia excise tax stamp, do not list them on this report. If you do not receive any cigarettes during the month from "MSA Participating Manufacturers", write "NONE" in this section.

Please mail this report to: **Georgia Department of Law, Consumer Interest Section, 40 Capitol Square, SW, Atlanta, Georgia 30334 AND a copy of this report to: Georgia Department of Revenue, Alcohol & Tobacco Division, 1800 Century Center Blvd., Room 4235, Atlanta, Georgia 30345.**

A copy of all invoices covering the receipt of the cigarettes by you and the sale of the cigarettes in Georgia must be attached to this report either in hard copy or electronic form.

PART A: NONPARTICIPATING MANUFACTURERS

| Nonparticipating Manufacturer's Name | Brand Name | Full Address | Country | Number of Individual Cigarettes | Ounces of Roll- Your- Own Tobacco |
|---|-----------------------|---------------------|----------------|--|--|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

PART B: PARTICIPATING MANUFACTURERS

[illegible]

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|--|--|--|--|--|--|
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| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

**ALL APPLICABLE INVOICES MUST BE ATTACHED TO YOUR REPORT OR
IT WILL BE RETURNED.**

This certification must be signed by an officer authorized to bind your company.

By executing this document, I confirm that my position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements.

Under penalty of perjury, I state that the information contained in this Certification and attachments is true and accurate.

Name: _____ Title: _____

Signature: _____ Date: _____

Authority: O.C.G.A. § 10-13A-7(e), O.C.G.A. § 10-13A-9(d). Amended. Formerly
Declaratory Rulings renumbered 60-1-1-.17

60-1-1-.16 Petitions to Enact, Amend or Repeal Rules

- (a) A person whose legal rights are affected by these rules may petition the Attorney General to enact, amend or repeal any rule pertaining to Chapter 13 or Chapter 13A of Title 10.
- (b) The petition must set forth the proposed new regulation or amendment, or identify the rule for which repeal is sought, and the reasons therefore. In addition, the petition must include the petitioner's name and address, and a statement of their interest in the matter. The petition shall be sent by certified mail, return receipt requested, addressed to "Section Chief, Consumer Interests Section, Department of Law."
- (c) Within thirty days after receipt of such petition, the Attorney General shall deny the petition in writing, stating the reasons for the denial, or shall initiate rulemaking proceedings in accordance with O.C.G.A. § 50-13-4.

Authority: O.C.G.A. § 10-13A-7(e), O.C.G.A. § 10-13A-9(d), O.C.G.A. § 50-13-9.

60-1-1-.17 Declaratory Rulings

- (a) A person whose legal rights are affected by these rules may petition the Attorney General for a declaratory ruling on the applicability of these rules.
- (b) Declaratory rulings shall not be made upon untrue, moot, contingent or hypothetical facts or situations, but only upon actual facts.
- (c) The petition must be verified under oath, and must set forth all pertinent facts and evidence necessary to make a ruling, the name and address of the petitioner, a statement of the petitioner's interest in the ruling sought, and any legal authorities relevant to the ruling. The petition shall be sent by certified mail, return receipt requested, addressed to "Section Chief, Consumer Interests Section, Department of Law."
- (d) The Attorney General shall dispose of a request for declaratory ruling as soon as practicable, or if it is determined that the requisites for a declaratory ruling are not present, shall issue a written explanation for such determination.

Authority: O.C.G.A. § 10-13A-7(e), O.C.G.A. § 10-13A-9(d), O.C.G.A. § 50-13-11.