



## State of Oregon

### Non-Participating Manufacturer Certification For Listing on the Oregon Tobacco Directory

#### Part 1: Liability Year and Type of Certification

**Liability Year for this Certification:**

Complete a separate form for each liability year for which you are certifying (check one):

 20\_\_ Other: \_\_\_\_**Type of Certification** (check one): Initial Annual Supplemental

#### Part 2: Manufacturer Identification

Applicant Company Name:

FEIN No.

Mailing Address:

City:

State:

Zip:

Country:

Phone:

Fax:

Email:

Name of Person Completing Certification:

#### Part 3: Manufacturing Facility Information

Plant Name:

Physical Address:

Plant Phone:

Plant Fax:

Name/Title of Person at Plant (if different than above):

#### Part 4: Status as a Tobacco Product Manufacturer

The undersigned certifies that as of the date of this Certification, the above-named applicant is a Non-Participating Tobacco Product Manufacturer in full compliance with ORS 323.800 to 323.806, including having made all required payments into a Qualified Escrow Fund as defined in ORS 323.800(3). The Applicant qualifies as a Non-Participating Tobacco Product Manufacturer because (check all that apply):

- The Applicant is the fabricator of the listed brands in this Certification which are intended to be sold in the United States including Cigarettes and RYO intended to be sold in the United States through an importer.
- The Applicant is the first purchaser anywhere for resale in the United States of Cigarettes and RYO manufactured anywhere that the manufacturer does not intend to be sold in the United States. If yes, provide the name, address, plant address, contact person, phone, and fax number of the fabricator.
- The Applicant is a successor of any entity described above (i.e., manufacturer/first importer)

#### Part 5: Licenses and Permits

U.S. Treasury, Tobacco Tax Bureau (TTB) Permit Number:

Foreign Manufacturer Permit or License Number:

Country Issued:

Last Year Permit or License Issued:

Is Permit/License Current:  Yes  No **Initial Certification or Changed Permit:** A copy of Applicant's current permit is attached. **Annual or Supplemental Certification:** A copy of Applicant's current permit was submitted with a prior certification and there have been no changes to the permit.

## Part 6: Brand Family and Brand Style Identification

**A. Brand Family and Brand Styles:** For each brand style for which Applicant is seeking certification or for which Applicant received certification in a prior year, the following information is attached:

- Name:** List the brand family and brand style (those brand styles that will not be sold in the current year should be marked with an asterisk (\*)).
- Cigarette or RYO:** Indicate whether the product is a cigarette or RYO.
- Units Sold – Prior Year:** Indicate the number of units sold during the prior calendar year.
- Units Sold – Current Year:** Indicate the number of units sold during the current calendar year from January 1 to date of application.
- Current Manufacturer:** Include the name and address of the current manufacturer.
- Prior Manufacturer(s):** Include the name and address of all prior manufacturers.
- Current Trademark Holder:** Include the name and address of the current trademark holder.
- Prior Trademark Holder:** Include the name and address of all prior trademark holders.

**B. Additional Information:** Check the appropriate box(es):

- Initial or Supplemental Certification:** Included with this Certification is corresponding actual cigarette or RYO packaging (without tobacco) for each Brand Style for which Applicant requests certification.
- Annual Certification – No Packaging Changes:** Corresponding actual cigarette or RYO packaging (without tobacco) has been previously provided and there have been no changes to the packaging.
- Annual Certification – Packaging Changes/Brand Additions:** There have been changes to the packaging samples previously submitted or new brand styles have been added. Corresponding actual cigarette or RYO packaging (without tobacco) is included.
- FDA Compliance:** (*For initial or supplemental certifications or brand additions*). Check the appropriate box and provide the requested documentation for each brand style that is new to the Oregon Tobacco Directory.
  - The product was first commercially marketed on or before February 15, 2007. Please provide correspondence from the FDA showing that the product has been granted grandfather status from the premarket review process or evidence that the product was commercially marketed before February 15, 2007.
  - The product was first commercially marketed after February 15, 2007, but before March 22, 2011. Please provide either (1) evidence that a substantial equivalence application was filed with the FDA or (2) a substantial equivalence order.
  - The product was first commercially marketed on or after March 22, 2011. Please provide either (1) a substantial equivalence order or (2) an order approving a premarket review application.
- Health Warning Rotation Plan:** For each Brand Family, list the name and address of the entity that filed cigarette health warning rotation plan with the Federal Trade Commission. Attach the Federal Trade Commission's written approval of the Applicant's annual Cigarette Health Warning Rotation Plan. *Applies only to cigarettes.*
- Ingredient Report:** For each Brand Family, 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. Secretary of Health and Human Services for Applicant's annual ingredient reporting required by the Federal Cigarette Labeling and Advertising Act (15 USC §1335a). *Applies only to cigarettes.*

**Part 6 B. Additional Information, Continued.**

- Imported Cigarettes:** If applicant sells or intends to sell cigarettes or RYO brands that are not manufactured in the United States, provide the following:
  - A copy of the sworn statement of the original manufacturer that it will timely submit ingredient information to the Secretary of Health and Human Services as required by 19 USC §1681a(c)(1). *Cigarettes Only.*
  - A copy of the importer’s certificate under penalty of perjury as required by 19 USC §1681a(c)(2) regarding the precise format of warnings and the rotation plan for health warnings. *Cigarettes Only.*
  - A copy of the trademark holder’s certificate under penalty of perjury that it has not withdrawn consent to import into the United States as required by 19 USC §1681a(c)(3)(A) **or** a copy of the importer’s certificate under penalty of perjury that the trademark owner has not withdrawn consent to the import into the United States as required by §1681a(c)(3)(B).
- FSC (Fire Standard Compliance):** Attached are: a) letter from the Office of the Oregon Department of Justice indicating that the brand styles for which Applicant seeks certification are FSC compliant; and b) testing verification documentation for each corresponding brand style.
- Brand Responsibility:** The Applicant identified in Section 2 affirms that the cigarette and RYO brands listed herein are to be considered the Applicant’s cigarette and RYO brands for the purposes of ORS 323.800 to 323.806 (Escrow Statutes).

**Part 7: Organizational Documents**

**A. Organizational Documents – Initial / Annual / Supplemental Certification:**

- No Changes to Organization Documents:** Organizational documents were previously provided with a prior year’s Certification Application and there have been no changes. Proceed to Part 8 of this application.
- Organizational Documents Have Changed:** There have been changes to the organizational documents previously submitted. Complete the rest of Part 7 and provide copies of all updated documents as follows:

**B. Additional Information:** Check the appropriate box(s):

Check one:

Response Provided	Does Not Apply	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Attach the following documents or information:</b>
<input type="checkbox"/>	<input type="checkbox"/>	<u>Partnership or Association:</u> Current copy of the Certificate of Partnership or the certificate required to be filed by any state, county, or municipality.
<input type="checkbox"/>	<input type="checkbox"/>	<u>Corporation:</u> 1) Current copy of the Certificate of Incorporation or other charter and 2) extracts of documents listing the officers authorized to sign for the company.
<input type="checkbox"/>	<input type="checkbox"/>	<u>LLC or other entity:</u> Current copy of the business document(s) filed with a state, county, or municipal entity when such filing is required. Include copy of any document indicating persons authorized to sign for the entity.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Company Officers/Owners:</b> Provide a list of all company officers and company owners (all persons with an equity interest of 10% or more in the company). Include name, address, phone number and email address.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Affiliates:</b> Provide a list of all company Affiliates that also manufacture, import, distribute, or sell cigarettes or RYO. Include the name, address, and contact information for each Affiliate.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Marketing Information:</b> For each brand family, list the name, address, and contact information for each Oregon distributor and Wholesaler through which Applicant intends to sell cigarettes or RYO in Oregon.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Agreements with Participating Manufacturers:</b> Identify every agreement between Applicant and any Participating Manufacturer (“PM”) or PM Affiliate that relates to the making, importing, distribution, transportation, or sale of each Brand Family.

**Part 7B: Additional Information, Continued.**

**Agreements Regarding Compliance with the Qualified Escrow Statute:** List every Brand Family that is the subject of any agreement regarding compliance with a Qualified Escrow Statute.

**Part 8: PACT Act Compliance**

Attach a copy of Applicant's PACT Act Registration filed with the U.S. Department of Justice and the Oregon Department of Revenue.

The Applicant certifies that:

- The Applicant is in compliance with all reporting obligations to the State of Oregon; or  
 The Applicant does not ship tobacco products directly into the State of Oregon.

**Part 9: Bond Information**

**A. Amount of Bond:** \$\_\_\_\_\_. Bond must be the greater of Twenty-Five Thousand Dollars (\$25,000) or the highest amount of escrow owed in Oregon by the Non-Participating Manufacturer or its predecessor in the last 12 quarters.

**B. Bonding Company:**

Agent Name:		Company:	
Mailing Address:			
City:	State:	Zip:	Country:
Phone:	Fax:	Email:	

**Attach copy of NPM Surety Bond**

**Part 10: Distributors and Importer**

The applicant identified in **Part 2** affirms that all shipments or sales made into Oregon by the applicant, or its importer are made to a distributor of cigarettes licensed under ORS 323.105 or a distributor of tobacco products licensed under ORS 323.530.

**A. Distributors:** List the names and addresses of all distributors who sold cigarettes or roll-your-own products fabricated by the non-participating tobacco product manufacturer named in Part 2 into Oregon in 2020 or 2021:

**B. Importer information:** If NPM is located outside of the United States, provide the following importer information:

Importer:		Contact Name:	
Mailing Address:			
City:	State:	Zip:	Country:
Phone:	Fax:	Email:	

TI Permit No:		FEIN No:
YES	NO	Check Yes or No as appropriate to ALL questions.
<input type="checkbox"/>	<input type="checkbox"/>	Is Importer in compliance with all reporting and registration requirements of the PACT Act, 15 U.S.C § 376?
<input type="checkbox"/>	<input type="checkbox"/>	Does Importer accept joint and several liability with the non-participating manufacturer for all escrow obligations, as well as payment of all civil penalties, and reasonable costs and expenses of prosecution for failure of to deposit escrow obligations?
<input type="checkbox"/>	<input type="checkbox"/>	Does Importer consent to personal jurisdiction in Oregon for purposes of claims by the state with regard to escrow obligations?

**Part 10: Distributors and Importer, Continued.**

<input type="checkbox"/>	<input type="checkbox"/>	Has Importer appointed a registered agent for service of process?
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**Attach copy of United States Importer Declaration**

**Part 11: Qualified Escrow Fund and Financial Institution**

The Applicant certifies that at the time of this Certification, the Applicant has:

- Enclosed the completed Annual Escrow Compliance Certificate and Affidavit for the prior year's sales in Oregon.
- Established and continues to maintain a Qualified Escrow Fund as defined in ORS 323.800(8) and said fund complies with ORS 323.800 to 323.806.*
- Executed a Qualified Escrow Agreement that has been reviewed and approved by the Attorney General for the State of Oregon and that governs the Qualified Escrow Fund for the State of Oregon. *A copy of the current Qualified Escrow Agreement, including any amendments, is attached.*
- Ensured that the escrow funds held in the Qualified Escrow Fund on behalf of the State of Oregon are in a separate segregated account, separate and apart from escrow funds held on behalf of any other beneficiary.
- Ensured that the Qualified Escrow Fund is not encumbered by a security interest granted to a third party.
- Attached information documenting all deposits and withdrawals from the Qualified Escrow Fund during the last year and attached proof of the current escrow account balance from the Escrow Agent.

Name of Financial Institution:	Phone No.
Contact Agent Name:	Fax No.
Mailing Address:	
Escrow Account No.	Oregon Sub-Acct. No.

**Part 12: Registered Agent/Approved Agent for Service of Process**

The Applicant has (check one):

- Is registered to business in the State of Oregon; or
- Has appointed a resident agent for service of process in the State of Oregon and provided notice of the appointment to the Attorney General for the State of Oregon by submitting a completed **Non-Participating Manufacturer's Appointment of Registered Agent for State of Oregon and Registered Agent's Statement**, which can be found at [www.doj.state.or.us](http://www.doj.state.or.us)

**Part 13: Disclosures**

YES	NO	Check Yes or No as appropriate to ALL questions. Provide additional information where requested.
<input type="checkbox"/>	<input type="checkbox"/>	Within the past two (2) years, there has been a change in manufacturer (fabricator) of one or more of the Brand Families listed in this Certification? If yes, provide details of the change.
<input type="checkbox"/>	<input type="checkbox"/>	Has any state obtained a court judgment or administrative order against the Applicant relating to the Brand Families listed in this Certification? If yes, list the location, case number and date of the judgment or order and the Brand Families involved.
<input type="checkbox"/>	<input type="checkbox"/>	As of the date of this Certification, has Applicant satisfied all court judgments and orders to pay penalties in any state, related to Brand Families listed in this certification?

**Part 13: Disclosures, Continued.**

<input type="checkbox"/>	<input type="checkbox"/>	Has Applicant or any Person or Affiliate listed in Part 7 had any of its cigarettes or RYO banned, enjoined from sale, or removed from a tobacco directory of any state for any reason? If yes, list: a) the Brand Families at issue, b) location of the determination.
<input type="checkbox"/>	<input type="checkbox"/>	Has Applicant or any Person or Affiliate listed in Part 7 been convicted of a crime under federal, state, or foreign laws in connection with the sale of cigarettes or RYO? If yes, provide details.
<input type="checkbox"/>	<input type="checkbox"/>	Has Applicant or any Person or Affiliate listed in Part 7 been denied a permit, license, or other authorization to engage in any business relating to the sale of tobacco by any government entity (federal, state, local or foreign) or had such permit revoked, suspended, or otherwise terminated? If yes, provide details.
<input type="checkbox"/>	<input type="checkbox"/>	Is Applicant or any of the Person or Affiliate listed in Part 7 entitled to claim Sovereign Immunity based on Tribal Status? If yes, provide information regarding tribal status and affiliation.

**Part 14: Execution by Authorized Designee****Declaration made within the United States**

The undersigned certifies that as of the date of this Certification, the above-named Applicant is a Nonparticipating Manufacturer under the Tobacco Master Settlement Agreement as defined in ORS 180.405 (7).

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, correct, accurate and complete in every particular, and that I am a person authorized to bind the Tobacco Product Manufacturer making this Certification either under the laws of the State of Oregon or of the jurisdiction where the manufacturer resides or is organized. **Any violation of the requirements of ORS 323.800 to 323.806 or ORS 180.400 to 180.455 is a basis for removal of the applicant's Brands from Oregon's Directory of compliant Tobacco Product Manufacturers.**

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury

Signature of Authorized Person:	Date:
Printed Name of Authorized Person:	Title:

**Part 14: Execution by Authorized Designee Continued**

**Declaration made outside the boundaries of the United States**

The undersigned certifies that as of the date of this Certification, the above-named Applicant is a Nonparticipating Manufacturer under the Tobacco Master Settlement Agreement as defined in ORS 180.405 (7).

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, correct, accurate and complete in every particular, and that I am a person authorized to bind the Tobacco Product Manufacturer making this Certification either under the laws of the State of Oregon or of the jurisdiction where the manufacturer resides or is organized. **Any violation of the requirements of ORS 323.800 to 323.806 or ORS 180.400 to 180.455 is a basis for removal of the applicant's Brands from Oregon's Directory of compliant Tobacco Product Manufacturers.**

**I declare under penalty of perjury under the laws of Oregon that the foregoing is true and correct, and that I am physically outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.**

**Executed on the (day) of (month), (year) at (city or other location), (country)."**

Signature of Authorized Person:	Date:
Printed Name of Authorized Person:	Title:

**The Department of Justice requires electronic submission for all certification applications and supporting documents. Please contact our office at [tobaccoenforcementCERT@doj.state.or.us](mailto:tobaccoenforcementCERT@doj.state.or.us) or call 503.934.4400 if you need assistance.**