

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL

**TOBACCO PRODUCT MANUFACTURER CERTIFICATION
PURSUANT TO 33 V.S.A. CHAPTER 19, SUBCHAPTER 1-B**

GENERAL INFORMATION

Who is required to file this certification?

Any tobacco product manufacturer that sells or intends to sell cigarettes within the state of Vermont, whether directly or through any distributor, retailer, or similar intermediary, is required to file this certification. This Tobacco Product Manufacturers Certification is in addition to any Quarterly or Annual Certificate of Compliance that may be required of Non-Participating Tobacco Product Manufacturers pursuant to 33 V.S.A. Chapter 19, subchapters 1-A and 1-B.

When is this Certification due?

A TPM Certification must be received on or before April 30th each year with figures provided for the previous sales year. The current TPM certification form will be posted on the Attorney General's website after February 1st of each year.

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 a 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" has the same meaning as in 33 V.S.A. §1913(4).
- c) "Directory" means the listing of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of 33 V.S.A., Chapter 19, Subchapter 1-B, and all Brand Families that are listed in such certifications; except as provided by 33 V.S.A. §1918.
- d) "Master Settlement Agreement" has the same meaning as in 33 V.S.A. §1913(5).
- e) "Non-Participating Manufacturer" means any Tobacco Product Manufacturer that is not a Participating Manufacturer.
- f) "Participating Manufacturer" has the meaning given that term in Section II (jj) of the Master Settlement Agreement and all amendments thereto.
- g) "Qualified Escrow Fund" has the same meaning as that term is defined in 33 V.S.A. §1913(6).
- h) "Stamping Agent" (33 V.S.A. §1916(10)) means a person or entity that is required to secure a license pursuant to 32 V.S.A. §7731 or that is required to pay a tax on cigarettes imposed pursuant to 32 V.S.A., Chapter 205.
- i) "Tobacco Product Manufacturer" has the same meaning as that term is defined in 33 V.S.A. §1913(9).
- j) "Units Sold" has the same meaning as that term is defined in 33 V.S.A. §1913(10).

SPECIFIC INSTRUCTIONS:

- Part 1: **Manufacturer's Identification.** Identify the name, physical address, mailing address, phone and fax numbers, e-mail address and name and title of person completing report. Identify the name, physical address, phone and name of plant manager of the manufacturing plant if fabrication is done at another location.
- Part 2: **Sales Year.** The sales year is the immediately preceding calendar year.
- Part 3: **Participating Manufacturer Brand Family Identification:** *(To be completed by Participating Manufacturers only).* Identify by Brand Family and Brand Style all the cigarettes and “roll-your-own” that the Tobacco Product Manufacturer sold in Vermont in the Sales Year. The Participating Manufacturer must include a list of its Brand Families. The Participating Manufacturer is required to update this 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.
- Part 4: **Non-Participating Manufacturer Brand Identification** *(To be completed by Non-Participating Manufacturers only).* NPMs must indicate one or more distributors licensed to sell its products in Vermont (“Stamping Agents”). For the purposes of Part 4 of this certification, distributors must have purchased the NPM’s product in the preceding year or have indicated a commitment to purchase from the NPM within six months of the date of the certification. NPMs shall also include: (i) a list of all of its Brand Families and Brand Styles sold in Vermont in the Sales Year, (ii) the number of Units Sold of each product, to each distributor, during the Sales Year, (iii) the number of Units Sold in Vermont during the first quarter of the current calendar year, and (iv) the name and address of any other current or previous manufacturer of the listed Brand Families. The Non-Participating Manufacturer is required to update its Brand Family List thirty calendar days prior to any addition to or modification of it Brand Families by executing and delivering a supplemental certification to the Attorney General.
- Part 5: **Modifications to the Vermont Directory** *(To be completed by Participating and Non-Participating Manufacturers).* Identify by Brand Family and Brand Style all the cigarettes that the Tobacco Product Manufacturer intends to sell and wants listed in the Vermont Directory for the next year. **NOTE: Tobacco products not listed in the Vermont Directory are not legal for sale in Vermont. Cigarettes must also be separately certified as “Fire-Safe” to be legal for sale in Vermont under 20 V.S.A. § 2757. Bidis may not be sold in Vermont.**
- Part 6: **Required Documents/Certificates:** To be submitted by Participating and Non-Participating Manufacturers. Attach documentation as needed.
- Part 7: **Non-Participating Manufacturer Certification**
- A. Provide all required information regarding company officers and owners.
 - B. Provide all required corporate documents.
 - C. Verify that the Non-Participating Manufacturer is registered to do business in Vermont or has appointed an agent for service of process and provided notice thereof as required by 33 V.S.A §

1920. *NOTE: If agent has been appointed for purposes of this Certification, current proof of appointment and acceptance of appointment for a period of at least one year from certification date must accompany this Certification.*

- D. Identify the name, address, phone and fax numbers of the financial institution where the Non-Participating Manufacturer has established a Qualified Escrow Fund pursuant to 33 V.S.A. § 1914(2); the account number of such Qualified Escrow Fund and any sub-account number for Vermont; and the representative of the financial institution who administers the account. Identify the amount such Non-Participating Manufacturer placed in its Qualified Escrow Fund for Cigarettes sold in Vermont during the preceding calendar year, the date and amount of each such deposit; and the amount and date of any withdrawal or transfer of funds the Non-Participating Manufacturer made at any time from such Qualified Escrow Fund.
- E. If the applicant is a Non-Participating Manufacturer that is not located in the United States, provide an executed copy of the State of Vermont Importer Acceptance of Joint and Several Liability form. This form can be found at:
<http://ago.vermont.gov/wp-content/uploads/2018/02/Foreign-NPM-Importer-Acceptance-Form.pdf>
- F. If the applicant is a Non-Participating Manufacturer that has not been listed on Vermont's Tobacco Directory for the previous three years, the applicant must contact the Office of the Vermont Attorney General's Tobacco Unit to obtain bond information prior to certification and must timely obtain the requisite bond and file the necessary NPM bond form as a part of its certification. The NPM bond form can be found at: <http://ago.vermont.gov/wp-content/uploads/2018/02/NPM-Surety-Bond-form.pdf>

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



Tobacco Enforcement Unit
Office of the Attorney General of Vermont
109 State Street
Montpelier, Vermont 05609-1001
ago.tobaccoenforcement@vermont.gov

TOBACCO PRODUCT MANUFACTURERS CERTIFICATION PURSUANT TO 33 V.S.A. CHAPTER 19, SUBCHAPTER 1-B

Part 1: Tobacco Product Manufacturer Identification

Name of Company: _____

Physical Address (street address only, no post office box): _____

Mailing Address (if different from above): _____

Phone: _____ Fax: _____

E-mail: _____

Name/Title of Person Completing Report: _____

Manufacturing Plant Name and Physical Address (if different from above):
_____ Plant Phone: _____

Name of Plant Manager: _____

Is the Tobacco Product Manufacturer represented by counsel? ____ Yes ____ No

Identification of Counsel: Firm Name: _____ Counsel's Name: _____

Address: _____ City: _____

State: _____ Zip Code: _____

Telephone: _____ E-mail: _____

The undersigned certifies that, as of the date of this Certification, the above-named Tobacco Product Manufacturer is: (initial one)

_____ **A Participating Manufacturer ("PM") in full compliance with the Tobacco Master Settlement Agreement.**

_____ **A Non-Participating Manufacturer ("NPM") in full compliance with 33 V.S.A. Chapter 19, Subchapters 1-A and 1-B.**

Part 2: Sales Year

TPM Certification for Vermont Sales in: **2017**

Part 3: PM Brand Identification

(To be completed by Participating Manufacturers only)

Brand Family*	Brand Style <i>(Indicate whether Cigarette or Roll-your-own)</i>

*By listing a Brand Family in its Certification, the Participating Manufacturer affirms that the Brand Family is its product for the purpose of calculating payments under the Master Settlement Agreement for the Sales Year, in the volume and shares determined pursuant to the Master Settlement Agreement. Nothing in this Certification shall limit or otherwise affect the State's right to maintain that a Brand Family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payment under the Master Settlement Agreement.

Part 4: Non-Participating Manufacturer Brand Identification

(To be completed by Non-Participating Manufacturers only)

BRAND FAMILY	BRAND STYLE <i>(Indicate whether Cigarette or Roll-your-own)</i>	LICENSED WHOLESAL DEALERS USED IN VERMONT***	UNITS SOLD— 2017 <i>(Sticks or RYO equivalent)</i>	UNITS SOLD— 2018 <i>(Sticks or RYO equivalent)</i>	OTHER MANUFACTURER* <i>(name & address)</i>	TRADEMARK HOLDER**

- * Identify other manufacturers, including any other current or previous fabricators of any Brand Families or Brand Styles listed on this Certification.
- ** For brand family listed, name of the trademark holder, the contact person of the trademark holder, and the contact person's mailing address, e-mail and telephone number.
- *** Identify all VT Licensed Wholesale Dealers that you currently use to sell your products into VT.

Part 5: Modifications to the Vermont Directory

(To be completed by Participating **and** Non-Participating Manufacturers)

Brands requested for listing in Vermont Directory:

Same as above

To be added:

To be deleted:

Part 6: Required Certifications/Documents (all Manufacturers):

- A. Fire Safe Compliance: Are each of the cigarette brand families and brand-styles listed here fire-safe compliant and certified with the Vermont Department of Public Safety pursuant to 20 V.S.A. § 2757? Yes ___ No ___. **If yes, please attach fire safe certification documents for each brand style.** If your answer to the preceding question was “no”, please explain the basis for the request to list the brand family on the Vermont Tobacco Directory. The certification application will not be processed without the proper fire safe certification documents.

- B. U.S. Treasury, Tobacco Tax Bureau (TTB) permit(s): Attach a copy of the TPM’s current TTB permit(s) as a manufacturer and/or as an importer.

- C. If the TPM applicant is located in a country other than the United States, provide copies of any manufacturing or importer licenses, certificates, permits or similar documents issued by the country where the manufacturing takes place. List all importers _____

- D. Has the company submitting this form or any of its affiliates, sales entity affiliates, officers, or directors pled guilty or nolo contendere to or been found guilty of a felony crime relating to the sale or taxation of cigarettes or tobacco products? Yes ___ No ___. If your answer is “yes”, please explain _____.

- E. For each of the past 12 calendar months, has the company provided the reports required by the PACT Act/Jenkins Act, 15 U.S.C. § 375 *et seq.*, as amended, to the Vermont Department of Taxes? Yes ___ No ___. If your answer is “no”, please explain _____.

- F. Has the company submitting this form or any of its brand families been removed from the approved-for-sale tobacco products directory of any state within the last three years? Yes ___ No ___. If your answer is “yes”, please explain: _____.

Part 7: Non-Participating Manufacturer Certification

(To be completed by Non-Participating Manufacturers only)

A. Company Officers and Owners: List NPM Applicant’s officers and owners (all persons with an equity interest of 10% or more in the company)

CHECK CORRECT BOX	<input type="checkbox"/> PRESIDENT <input type="checkbox"/> VICE PRESIDENT <input type="checkbox"/> PARTNER <input type="checkbox"/> OTHER	<input type="checkbox"/> PRESIDENT <input type="checkbox"/> VICE <input type="checkbox"/> PRESIDENT <input type="checkbox"/> PARTNER	<input type="checkbox"/> PRESIDENT <input type="checkbox"/> VICE PRESIDENT <input type="checkbox"/> PARTNER <input type="checkbox"/> OTHER
Name			
Street Address			
Telephone and Facsimile Numbers			
E-mail Address			

B. Corporate or Business Documents:

Current copies of articles of incorporation, corporate charters, certificates of corporate existence, operating agreements, and bylaws or extracts of stockholders’ meetings, as applicable to corporate status, are attached.
Yes ___ No ___.

C. Registered Agent / Approved Agent for service of process

The Tobacco Product Manufacturer identified above, as of the date of this Certification, certifies that it: (*initial one*)

_____ Is registered to do business in Vermont with the Vermont Secretary of State

_____ Has appointed and continues to engage a registered Vermont agent for service of process in the State of Vermont as identified below, and has submitted to the Attorney General:

1. Proof of the appointment, effective for at least one year from the date of this Certification, and
2. The agent’s acceptance of the appointment

Agent Name: _____ Date of Appointment _____

Company: _____

Physical Address: _____

Mailing Address: _____

Phone: _____ Fax: _____

E-mail: _____

D. Qualified Escrow Fund:

1. Qualified Escrow Fund Certification (*answer each*)

The Non-Participating Manufacturer (“NPM”) applicant certifies that at the time of the execution of this Certification:

- A. It has established, and continues to maintain, a Qualified Escrow Fund, and the Qualified Escrow Fund complies with 33 V.S.A §§ 1912–1924. Yes ___ No ___.
- B. Any escrow funds held or to be held in its Qualified Escrow Fund will be held in a separate segregated account on behalf of the State of Vermont and are separate and apart from escrow funds held on behalf of any other beneficiary. Yes ___ No ___.
- C. A complete copy of the NPM applicant’s qualified escrow agreement, in executed form, including all amendments and attachments, has been provided to the Office of the Attorney General. Yes ___No ___.
- D. There is a security interest that has been granted in or has attached to or is otherwise applicable to any escrow funds held or to be held in the NPM applicant’s Qualified Escrow Fund on behalf of Vermont. Yes ___ No ___.

2. Qualified Escrow Fund Agent Identification;

Name of Qualified Escrow Fund Financial Institution: _____

Authorized Escrow Agent Contact Name and Title: _____

Physical Address: _____

Mailing Address: _____

Phone: _____ Fax: _____

Qualified Escrow Acct No: _____

Qualified Escrow Fund Vermont Subaccount Number: _____

Escrow Agreement Dated: _____

(NOTE: A copy of the most recent version of the Escrow Agreement and all attachments and amendments governing the Agreement must be on file with the Attorney General or should be submitted with this Certification.)

3. Escrow Deposit/Withdrawal History for Vermont

Date	Deposit	Withdrawal***	Balance

***Withdrawals must comply with 33 V.S.A. §1914(b). Verification of compliance must be provided.

(Initial certification should include a complete history; annual certifications thereafter should include only account deposits and withdrawals not previously reported.)

E. Joint and Several Liability of Importer of Foreign NPM

Pursuant to Title 33 § 1925, each NPM located outside the United States and each importer of such any nonparticipating manufacturer’s brand families that are sold in Vermont shall bear joint and several liability for the deposit of all escrow due and the payment of all penalties, costs and attorney fees under section 1914 of Title 33. As a condition to being listed on the Directory, a foreign NPM must submit as a part of its application a fully executed Importer Acceptance of Joint and Several Liability form. The importer’s agent for service of process, under Title 33 § 1920(a), is the Vermont Secretary of State.

F. NPM Bond Requirement

Pursuant to Title 33 1918(f), an NPM may be required to post a bond as a condition of being included on Vermont’s Directory. Proof of the bond must be submitted with the certification application.

Part 8: Execution by Authorized Designee

Under penalty of perjury, I certify and declare that all of the statements and information contained in this Certification, including any accompanying statements or attachments hereto, are true, correct, accurate and complete, and that I am an officer or director of the Tobacco Product Manufacturer making this Certification and am a person authorized to bind the Tobacco Product Manufacturer either under the laws of the State of Vermont or the jurisdiction where the manufacturer resides or is organized. Any violation of these requirements or these representations is a basis for removal of the Applicant and/or its brand families from the Directory.

I further certify that the Tobacco Product Manufacturer hereby submits itself to the jurisdiction of the courts of Vermont for purposes of all litigation arising out of this Certification or the sale of tobacco products in Vermont. I further certify that the Tobacco Product Manufacturer shall sell tobacco products only in compliance with all applicable provisions of federal and Vermont laws, rules, and regulations, including, but not limited to: 33 V.S.A. §§ 1912–24 (Qualifying Statute and Complementary Legislation), 20 V.S.A. §§ 2756–57 (Reduced Ignition Propensity Cigarettes) and 7 V.S.A. § 1010 (Ban on shipping tobacco products into Vermont to anyone other than licensed

wholesalers, retailers and distributors and internet sales ban), the Family Smoking Prevention and Tobacco Control Act and the PACT Act.

I understand that the Attorney General may require additional information and/or documentation to determine if the Tobacco Product Manufacturer qualifies for listing on the Vermont Tobacco Directory and to determine that the assurances herein are true, correct, and complete; I agree to provide such information upon request, and I understand that failure to do so may constitute grounds for exclusion from the Vermont Tobacco Directory.

Designee (*Print Name*): _____

Title: _____

Signature of Designee: _____ Date: _____

Subscribed and sworn to before me on this date: _____

Signature of Notary Public: _____

City of _____ County of _____

State of _____

Country: _____

My Commission expires: _____

Seal:

Mail the original Certification and copies of all supporting documents to:

**Tobacco Enforcement Unit
Office of the Attorney General of Vermont
109 State Street
Montpelier, Vermont 05609-1001
ago.tobaccoenforcement@vermont.gov**

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