



Certification Year:
2018

**STATE OF LOUISIANA
NON-PARTICIPATING MANUFACTURER CERTIFICATION
PURSUANT TO LA. R.S. 13:5071 *et seq.***

Type of Certification:

Annual Certification

Supplemental Certification

Certification Fee:

Each tobacco product manufacturer is required to submit a fee of \$500 made payable to the "State of Louisiana" along with its annual certification no later than April 30th of each year. Please note that the certification will not be acted upon until the fee is received.

➤ Please indicate if the Certification Fee has been included: **Yes** **No**

Tobacco Product Manufacturer Identification:

Company: _____

Address: _____

Address: _____

Phone: _____ FAX: _____

Name of Person Completing Report: _____

Title: _____

E-mail: _____

Is the company represented by counsel? **Yes** **No**

Identification of Counsel for Tobacco Product Manufacturer (if applicable):

Counsel: _____

Firm: _____

Address: _____

Address: _____

Phone: _____ FAX: _____

E-mail: _____

Identification of Owners, Officers and Directors:

Name: _____

Title: _____

Address: _____

Phone: _____

Name: _____

Title: _____

Address: _____

Phone: _____

Name: _____

Title: _____

Address: _____

Phone: _____

Name: _____

Title: _____

Address: _____

Phone: _____

- Please list any additional owners, officers or directors on a separate sheet of paper if necessary.

Association with Other Tobacco Product Manufacturers:

Does the company submitting this Certification or any of those listed in the response to the preceding question also hold a position or title as owner, officer, or director of any other Tobacco Product Manufacturer at the present time or have they done so in the past ten (10) years? **Yes** **No**

If the answer to the preceding question is “yes,” please explain below or attach a separate sheet, if necessary.

Sales Entity Affiliates:

Please list the names and addresses of any and all sales entity affiliates that may transact business in Louisiana on behalf of your company. A “sales entity affiliate” is defined in La. R.S. 13:5071 (17) as an entity that (1) sells cigarettes that it acquires directly from a manufacturer or importer and (2) is affiliated with that manufacturer or importer as established by documentation received directly from that manufacturer or importer to the satisfaction of the attorney general. Entities are affiliated with each other if one, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other.

Company 1: _____

Address: _____

Address: _____

Phone: _____

Company 2: _____

Address: _____

Address: _____

Phone: _____

Company 3: _____

Address: _____

Address: _____

Phone: _____

Company 4: _____

Address: _____

Address: _____

Phone: _____

- All documentation in the company's possession is attached to establish the companies listed directly above are "sales entity affiliates" pursuant to La. R.S. 13:5073.**

Criminal Activity:

1. Have any of the owners, officers, or directors of the company submitting this Certification or any of the owners, officers, or directors of its subsidiaries, importers, or sales entity affiliates been indicted, pled guilty or nolo contendere, or been found guilty of a felony relating to the reporting, distribution, sale or taxation of cigarettes or tobacco products? **Yes** **No**

2. Have any of the owners, officers, or directors of the company submitting this Certification or any of the owners, officers, or directors of its subsidiaries, importers, or sales entity affiliates been indicted, pled guilty or nolo contendere, or been found guilty of a crime involving fraud, falsification of records, or improper business transactions relating to the reporting, distribution, sale or taxation of cigarettes or tobacco products? **Yes** **No**

If the answer to either of the preceding questions is "yes," please explain below.

Identification of Importers (for Tobacco Product Manufacturers located outside of the United States):

Please identify below any importers to which cigarettes or roll-your-own (“RYO”) tobacco may be shipped for distribution in the United States. Pursuant to La. R.S. 13:5072 (6), an “importer” means any person in the United States to whom non-tax paid cigarettes manufactured in a foreign country are shipped or consigned, any person who removes cigarettes for sale or consumption in the United States from a customs bonded warehouse, and any person who smuggles or otherwise unlawfully brings cigarettes into the United States.

Please use additional paper to complete this information if needed.

Company 1: _____

Address: _____

Address: _____

Phone: _____

Company 2: _____

Address: _____

Address: _____

Phone: _____

Company 3: _____

Address: _____

Address: _____

Phone: _____

Company 4: _____

Address: _____

Address: _____

Phone: _____

- If there is any change to any of the responses above, supplemental information must be submitted to the Louisiana Department of Justice at least thirty (30) days prior to sale.

Identification of Wholesalers, Distributors or Stamping Agents:

A. Please identify below the wholesalers, distributors, or stamping agents to whom cigarettes or roll-your-own tobacco have previously been sold for distribution in Louisiana. Please use additional paper to complete this information if necessary.

Company 1: _____

Address: _____

Address: _____

Phone: _____ Years Sold: _____

Company 2: _____

Address: _____

Address: _____

Phone: _____ Years Sold: _____

Company 3: _____

Address: _____

Address: _____

Phone: _____ Years Sold: _____

Company 4: _____

Address: _____

Address: _____

Phone: _____ Years Sold: _____

B. Please identify below the wholesalers, distributors, or stamping agents to whom cigarettes or roll-your-own tobacco **may** be sold for distribution in Louisiana. Please use additional paper to complete this information if needed.

Company 1: _____

Address: _____

Address: _____

Phone: _____

Company 2: _____

Address: _____

Address: _____

Phone: _____

Company 3: _____

Address: _____

Address: _____

Phone: _____

Company 4: _____

Address: _____

Address: _____

Phone: _____

- **If there is any change to any of the responses above, supplemental information must be submitted to the Louisiana Department of Justice at least thirty (30) days prior to sale.**

Brand Families to be Certified in Louisiana and All Other Brand Families:

Please fully complete Attachment #1 entitled **BRAND FAMILIES TO BE CERTIFIED IN LOUISIANA** and Attachment #2 entitled **ALL OTHER BRAND FAMILIES**.

Fabrication of Brand Families:

Does the company seeking to certify as a Tobacco Product Manufacturer actually fabricate each of the brand families identified in Attachments #1 and #2 of this Certification?

- Yes** **No**

If the answer to the above question is “no,” please provide the basis below for the belief that the company seeking to certify is the Tobacco Product Manufacturer of those brand families that it does not itself fabricate. A separate sheet may be attached if additional space is needed.

Manufacturing Facilities Access:

Do other companies have access to or utilize any of the manufacturing facilities identified in Attachments #1 and #2 of this Certification? **Yes** **No**

If the answer to preceding question is “yes,” please explain below. A separate sheet may be attached if additional space is needed.

Sample Packaging:

Please provide a sample of the packaging for each brand family identified in Attachment #1 of this Certification. If a sample of the brand packaging has previously been provided to the Louisiana Department of Justice and has not changed, please check the box below and indicate the year in which the sample was provided. In such an event, there is no need to submit additional sample packaging.

- A sample has previously been provided to the Louisiana Department of Justice and has not changed.

Please provide the year in which the sample was submitted to the Louisiana Department of Justice: _____

Fire Safe Compliance:

Has each of the brand families listed in Attachment #1 of this Certification been listed as fire safe compliant and certified with the Louisiana Office of State Fire Marshal? **Yes** **No**

If the answer to the preceding question is “yes,” please provide the date of the last approval below and attach a copy of the approval from the Louisiana Office of State Fire Marshal.

Date of Last Approval: _____

If the answer to the preceding question is “no,” please explain below.

Federal Trade Commission Rotation Plan:

For each brand family that has been identified in Attachment #1 of this Certification, please provide a copy of the complete warning rotation plan submitted to the Federal Trade Commission and a copy of the approval letter from the Federal Trade Commission.

Tobacco Tax and Trade Bureau (TTB) Permit:

Please provide the company’s U.S. Department of Treasury, Tobacco Tax and Trade (TTB) permit number: _____

Please attach a copy of the company’s TTB permit. If the company submitting this Certification is a foreign tobacco manufacturer, please submit a copy of the TTB permit held by its importer(s).

Department of Health and Human Services Ingredient List:

For each brand family that has been identified in Attachment #1 of this Certification, please provide a copy of the Certificate of Compliance issued by the Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health.

Delivery Sales:

Does the company engage in sales of cigarettes or roll-your-own tobacco via the telephone, internet, catalog, or other non-face to face method for the purpose of selling to individual

consumers or entities for resale whether in the State of Louisiana or other United States jurisdiction? Please note that, pursuant to La. R.S. 47:871 *et seq.*, sales not for personal consumption to a person who is a cigarette wholesale dealer or a cigarette retail dealer do not constitute delivery sales as contemplated herein. **Yes** **No**

If the answer to the preceding question is “yes,” please describe the method(s) utilized and identify all websites or other media in which advertisements have been made.

Have any delivery sales, as described above, been made by the company or any of its sales entity affiliates to consumers in the State of Louisiana in the past year? **Yes** **No**

- If the answer to the preceding question is “yes,” please list on a separate sheet of paper the names and addresses of the purchasers, brands sold, dates of sale, and the quantity of each brand sold.

Directory Removal / Refusal to List on Directory:

Has either the company seeking to certify or any of its brand families been involuntarily removed from the list of tobacco products approved for sale in any state at any time? **Yes** **No**

If the answer to the preceding question is “yes,” please provide the state(s) from which the company was removed, approximate date(s) of removal, and reason(s) for such removal.

Has any state refused to list any of the brand families which the company is currently seeking to certify? **Yes** **No**

If the answer to the preceding question is “yes,” please provide the brand(s)/brand families and state(s) that refused to list them on their state directory of tobacco product manufacturers and the reason(s) for refusal.

Litigation:

A. Please provide a list of the following as they pertain to the company seeking to certify, any of its owners, officers, or directors, or any of its subsidiaries, importers or sales entity affiliates:

1. All outstanding judgments in any United States state or federal court;
2. All pending lawsuits in any United States state or federal court, including the caption, court and case number; and
3. All past or present actions by any government entity that resulted in a suspension or revocation of a license or permit.

B. Has the company seeking to certify ever been enjoined from selling cigarettes or roll-your-own in any state or jurisdiction? **Yes** **No**

If the answer to the preceding question is “yes,” please explain the circumstance surrounding the injunction as well as the brand(s)/brand families involved.

Federal Returns:

Each manufacturer that sells cigarettes in Louisiana and each importer that imports cigarettes into Louisiana is required by La. R.S. 13:5075 to do either of the following:

- (a) Submit its federal returns to the attorney general by sixty (60) days after the close of the quarter in which the returns were filed; or
- (b) Submit to the United States Treasury a request or consent under Internal Revenue Code Section 6103 (c) authorizing the Alcohol and Tobacco Tax and Trade Bureau and, in the case of a foreign manufacturer or importer, the U.S. Customs Service, to disclose the manufacturer’s or importer’s federal returns to the attorney general as of sixty (60) days after the close of the quarter in which the returns were filed.

For this purpose, “federal returns” means all federal excise tax returns and all monthly operational reports on Alcohol and Tobacco Tax and Trade Bureau Form 5210.5, and all adjustments, changes and amendments to the foregoing.

Please indicate the company’s designated choice in the corresponding box above.

Louisiana Agent for Service of Process:

(For Companies that have not registered to do business in this state with the Louisiana Secretary of State)

Agent Name: _____

Company: _____

Address: _____

Address: _____

Phone: _____ FAX: _____

E-mail: _____

- Attach proof that this Louisiana agent for service of process has been appointed and continually engaged in this state to act as agent for service of process on whom all process and any action or proceeding against the Tobacco Product Manufacturer concerning or arising out of the enforcement of La. R.S. 13:5061 *et seq.* and La. R.S. 13:5071 *et seq.*, may be served in any manner authorized by law.

Importer Acceptance of Joint and Several Liability, Appointment of Registered Agent and Consent to Personal Jurisdiction:

For nonparticipating manufacturers located outside of the United States, please have each importer execute the Importer Acceptance of Joint and Several Liability, Appointment of Registered Agent and Consent to Personal Jurisdiction form, as required by La. R.S. 13:5071, *et seq.*, a copy of which is included with this Certification.

Bond:

All nonparticipating manufacturers are required to post a bond or its cash equivalent for the benefit of the state. The bond shall be posted by corporate surety located within the United States or the cash equivalent shall be posted by the NPM in an account approved by the Attorney General of the state. **Evidence of the posting must be provided to the Attorney General at least ten (10) days in advance of each calendar quarter as a condition to the manufacturer and its brand families being included on the directory for that quarter.**

Has the company submitting this Certification posted a bond in accordance with La. R.S. 13:5078? **Yes** **No**

- If the answer to the preceding question is “yes,” please complete and attach the Nonparticipating Manufacturer Bond form, as required by La. R.S. 13:5078.

Does the company submitting this Certification agree to provide evidence of the posting of bond to the Louisiana Department of Justice at least ten (10) days in advance of each calendar quarter as a condition to the company and its brand families being included on the directory for that quarter? **Yes** **No**

Has the company submitting this Certification deposited the cash equivalent of a bond in an account approved by the Attorney General in accordance with La. R.S. 13:5078? Yes No

If the answer to the preceding question is “yes,” please provide the following information:

Name of Financial Institution: _____

Address of Financial Institution: _____

Contact Person: _____

Phone: _____

Email: _____

Amount of Deposit: _____

Date of Deposit: _____

- Please attach proof from the Financial Institution of the account balance and date of deposit.

Qualified Escrow Fund – Financial Institution:

Name of Institution: _____

Address: _____

Representative Name: _____

Phone: _____

Escrow Acct. No.: _____

Date established: _____

State Sub-Account No.: _____

Date established: _____

- Please attach proof from the Financial Institution of the account balance(s) provided herein, and instruct the Financial Institution to mail monthly statements to this office reflecting the current account balance(s).

Has the Escrow Agreement been presented to the Attorney General (date)? _____

Date executed: _____ Amended: _____

Total amount held in escrow for Louisiana for *all* years: \$_____

Escrow Deposit/Withdrawal History for Louisiana

Date	Deposit	Withdrawal	Balance

Nonparticipating Manufacturer Certifications:

- A. That, as of the date of this certification, the certifying Tobacco Product Manufacturer herein certifies that it is in full compliance with La. R.S. 13:5061 *et seq.*, and R.S. 13:5071, *et seq.*;
- B. That, the certifying Tobacco Product Manufacturer herein hereby acknowledges the requirement to hereafter, unless otherwise directed by the Attorney General, make quarterly escrow deposits in order to comply with La. R.S. 13:5061 *et seq.*;
- C. That, no later than the thirtieth (30th) day of April of each of the following years, the certifying Tobacco Product Manufacturer herein will execute and deliver to the Louisiana Department of Justice a current certification in this same form or another as prescribed by the Louisiana Department of Justice;
- D. That, as of the date of this certification, the certifying Tobacco Product Manufacturer herein certifies that the brand family/families listed herein and as attachments, and all supporting information, is true, correct, and complete;
- E. That, the certifying Tobacco Product Manufacturer herein hereby affirms that the brand family/families listed herein are deemed to be its cigarettes for purposes of La. R.S. 13:5061 *et seq.*;
- F. That, the certifying Tobacco Product Manufacturer herein hereby acknowledges that the brand family/families will not be authorized for sale in Louisiana if the

“country of origin” on the packaging differs from the “country of origin” listed on the Attorney General’s brand directory;

- G. That, the certifying Tobacco Product Manufacturer herein certifies that thirty (30) days prior to the addition to or modification of the brand family/families listed in Attachment #1 and #2, it will execute and deliver a supplemental certification to the Louisiana Department of Justice;**
- H. That, the certifying Tobacco Product Manufacturer herein certifies that thirty (30) days prior to the termination of the authority of its Louisiana agent, it will provide notice to the Attorney General and Secretary of the Department of Revenue, and five (5) days prior to the termination of authority of an agent, will provide proof to the satisfaction of the Attorney General of the appointment of a new Louisiana agent;**
- I. That, the certifying Tobacco Product Manufacturer herein will maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five (5) years, unless otherwise required by law to maintain them for a greater period of time;**
- J. That, the certifying Tobacco Product Manufacturer herein understands that the company can be removed from the tobacco directory based upon failure to comply with La. R.S. 13:5061 *et seq.*, R.S. 13:5071 *et seq.*, or their equivalent in any other state, or any other applicable law.**

Under penalty of perjury, I state that the information contained in this Certification (including Attachment #1 and #2) is true and accurate.

Signature of Authorized Agent: _____

Title: _____

Name of Authorized Agent: _____

Date: _____

Signature of Notary Public: _____

Parish or County of _____

Sworn and Subscribed before me on this date: _____

My Commission Expires: _____

AFFIX
NOTARY
SEAL
HERE

Checklist:

Please review your submission and assure that all sections have been fully completed and that each of the following has been provided:

- Check for \$500 Certification Fee
- Documentation establishing Sales Entity Affiliate relationship
- Attachments #1 and #2
- Sample Packaging
- Fire Safe Certification
- Rotation Plan
- Copy of TTB Permit
- Ingredient List
- Proof of Appointment of Louisiana Agent for Service of Process
- Importer Acceptance of Joint and Several Liability, Appointment of Registered Agent and Consent to Personal Jurisdiction (for Nonparticipating Manufacturers outside of the U.S.)
- Nonparticipating Manufacturer Bond Form
- Notarized documentation from bonding company establishing posting of bond or statement from Financial Institution establishing deposit of cash equivalent of bond
- Proof from Financial Institution of Escrow Deposit balance
- Signature
- Notary

MAIL THIS COMPLETED FORM TO:

**ATTORNEY GENERAL JEFF LANDRY
LOUISIANA DEPARTMENT OF JUSTICE
TOBACCO SETTLEMENT ENFORCEMENT UNIT
POST OFFICE BOX 94005
BATON ROUGE, LOUISIANA 70804-9005**

ATTACHMENT #2 – ALL OTHER BRAND FAMILIES

List all current and past brand families manufactured in the last five (5) years.

Note: Identify whether or not the brand family has been sold in Louisiana (LA) in the last five (5) years.

(Attach Additional Sheets if Necessary).

Current and Past Brand Families ²	Trademark Holder	Units Sold in LA? (List quantity and year sold)	Country of Origin	Name of Manufacturer and Manufacturing Facility Location (complete physical address)

² "Brand Family" shall have the same meaning as defined in La. R.S. 13:5072(1).