

STATE OF GEORGIA
TOBACCO PRODUCT MANUFACTURER'S ANNUAL CERTIFICATION
Pursuant To O.C.G.A. § 10-13A-3
For 2014

and

Request For Listing In
Georgia Directory Of Compliant Tobacco Product Manufacturers
In 2015

Who is required to file this Certification?

Any tobacco product manufacturer that sells, intends to sell or has sold cigarettes within the state of Georgia, whether directly or through any distributor, retailer, or similar intermediary, including manufacturers that are participants in the Master Settlement Agreement. You are required to submit this annual certification even if you submitted quarterly certifications during the 2014 sales year or if you had no sales during the 2014 sales year but you appeared on the Georgia Directory.

Definitions:

- (a) **“Brand Family”** means all styles of Cigarettes sold under the same trade mark 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.
- (b) **“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 described in clause (A) of this definition. The term “cigarette” includes “roll-your-own” tobacco. 0.09 ounces of “roll-your-own” tobacco constitutes one individual cigarette.
- (c) **“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.

- (d) **“Qualified Escrow Fund”** means an escrow fund established pursuant to an escrow agreement that has been approved by the Attorney General as being in compliance with OCGA § 10-13A-2(9).
- (e) **“Tobacco Product Manufacturer”** means an entity that physically manufactures cigarettes anywhere in the world that are intended for sale in the United States, either directly or through an importer; an entity that is the first purchaser of cigarettes that the manufacturer did not intend to be sold in the United States, regardless of where those cigarettes were manufactured; or an entity that becomes a successor to an entity described above.
- (f) **“Unit”** means one cigarette or .09 ounces of “roll your own” tobacco, as defined above.

When is the escrow deposit due?

The escrow deposit is due on **Wednesday, April 15, 2015.**

When is this Certification due?

This Certification must be received by us no later than **Thursday, April 30, 2015.**

Where do I send this Certification?

The Certification must be delivered to two places:

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

INSTRUCTIONS

Part 1: Manufacturer’s Identification Enter your name, address, telephone, fax number, electronic mail address, and internet address. If you are located in the U.S., provide your federal tax identification number and TTB Tobacco Manufacturer Permit number. Provide your Georgia license number and the type of license.

The Georgia Department of Revenue has licensing and additional reporting requirements for shipping any form of tobacco into Georgia. Contact the Department of Revenue directly for additional information at 404-417-4900 or atdiv@dor.ga.gov.

Part 2: Certification Type Check whether this is an initial certification (if you are not currently listed), annual certification (due April 30, 2015 for 2014 sales), or supplemental certification (change of information previously provided).

Part 3: A. Brand Family Identification List by Brand Family all of the cigarettes that you sold or intend to sell in Georgia, whether directly or through any distributor, retailer, or similar intermediary and the number of individual cigarettes (units) sold in 2014 and 2015 to date. **Only the brands you list will be included in the Directory.**

Participating Manufacturers shall include a list of their Brand Families. A Participating Manufacturer may not include a Brand Family in its certification unless it affirms that the Brand Family is 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. The Participating Manufacturer shall update such list thirty 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 the Department of Revenue.

Non-Participating Manufacturers shall include the following in their certification: a list of all of its Brand Families, and the number of units for each Brand Family that were sold in Georgia during the preceding calendar year; a list of all of its Brand Families that have been sold in Georgia at any time during the current calendar year; indicate, by an asterisk (*), any Brand Family sold in Georgia during the preceding calendar year that is no longer being sold in Georgia as of the date of such certification; and identify the fabricator of the Brand Families.

A Non-Participating Manufacturer may not include a Brand Family in its Certification unless it affirms that it is the tobacco product manufacturer of the Brand Family and the Brand Family is to be deemed its Cigarettes for purposes of O.C.G.A. § 10-13-1, *et seq.* A Non-Participating Manufacturer shall update such list thirty 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 Department of Revenue.

B. Fire Safe Compliance: It is unlawful to offer for sale in Georgia any cigarette that is not compliant with the Georgia Fire Safety Standard & Firefighter Protection Act, O.C.G.A. § 24-4, *et seq.* (“fire safe” cigarette act). Indicate whether each brand family listed is fire-safe compliant. **Do not list a brand family unless the required information has been submitted to the Georgia Fire Safety Commissioner and required package markings approved.**

C. Fabricator: Identify for each Brand Family the name and address of any other fabricator of such Brand Family (either current or past fabricator). For each fabricator identify the time period during which the party fabricated the brand.

D. Manufacturing Facility Identification: Enter the name, owner, address, phone and fax number of the factory that currently fabricates the cigarettes or RYO tobacco listed. Indicate the name and address of other company that has access to or utilizes the same facility.

For Each Brand Family:

1. Provide the compliance letter from the CDC indicating compliance with the ingredient submission requirements
2. Provide the compliance letter from the FTC indicating compliance with warning rotation plan requirements.
3. Provide a copy of any documentation submitted to the FDA or received from the FDA with regard to the issue of "substantial equivalence."

Part 4: Non-Participating Manufacturer Certification Each Non-Participating Manufacturer must:

A. Appoint an agent for service of process and complete and submit Form AG-02 (*NPM's Appointment of Registered Agent & Registered Agent's Statement Form.*) The agent for service of process listed in this section must be the same as the agent appointed in Form AG-02.

B. State the name, address and telephone number of the financial institution where the Non-Participating Manufacturer has established a Qualified Escrow Fund pursuant to O.C.G.A. § 10-13-3(2) and the account number of such Qualified Escrow Fund and any sub-account number for Georgia;

Please attach a copy of your Escrow Agreement with all amendments, unless a current copy is already on file with our office.

Part 5: Non-Participating Manufacturer Escrow Deposit Calculation

A. The liability year for this certificate is the 2014 calendar year: January 1, 2014 through December 31, 2014.

B. List the number of units sold during the liability year bearing Georgia tax stamps by brand and the total number of cigarettes sold.

C. Calculate the deposit, subtracting all amounts deposited into your qualified escrow account during the 2014 sales year for sales made in

2014. The amount on Line C(5) is the amount that must be deposited into a qualified escrow account by **April 15, 2015**.

D. Identify

(i) the amount you placed in such fund for units sold in Georgia during 2014 and each preceding year, the date and amount of each such deposit, and the total Georgia account balance; and

(ii) the amount and date of any withdrawal or transfer of funds you made at any time from such fund or from any other Qualified Escrow Fund.

Attach copies of your receipts from quarterly deposits or other proof of deposit for 2014 sales from your financial institution and a bank statement showing the current Georgia account balance.

E. Distributors: List the names and addresses of all distributors/wholesalers who sold your products in or into Georgia during 2014 or 2015. Indicate if the party applied Georgia tax stamps to the product.

Part 6: Additional Information: Provide the requested response and a full explanation of circumstances, if necessary.

Part 7: Federal Excise Tax Paid:

A. Provide the total number of cigarettes and Roll-Your-Own tobacco on which Federal Excise Tax was paid during 2014. Attach copies of the appropriate tax forms (either TTB Form 5210.5 or 5220.6) supporting these numbers.

B. Provide the total number of cigarettes and Roll-Your-Own tobacco reported on your PACT Act reports during 2014. Attach copies of all of your reports for each state for which you submitted reports.

Part 8: Execution by Authorized Designees The person executing the Certification must be an authorized representative of the Tobacco Product Manufacturer identified in Part 1. The Designee's name and title must be legibly printed and the Certification must be executed in the presence of an authorized notary.

*You may send any questions about this form to: Consumer Interests Section
Office of the Attorney General • 40 Capitol Square SW • Atlanta GA 30334
Facsimile 404.656.0677, email lgiles@law.ga.gov*

For questions regarding additional licensing or reporting requirements to ship tobacco into the State contact the Georgia Department of Revenue at 404-417-4900 or atdiv@dor.ga.gov

**STATE OF GEORGIA
TOBACCO PRODUCT MANUFACTURER'S CERTIFICATION
Pursuant To O.C.G.A. § 10-13A-3
For 2014**

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Georgia Directory Of Compliant Tobacco Product Manufacturers
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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 # and Expiration Date: _____

Georgia license # and license type: _____

**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 who is generally performing its financial obligations 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 – Due April 30, 2015 for sales made in Georgia in 2014

Supplemental certification – Change of information previously provided.
Change of information 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 Indicate with an asterisk (*) those brands no longer being sold in Georgia.	B. Cigarette or RYO	C. Units Sold in 2014 (.09 oz of RYO equals 1 unit)	D. Units Sold in 2015 to date (.09 oz of RYO equals 1 unit)	E. Fabricator

For each brand family identified above:

- a. Provide a copy of the current certificate of compliance issued by the Department of Health and Human Services, Centers for Disease Control and Prevention, and the Office on Smoking Health showing compliance with the ingredient list submission requirement of 15 U.S.C. §1335a; and
- b. Provide a copy of the copy of the current approval letter from the Federal Trade Commission (“FTC”) pursuant to 15 U.S.C. § 1335a with regard to the warning rotation plan; and
- c. Provide a copy of any information or documentation submitted to or received from the Food and Drug Administration (“FDA”) with regard to the Family Smoking Prevention and Tobacco Control Act, P.L. 111-31, 123 Stat. 1784, 21 U.S. C. § 387 and the substantial equivalence evaluation of the brand.

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 for the 2013 and 2014 sales years. 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 for the 2013 and 2014 sales years. However, the Attorney General retains the discretion to determine whether the listed brand family is actually the cigarette of another tobacco product manufacturer.

B. Fire-Safe Compliance

It is unlawful to offer for sale in Georgia any cigarette that is not compliant with the Georgia Fire Safety Standard & Firefighter Protection Act, O.C.G.A. § 24-4, *et seq.* (“fire safe” cigarette act). Are each of the cigarette brand families listed herein fire-safe compliant and certified by the Georgia Safety Fire Commission?

- Yes
 No

Do not submit a brand family for listing unless the required information has been submitted to the Georgia Fire Safety Commissioner and required package markings approved.

C. Previous Fabricators

For each brand family listed above, list the name and address of any other manufacturer who has fabricated the brand family since 1999 or is currently fabricating the brand family.

D. Manufacturing Facility Identification

Name of Factory: _____ Phone Number: _____

Owner of Factory: _____ Fax Number: _____

Address of Factory: _____

Name of any other company that has access to or utilizes the same factory: _____

Part 4: Non-Participating Manufacturer Certification

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: _____

Phone: _____

Escrow Acct No: _____ Georgia Sub-Account No: _____

Attach an executed copy of your Escrow Agreement with all amendments and attachments, unless a current copy is already on file with our office.

Part 5: Non-Participating Manufacturer Escrow Deposit Calculation

- A.** Liability Year: 2014
The liability year for this certificate is January 1, 2014 through December 31, 2014.
- B.** Units Sold: The number of individual cigarettes or units of RYO sold in Georgia in 2014 by brand is:

Brand Name: _____	Number of units sold: _____
Brand Name: _____	Number of units sold: _____
Brand Name: _____	Number of units sold: _____
Brand Name: _____	Number of units sold: _____

Total: _____

C. Calculating the Deposit Amount

Follow these steps to calculate the appropriate amount to be deposited for the liability year 2014

- (1) Enter the total number from Part 5 Section B above: _____
- (2) Multiply that amount by .0308783
which is the combined 2014 Base Amount
and Inflation Adjustment: $x \underline{\hspace{2cm}.0308783}$
- (3) Enter the total here: _____
- (4) Enter the total amount deposited into escrow for 2014 sales
during the 2014 sales year: _____
- (5) Subtract line (4) from line (3), enter the total here: _____

The amount that must be deposited on or before April 15, 2015 for the liability year 2014 will be the amount shown in Line C(5).

D. Escrow Deposit/Withdrawal History for Georgia

Date	Deposit	Withdrawal <small>Withdrawals must comply with O.C.G.A. § 10-13-3-(2)(B). Verification of compliance must be provided</small>	Balance

Attach a copy of your quarterly receipts or other proof of deposit

for 2014 sales from your financial institution & attach a copy of bank statement showing the current Georgia account balance.

E. Distributors/Wholesalers

List the names and addresses of all distributors/wholesalers who sold cigarette or roll-your-own products fabricated by the non-participating tobacco product manufacturer named in Part 1 into Georgia in 2014 or 2015: _____

Part 6. Additional Information

A. Has either the tobacco product manufacturer identified in Part 1 or any of its brand families ever been involuntarily removed from the "approved for sale" tobacco products directory of any state? Yes No

If yes, please identify the state(s) and explain: _____

B. Has the tobacco product manufacturer or any of its directors, members, officers, or owners ever been accused, convicted, or otherwise cited or penalized for failure to comply with any state or federal law or regulation with regard to the payment of federal or state excise tax on tobacco products? Yes No

If yes, please explain: _____

C. Does the tobacco product manufacturer identified in Part 1 affirmatively certify that it is in full compliance with all of the registration and reporting requirements of 15 U.S.C. §§ 376 and 376a, commonly referred to as the PACT Act?

Yes No

If no, please explain: _____

D. Do any of the directors, members, officers and/or owners of the Company currently serve or have they previously served as directors, members, officers, or owners of any other tobacco product manufacturer? Yes No

If yes, please explain: _____

Part 7: Federal Excise Tax Paid

A. Total nationwide sales on which Federal Excise Tax was Paid during the preceding calendar year: _____

In the case of a domestic tobacco product manufacturer, attach copies of Tobacco Tax Bureau Form 5210.5 supporting the total sales number listed.

In the case of a foreign tobacco product manufacturer, attach copies of Tobacco Tax Bureau Form 5220.6 supporting the total sales number listed.

B. Total Nationwide Sales reported pursuant to 15 U.S.C. § 376 (PACT Act) during the preceding calendar year: _____

Attach copies of all reports made pursuant to 15 U.S.C. §376, (PACT Act Reports) including reports made to states other than Georgia.

Part 8. 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 and/or documentation to determine if the applicant company or brands are in compliance with Georgia law and 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

And

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