

# DEFINITIONS, GENERAL INFORMATION AND CHECKLIST FOR TOBACCO PRODUCT MANUFACTURER CERTIFICATION

## DEFINITIONS

**“Brand family”** means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, “menthol,” “lights,” “kings,” and “100s.” “Brand family” includes cigarettes sold under any brand name (whether that name is used along or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or other indicia of product identification identical or similar to, or identifiable with, a previous brand of cigarettes.

**“Cigarette”** has the same meaning given that term in S.C. Code Ann. §11-47-20.

**“Directory”** means the listing of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of S.C. Code §11-48-10 to -110, and all Brand families that are listed in such certifications.

**“Escrow Deposit”** means deposits required to be made into a qualified escrow fund pursuant to S.C. Code Ann. §11-47-30(b)(1).

**“Master Settlement Agreement”** has the meaning given that term in S.C. Code Ann. §11-47-20(e).

**“Non-participating manufacturer”** means any Tobacco Product Manufacturer that is not a Participating Manufacturer.

**“Participating manufacturer”** has the meaning given that term in section II (jj) of the Master Settlement Agreement and all amendments to that agreement.

**“Qualified escrow fund”** has the meaning given that term in S.C. Code Ann. §11-47-20(f).

**“Tobacco Product Manufacturer”** has the meaning given that term in S.C. Code Ann. §11-47-20(i).

**“Units sold”** has the meaning given that term in S.C. Code Ann. §11-47-20(j).

**“Falsification”** means no person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when the statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.

**SC Code Ann. §§11-47-10 to -30 and §§11-48-10 to -110 may be viewed online at:**

**[www.scattorneygeneral.com/tobacco/](http://www.scattorneygeneral.com/tobacco/)**

**Then click on: South Carolina’s Escrow Fund Act**

## **GENERAL INFORMATION FOR ANNUAL AND SUPPLEMENTAL FILERS**

### **Who is required to file this Certification?**

- Any Tobacco Product Manufacturer, as defined in S.C. Code Ann §11-47-20(i), whose cigarettes are sold within the State of South Carolina, whether directly or through any distributor, retailer, or similar intermediary.
- Participating Manufacturers complete Parts 1, 2A and 6.
- Non-participating manufacturers complete the entire form except section 2A.

### **When is Annual Certification due?**

- For manufacturers whose cigarettes are sold in South Carolina, this Certification is due on an annual basis no later than **April 30** of each year. Note, however, that escrow deposits are due no later than **April 15<sup>th</sup>** of each year.
- For manufacturers whose cigarettes are not yet sold in South Carolina submit this Certification before beginning sales in South Carolina.
- For manufacturers making any change(s) to their annual certification or initial certification, submit this Certification noting the change(s) at least 30 days prior to that change becoming effective.

### **Where should the Certification be sent?**

All certifications, correspondence, escrow agreements and bank account ledgers pertaining to the Tobacco Product Manufacturer Certificate of Compliance and Quarterly Certificate of Compliance should be mailed to:

South Carolina Attorney General's Office  
Tobacco Unit  
P.O. Box 11549  
Columbia, SC 29211

### **Records Retention information.**

Tobacco Product manufacturers are required to maintain all invoices and documentation of sales and other such information relied upon for this certification for a period of 5 years, unless otherwise required by law to maintain them for a greater period of time. S.C. Code Ann. §11-48-30.

**Registered Agent information (for Non-Participating Manufacturers).** S.C. Code Ann. §11-48-40.

Non-participating manufacturers must either register with the South Carolina Secretary of State to do business in South Carolina, or retain the services of a registered agent located in the State of South Carolina, to act as agent for service of process.

If the non-participating manufacturer terminates the agent's appointment, the manufacturer shall provide notice of the termination to the Attorney General thirty days prior to the termination, and shall provide proof of appointment of a new agent not less than five days prior to the termination.

If the registered agent terminates the appointment, the manufacturer shall provide notice to the Attorney General along with proof of the appointment of a new agent within five calendar days of the termination.

**Cigarette Health-Warning Rotation Plan**

A copy of the **current** Federal Trade Commission (FTC) letter, authorizing your health-warning rotation plan, must be provided for the brand families you currently sell in the State of South Carolina. Additional information can be obtained at:

Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
General Information Locator: (202) 326-2222  
<http://www.ftc.gov>

**Cigarette Ingredient Reporting Requirement**

A copy of the **current** Centers for Disease Control (CDC) letter, approving your ingredient listing for cigarettes, must be provided for the brand families you currently sell in the State of South Carolina. Additional information can be obtained at:

Centers for Disease Control and Prevention  
1600 Clifton Road  
Atlanta GA 30333  
Telephone: 1-800-311-3435  
<http://www.cdc.gov/netinfo.htm>

## CHECK LIST FOR COMPLETING CERTIFICATE OF COMPLIANCE FORM

Pursuant to S.C. Code Ann. §11-48-50(D), the Attorney General may require a tobacco product manufacturer to submit any additional information necessary to enable the attorney general to determine whether a manufacturer is in compliance with §§11-48-10 to -110.

### A. Check List For Participating Tobacco Product Manufacturers

- ☐ Parts 1A, 1B, 1C, 2A, and 6 must be completed in their entirety;
- ☐ Brand families have been listed on the South Carolina Tobacco Directory **and** "Cigarettes" or "RYO" are checked;
- ☐ Brands that are **not** being sold in the current year have been marked with an asterisk (\*);
- ☐ Current letter(s) from the Federal Trade Commission (FTC) approving health-warning rotation plan;
- ☐ Current letter(s) from the Centers for Disease Control (CDC) ingredient-listing approval;
- ☐ Certificate of Compliance is signed by an authorized officer of the tobacco product manufacturer; and
- ☐ Certificate of Compliance is notarized.

### B. Check List for Non-Participating Manufacturers

- ☐ **All** parts of Certificate of Compliance are completed **except**, Part 2A;
- ☐ Brand families have been listed on the South Carolina Tobacco Directory **and** "Cigarettes" or "RYO" are checked;
- ☐ Brands that are **not** being sold in the current year have been marked with an asterisk (\*);
- ☐ Current letter(s) from the Federal Trade Commission (FTC) approving health-warning rotation plan;
- ☐ Current letter(s) from the Centers for Disease Control (CDC) ingredient-listing approval;
- ☐ Certified copy of the trademark registration;
- ☐ If registered agent has been appointed, letter from agent accepting appointment is attached;
- ☐ Current escrow agreement and any attachments and amendments are attached;
- ☐ Proof of escrow deposit for previous year's sales are attached;
- ☐ Current escrow account statement from financial institution for South Carolina sub-account is attached;
- ☐ Certificate of Compliance is signed by an authorized officer of the non-participating manufacturer; and
- ☐ Certificate of Compliance is notarized.

**NOTE: Incomplete and/or illegible Certificate of Compliance forms and its attachments will be returned.**