

810-7-1-.14. Tobacco Product Manufacturers Certificate of Compliance.

(1) As used in this rule, the following terms shall have these meanings:

(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” has the same meaning as in Section 6-12-2(4), Code of Alabama 1975.

(c) “Directory” means the listing of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of Title 6, Chapter 12A, Code of Alabama 1975, and all Brand Families that are listed in such certifications; except as provided by Section 6-12A-3(b), Code of Alabama 1975.

(d) “Distributor” is a person, wherever resident or located, who purchases non-tax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes.

(e) “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.

(f) “Nonparticipating Manufacturer” means any Tobacco Product Manufacturer that is not a Participating Manufacturer.

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

(h) “Qualified Escrow Fund” has the same meaning as in Section 6-12-2(7), Code of Alabama 1975.

(i) “Tobacco Product Manufacturer” has the same meaning as in Section 6-12-2(10), Code of Alabama 1975.

(j) “Units Sold” has the same meaning as in Section 6-12-2(11), Code of Alabama 1975.

(k) “Wholesaler” means a person, firm, corporation, club, or association that is authorized to affix tax stamps to packages or other containers of cigarettes under the provisions of Title 40, Chapter 25, Code of Alabama 1975.

(2) Any tobacco product manufacturer that sells or intends to sell cigarettes within the state of Alabama, whether directly or through any distributor, retailer, or similar intermediary

must file a Tobacco Product Manufacturers Certificate (TPM Certificate) on the forms prescribed, with the Department of Revenue. This TPM Certificate is in addition to any Certificate of Compliance that may be required of Nonparticipating Tobacco Product Manufacturers pursuant to Title 6, Chapter 12, Code of Alabama 1975.

(3) In 2003 only, the TPM Certificate must be received on or before September 15, 2003. In future years, the TPM Certificate must be received on or before April 30th for the previous sales year.

(4) On the TPM Certificate, the Manufacturer's identification must include the name, address, telephone number, fax number and electronic mail address. The Manufacturer must also identify the sales year, identify by Brands and/or Brand Families all of the cigarettes that the Tobacco Product Manufacturer intends to sell in this State whether directly or through any distributor, retailer, or similar intermediary, and seeks to have included in the Directory. Only the brands identified may be included in the Directory.

(5) A Participating Manufacturer shall include a list of its Brand Families on the TPM Certificate. 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 Department.

(6) A Nonparticipating Manufacturer shall include in its TPM Certificate: (i) a list of all of its Brand Families and the number of Units Sold for each Brand Family that were sold in the State during the preceding calendar year, (ii) a list of all of its Brand Families that have been sold in the State at any time during the current calendar year, (iii) indicating, by an asterisk, any Brand Family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of such certification, and (iv) identifying by name and address any other manufacturer of such Brand Families in the preceding or current calendar year. The Nonparticipating 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 Department.

(7) The Nonparticipating Manufacturer must verify that it is registered to do business in Alabama or has appointed an agent for service of process and provided notice thereof as required by Title 6, Chapter 12A, Code of Alabama 1975. Identify (i) the name, address and telephone number of the financial institution where the Nonparticipating Manufacturer has established a Qualified Escrow Fund pursuant to Title 6, Chapter 12, Code of Alabama 1975, and all regulations promulgated thereto; (ii) the account number of such Qualified Escrow Fund and any sub-account number for Alabama; and identify (i) the amount such Nonparticipating Manufacturer placed in such fund for Cigarettes sold in the State during the preceding calendar year, the date and amount of each such deposit; and (ii) the amount and date of any withdrawal or transfer of funds the Nonparticipating Manufacturer made at any time from such fund or from any other Qualified Escrow Fund.

(8) The person executing the TPM Certificate must be an authorized representative for the Tobacco Product Manufacturer. The authorized representative's name and title must be printed and the TPM Certificate must be executed in the presence of an authorized notary.

(9) On October 31, 2003, the Department of Revenue began releasing a Directory of those tobacco product manufacturers that are fully compliant with Alabama statutes. The Directory sets forth the names of the compliant tobacco product manufacturers, together with the names of those brands and/or brand families of the respective manufacturers that have been certified by the Department as being fully compliant with Alabama law. Updates to the directory will be made as necessary to correct mistakes and to add or remove a tobacco product manufacturer or brand families to keep the Directory in conformity with its requirements. The Directory will be distributed to licensed stamping agents and will be made available to those stamping agents and the general public on an ongoing basis on the Department's website. Only those brands and brand families listed in the Directory will be permitted to be stamped for sale, offered for sale, possessed for sale or sold in the State of Alabama. Brands or brand families not listed in the Directory are contraband and subject to seizure by any law enforcement officer.

(10) Any Nonparticipating Tobacco Manufacturer that has not complied with Alabama Statutes by submitting its escrow payments and Certificates of Compliance will not be listed in the Directory until all past escrow payments are made, proof of payment is submitted to the State, all outstanding judgments are satisfied, and all other obligations are met.

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