

MONTANA DEPARTMENT OF JUSTICE

Tobacco Product Manufacturer Certificate of Compliance

Annual Renewal

Initial

Supplemental

Sales Year: **2018**

PLEASE TYPE OR PRINT IN PERMANENT BLUE INK

PART I: GENERAL BUSINESS AND OWNERSHIP INFORMATION

1. Applicant Tobacco Product Manufacturer Identification

Applicant: _____

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

Mailing Address (if different from above): _____

Phone Number: _____ Facsimile (FAX) Number: _____

E-mail Address: _____

Website Address: _____

Name/Title of Person Completing Certification: _____

Manufacturing Plant(s) Name and Street Address (if different from above): _____

Manufacturing Plant Phone Number: _____

Manufacturing Plant FAX Number: _____

Name/Title/Phone Number of Person at Plant if different from above: _____

(Attach additional sheet(s), as necessary, to provide a complete response.)

2. The undersigned certifies that as of the date of this Certification, the above-named Applicant is: (initial one)

_____ a Participating Manufacturer (PM).

_____ a Non-Participating Product Manufacturer (NPM) in full compliance with Montana's Tobacco Product Reserve Fund Statute, Mont. Code Ann. § 16-11-403, and implementing regulations, including having made all required deposits into a Qualified Escrow Fund for all years beginning with year 1999 sales.

3. Applicant is the manufacturer (i.e., fabricator) of the brands listed in this Certification which are intended to be sold in the United States, including cigarettes intended to be sold in the United States through an importer.

Yes _____ No _____

Please attach photographs of the exterior and interior of the manufacturing facility and a photograph/diagram indicating where the equipment & facilities for manufacturing (i.e., fabricating) the cigarettes, if any, are located.

4. **Applicant is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States.**

Yes _____ No _____

If the answer is "Yes," identify each cigarette manufacturer (i.e., fabricator), its plant street address, mailing address, contact person, telephone and fax numbers, and the relationship to Applicant. Identify the location of the transfer of ownership of cigarettes and **include a copy of every agreement or contract between Applicant and fabricator.**

Attach additional sheet(s), as necessary, to provide a complete response.

5. **Applicant is a successor of an entity described in questions 3 or 4 above (i.e., manufacturer or first importer).**

Yes _____ No _____

6. **If Applicant answered "No" to questions 3, 4, and 5 above, explain the basis for Applicant's claim that it is a Tobacco Product Manufacturer (TPM) as defined under Mont. Code Ann. § 16-11-402(9) and **submit all documentation to support Applicant's contention.** Attach additional sheet(s), as necessary, to provide a complete response.**

7. **Licenses/Permits.**

a. U.S. Treasury, Tobacco Tax Bureau (TTB) Permit Number as a manufacturer: _____
and/or as an importer: _____. **Attach a copy of Applicant's current permit as a manufacturer or importer pursuant to 26 U.S.C. Chapter 52, and regulations issued thereunder.**

b. Name of any other foreign permit or license _____ and date of expiration
_____.

PART II: BRAND FAMILY IDENTIFICATION

1. Brand Family Identification

(PMs complete column A. PMs affirm that each brand family listed is to be considered its cigarettes for purposes of calculating its payments under the MSA for the relevant year, in the volume and shares determined pursuant to the MSA. NPMs complete columns A through C. NPMs affirm that each brand family listed is to be considered its cigarettes for purposes of Mont. Code Ann. § 16-11-403.)

A. Brand Family (Indicate with an asterisk (*) those brands that will not be sold in 2018)	B. Units Sold in Preceding Calendar Year	C. Units Sold this calendar year to date.	D. Manufacturer of Brands Listed (Include complete address information)

Attach additional sheet(s), as necessary, to provide a complete response. **Attach actual samples or digital copies of the packaging and labeling for each brand of cigarettes that Applicant intends to sell in Montana. If you have already provided samples of a brand, you do not need to provide another sample unless the packaging or labeling has changed from the sample you already provided.**

Acknowledge No Changes to Packaging

2. Current Trademark Holder(s)

Provide the name, address and phone number of the current trademark holder(s) of each brand listed above.

Brand	Trademark Holder and Contact Person	Physical Address	Phone

Attach additional sheet(s), as necessary, to provide a complete response. **Attach Licensing Agreement if Applicant is not the Trademark holder.**

3. Prior Trademark Holder(s)

Provide the name, address and phone number of the prior trademark holder(s) of each brand listed above.

Brand	Trademark Holder and Contact Person	Physical Address	Phone

Attach additional sheet(s), as necessary, to provide a complete response.

4. UPC Code(s)

Provide the UPC Codes for cigarettes (packs & cartons), RYO, and the UPC holder(s) name and contact for each brand listed above.

Brand/Style	Cigarette Packs & Cartons UPC Codes	RYO UPC Codes	UPC Holder & Contact Person

Attach additional sheet(s), as necessary, to provide a complete response.

PART III: MANUFACTURING AND COMPLIANCE INFORMATION**1. Manufacturer(s)**

For each Brand Family, list the name and address of the manufacturer (i.e., fabricator) of the cigarettes, if other than Applicant. Include all company names and addresses used by the manufacturer(s) in making cigarettes for sale in the United States.

Brand	Manufacturer (i.e., fabricator)	Street Address

Attach additional sheet(s), as necessary, to provide a complete response.

2. Health Warning Rotation Plan

For each Brand Family, list the name and address of the entity that filed a Cigarette Health Warning Rotation Plan with the Federal Trade Commission before the cigarettes were distributed into the United States.

Brand	Filer	Street Address

For each brand, attach the Federal Trade Commission's written approval of Applicant's annual Cigarette Health Warning Rotation Plan. Attach additional sheet(s), as necessary, to provide a complete response.

3. Ingredient Reporting

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.

Brand	Submitter	Street Address

Attach copies of all Certificates of Compliance received from the U.S. Health and Human Services for Applicant's annual ingredient reporting required by the Federal Cigarette Labeling and Advertising Act. (15 U.S.C. § 1335a). Attach additional sheet(s), as necessary, to provide a complete response.

4. Cigarette Packaging

For each Brand Family, list the name and address of person, company, or entity that placed the cigarettes into packages with the U.S. Surgeon General's warnings.

Brand	Packager	Street Address

Attach additional sheet(s), as necessary, to provide a complete response.

5. Internet or Mail Order Sales (See Instructions)

a. Websites: _____

b. Physical Address: _____

c. Total Sales by Brand in Montana for the Previous Year: _____

Attach additional sheet(s), as necessary, to provide a complete response. **(1) Attach copies of the Prevent All Cigarette Trafficking ("PACT") Act reports filed with the Montana Department of Revenue for the previous calendar year, as specified in the Instructions, unless previously provided to the Montana Department of Justice on a monthly basis. (2) Attach a copy of the Applicant's PACT Act Registration filed with the ATF and the Montana Department of Revenue.**

(If Applicant is a PM, it may skip PARTS IV -- VIII and go directly to DECLARATION, ACKNOWLEDGMENT AND SIGNATURE, Page 16. This Certification will not be processed or considered until all the required documents are submitted.)

PART IV: ADDITIONAL BUSINESS INFORMATION

1. **Organizational Documents to be Attached.** (See Instructions for list of documents required by this question.)

2. **Company Officers & Owners**

Complete the table by listing all company officers and company owners (all persons with an equity interest of 10 percent or more in Applicant company). Attach additional sheet(s), as necessary, to provide a complete response.

1. CHECK APPROPRIATE TITLE	<input type="checkbox"/> President <input type="checkbox"/> Partner <input type="checkbox"/> Other	<input type="checkbox"/> Vice Pres. <input type="checkbox"/> Partner <input type="checkbox"/> Other	<input type="checkbox"/> Secretary <input type="checkbox"/> Partner <input type="checkbox"/> Other	<input type="checkbox"/> Treasurer <input type="checkbox"/> Partner <input type="checkbox"/> Other
2. Full Name (First, Middle, Last)				
3. Street Address				
4. Telephone No./Facsimile No.				
5. Date and Place of Birth				
6. E-Mail Address				

3. **Affiliates (See Instructions for further information)**

Brand Family	Affiliate: Name	Type of Business	Affiliate: Street Address

Attach additional sheet(s), as necessary, to provide a complete response.

4. **Applicant Information**

Please indicate whether the following statements describe Applicant by circling either "Yes" or "No" after the statement:

- a. Applicant sold cigarettes in Montana in the preceding calendar year: Yes No
- b. Applicant made escrow deposits pursuant to Montana's Tobacco Product Reserve Fund Statute found in Mont. Code Ann. § 16-11-403 in the preceding calendar year: Yes No
- c. Applicant sold in the preceding calendar year one or more of the Brand Families listed in this Certification: Yes No
- d. Applicant made escrow deposits in the preceding calendar year pursuant to Montana's Tobacco Product Reserve Fund Statute for one or more of the Brand Families listed in this Certification: Yes No
- e. There has been a change in manufacturer (i.e., fabricator) of one or more of the Brand Families listed in this Certification within the past two calendar years: Yes No

- f. Applicant advertises or sells cigarettes via the internet or in catalogs and uses the mail or other delivery service to deliver cigarettes to Montana consumers: Yes No
- g. Applicant failed to timely comply with the Tobacco Product Reserve Fund Statute prior to the establishment of the Tobacco Directory, or at any time thereafter: Yes No
- h. Applicant or one of its Brand Families listed in this Certification was previously denied listing on the Tobacco Directory or was removed from the Tobacco Directory: Yes No
- i. Applicant is enjoined or banned from selling any cigarettes by court order, state or federal agency ruling or determination: Yes No
- j. A Brand Family formerly sold by Applicant or a Brand Family that Applicant intends to sell is enjoined from sale by a state court, state agency, or a federal court: Yes No
- k. A state or federal court has entered a judgment finding that Applicant engaged in an unfair business practice or unfair competition relating to the sale of tobacco products: Yes No
- l. Applicant sold more than 1,000,000 cigarettes in Montana during any quarter year after January 1, 1999: Yes No

PART V: MARKETING AND DISTRIBUTION INFORMATION

1. Tobacco Products Reclassified as Cigarette or RYO Tobacco

List all tobacco products sold by Applicant that have been reclassified within the last two years as cigarettes or as RYO tobacco by a federal agency, state, or local government.

Brand Name of Reclassified Tobacco Product	Name of Federal, State or Local Governmental Entity that Reclassified the Tobacco Product as a Cigarette or RYO Tobacco	Government Entity's Street Address	Date of Reclassification

Attach additional sheet(s), as necessary, to provide a complete response.

2. All Brands Made by Applicant Since 1999

Brand Name	Date(s) Made

Attach additional sheet(s), as necessary, to provide a complete response.

3. Current Distributors, Wholesalers, Retailers, and Importers

For each brand that Applicant intends to sell, list the name and address of every distributor, wholesaler, retailer, or importer to whom cigarettes and RYO will be sold for distribution in Montana. **Please indicate by asterisk (*) which entity is responsible for paying state excise taxes (SET) on the product.**

DISTRIBUTORS

Brand Family	Distributor	Street Address	Phone Number

Attach additional sheet(s), as necessary, to provide a complete response.

WHOLESALEERS

Brand Family	Wholesaler	Street Address	Phone Number

Attach additional sheet(s), as necessary, to provide a complete response.

RETAILERS

Brand Family	Retailer	Street Address	Phone Number

Attach additional sheet(s), as necessary, to provide a complete response.

IMPORTERS

Brand Family	Retailer	Street Address	Phone Number

Attach additional sheet(s), as necessary, to provide a complete response.

4. Distributors, Wholesalers, Retailers, and Importers for the Previous Calendar Year

For each brand that Applicant intends to sell, list the name and address of every distributor, wholesaler, retailer, or importer to whom cigarettes and RYO was sold for distribution in Montana during the previous calendar year. **Please indicate by asterisk (*) which entity is responsible for paying state excise taxes (SET) on the product.**

DISTRIBUTORS

Brand Family	Distributor	Street Address	Phone Number

Attach additional sheet(s), as necessary, to provide a complete response.

WHOLESALEERS

Brand Family	Wholesaler	Street Address	Phone Number

Attach additional sheet(s), as necessary, to provide a complete response.

RETAILERS

Brand Family	Retailer	Street Address	Phone Number

Attach additional sheet(s), as necessary, to provide a complete response.

IMPORTERS

Brand Family	Retailer	Street Address	Phone Number

Attach additional sheet(s), as necessary, to provide a complete response.

5. Agreements with Participating Manufacturers (See Instructions)

Brand Family	Participating Manufacturer	Address	Phone Number

Nature of Agreement(s): _____

Attach additional sheet(s), as necessary, to provide a complete response. **Attach a copy of any written contract and/or agreement.**

6. Agreements Regarding Compliance with the MSA (See Instructions)

Brand Family	Name	Address

Attach additional sheet(s), as necessary, to provide a complete response. **Attach a copy of any written contract and/or agreement.**

7. Agreements Regarding Compliance with the Tobacco Product Reserve Fund Statute (See Instructions)

Brand	Name	Address

Attach additional sheet(s), as necessary, to provide a complete response. **Attach a copy of any written contract and/or agreement.**

8. Prevent All Cigarette Trafficking ("PACT") Act

Please indicate whether the following statements describe Applicant by **circling** either "Yes" or "No" after the statement:

- a. Applicant is registered with the Montana Department of Revenue: Yes No
- b. Applicant has filed monthly reports with both the Montana Department of Revenue and Montana Attorney General outlining the quantity, brands and recipients of cigarette shipments into Montana: Yes No

- 9. Please provide a listing of states with which manufacturer has registered as a tobacco manufacturer.
- 10. Please provide a list of states for which the manufacturer has filed monthly reports of shipments or transfers of cigarettes and tobacco products in the preceding two years.
- 11. Please provide the mode of delivery, including the name and address of the person delivering the cigarettes or other tobacco products into Montana.
- 12. Please provide a list of states into which the manufacturer shipped or transferred cigarettes and tobacco products in the previous year.
- 13. Please provide a list of states in which the manufacturer advertises or offers for sale cigarettes or tobacco products, even if no direct shipments or transfers were made into such states.
- 14. **Provide a copy of the release allowing the Alcohol and Tobacco Tax Trade Bureau (TTB) to share any information it has about your company with the Office of the Montana Attorney General. (TTB Release Form F5000.19)**

PART VI: DISCLOSURE OF ENFORCEMENT ACTIONS AND PRIOR DETERMINATIONS AFFECTING SALES TO DISTRIBUTORS

1. Enforcement Actions Banning or Enjoining Sales

Has Applicant or any person or affiliate listed in Applicant's responses to Part II, question 2 and Part III, questions 2, 3, and 4, had any of its cigarettes banned or enjoined from sale by any state or federal court or administrative agency within the U.S. jurisdiction? For every such action banning or enjoining sales, list:

- (a) the Brand Family(ies) banned and/or enjoined;
- (b) the governmental entity (federal, state, local, or foreign) or private plaintiff bringing the action;
- (c) the case number, if any; and
- (d) the name and address of the government attorney or official or private plaintiff bringing the action.

_____ Yes, the details of such occurrence are attached to this Certification. _____ Not Applicable.

2. Denials, Suspensions, Revocations of Permits or Licenses

Has Applicant or any person or affiliate listed in Applicant's responses to Part II, question 2 and Part III, questions 2, 3, and 4, been denied a permit, license, or been denied any other authorization to engage in any business relating to the sale of cigarettes by any government entity (federal, state, local, or foreign) or had such permit, license or other authorization revoked, suspended, or otherwise terminated? For every such denial, suspension, or revocation of a permit or license, or other authorization, list:

- (a) the name of the Applicant or other person or affiliate that had such permit or license or other authorization revoked, suspended, or otherwise terminated;
- (b) the governmental entity (federal, state, local, or foreign) that denied, suspended, or revoked such permit or license, or other authorization;
- (c) the case number, if any; and
- (d) the name and address of the government attorney or official or private plaintiff bringing the action.

_____ Yes, the details of such occurrence are attached to this Certification. _____ Not Applicable.

3. Convictions

Has Applicant or any person or affiliate listed in Applicant's responses to Part II, question 2 and Part III, questions 2, 3, and 4, been convicted of any crime under federal, state, or foreign laws in connection with the sale of cigarettes? For every such conviction, list:

- (a) the name of the Applicant or other person or affiliate convicted;
- (b) the governmental entity (federal, state, local, or foreign) that prosecuted Applicant or other person or affiliate;
- (c) the case number, if any; and
- (d) the name and address of the government attorney or official that prosecuted Applicant or other person or affiliate.

_____ Yes, the details of such occurrence are attached to this Certification. _____ Not Applicable.

4. Denial of Listing

Has Applicant or any person or affiliate listed in Applicant's responses to Part II, question 2 and Part III, questions 2, 3, and 4, been denied listing on any state tobacco directory, which is similar to the subject of this Certification? For every such denial, list:

- (a) the name of the Applicant or other person or affiliate denied listing on a state tobacco directory;
- (b) the TPM and/or Brand Family(ies) denied listing; and
- (c) the state that denied listing.

_____ Yes, the details of such occurrence are attached to this Certification. _____ Not Applicable.

5. Tobacco Product Reserve Fund Statute Compliance

Has any person listed in Applicant's responses to Part II, question 2 and Part III, questions 2, 3, and 4, been involved as an officer or owner of any other tobacco company or Affiliate which has not made its escrow deposits as a Non-Participating Manufacturer under a state reserve fund statute? For every such occurrence, list:

- (a) the name of the Applicant or other person or affiliate, which has not satisfied its NPM reserve fund obligations;
- (b) the Brand Family(ies) for which there was a failure to comply; and
- (c) the amounts of any escrow deposits that are still owed.

_____ Yes, the details of such occurrence are attached to this Certification. _____ Not Applicable.

PART VII: IMPORTED CIGARETTES - DOCUMENTATION & VERIFICATION

1. U.S. Customs Documents

If the cigarettes Applicant sells or intends to sell are not made in the United States, provide the documents listed in a-c:

- a. *A copy of the sworn statement of the original manufacturer that it will timely submit ingredients to the Secretary of Health and Human Services as required by 19 U.S.C. 1681a(c)(1).*
- b. *A copy of the importer's certificate under penalty of perjury as required by 19 U.S.C. 1681a(c)(2) regarding the precise format of warnings and the rotation plan for health warnings.*
- c. *A copy of the trademark holder's certificate under penalty of perjury that it consents to the importation into the United States as required by 19 U.S.C. 1681a(c)(3)(A) AND a copy of the importer's certificate under penalty of perjury that the trademark owner has not withdrawn consent to import into the United States as required by 19 U.S.C. 1681a(c)(3)(B).*

PART VIII: NPM APPLICANT CERTIFICATION

Please indicate whether the following statements describe Applicant by circling either "Yes" or "No" after the statement:

1. Agent For Service of Process (See Instructions)

- a. Is Applicant domiciled in the State of Montana? Yes No
- b. Is Applicant a non-resident or foreign NPM that has registered to do business in Montana as a foreign corporation or business entity? Yes No
- c. *If Applicant answered "No" to questions "a" and "b" above, Applicant must appoint a resident agent for service of process by submitting a current year completed **APPOINTMENT OF REGISTERED AGENT FOR STATE OF MONTANA AND REGISTERED AGENT'S STATEMENT** available on the Attorney General's website at <http://doj.mt.gov/consumer/tobacco-sales-and-directory/>.*

2. Qualified Escrow Fund-Financial Institution

Escrow Account Information	
Name of Financial Institution:	Phone:
Contact Agent Name:	Fax:
Mailing Address:	Contact Email:
Escrow Account No.:	Montana Sub Acct No.:

Applicant certifies that of the date of this Certification, Applicant:

- | | | | |
|----|---|-----|----|
| a. | Has established and continues to maintain a Qualified Escrow Fund. | Yes | No |
| b. | Has executed a Qualified Escrow Agreement that has been reviewed and approved by the Attorney General for the state of Montana and that governs that Qualified Escrow Fund on the behalf of the state of Montana. | Yes | No |
| c. | Ensures that the escrow funds held in the Qualified Escrow Fund on behalf of the state of Montana are in a segregated account separate and apart from escrow funds held on behalf of another beneficiary. | Yes | No |
| d. | Ensures that the Qualifying Escrow Fund is not encumbered by a security interest granted to a third-party. | Yes | No |

(Note: The NPM must certify satisfaction of all of the above-referenced requirements regarding the Qualified Escrow Fund to be eligible for the Tobacco Directory.) Montana's Escrow Agreement is available on the Attorney General's website at <http://doj.mt.gov/consumer/tobacco-sales-and-directory/>. **Attach a copy of the executed Qualified Escrow Agreement.**

3. Qualified Escrow Fund Deposit/Withdrawal History for Montana

Date	Deposit	Withdrawal	Balance

Attach additional sheet(s), as necessary, to provide a complete response. Attach a copy of an annual bank statement for the Qualified Escrow Fund for the preceding year, including all transactions related to the Qualified Escrow Fund.

NOTE: This Certification will not be processed or considered until all the required documents are submitted.

DECLARATION, ACKNOWLEDGMENT, AND SIGNATURE

Under penalty of criminal prosecution under the laws of Montana, I declare and acknowledge that:

- 1. I have read the Instructions for this Certification for Listing on Montana Tobacco Directory.
- 2. I understand that the Attorney General may require additional information and/or documentation to determine if Applicant is qualified for listing on the Montana Tobacco Directory.
- 3. Applicant will immediately notify the Tobacco Enforcement Attorney in the Attorney General's Office (Montana Attorney General's Office of Consumer Protection, Tobacco Enforcement, P.O. Box 200151, Helena, MT 59620-0151) if any information on this Certification changes.
- 4. This Certification must be signed by a qualified company officer or other such individual authorized to bind the Applicant company. My position with the company and my actual authority to certify on behalf of Applicant meets the foregoing requirements.
- 5. I have examined this Certification, including attachments and supporting documents and, to the best of my knowledge and belief, this Certification, including attachments and supporting documents, is true, correct and complete.
- 6. On behalf of the Applicant the undersigned agrees that any action or proceeding against it arising from enforcement of Mont. Code Ann., Title 16, Chapter 11, Parts 4 and 5 and any rules promulgated pursuant to those statutes may be commenced in any state court in the state of Montana and the laws of the state of Montana shall apply. Applicant waives any immunity from suit, liability, judgment, and collection Applicant may possess.

Signature of Authorized Officer: _____

Name of Authorized Officer: _____

Title: _____

E-mail Address: _____

Telephone: _____

Date: _____

STATE OF _____)

COUNTY OF _____)

COUNTRY OF _____)

On _____, before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)

Signature: _____

Printed Name: _____

Residing at: _____

My Commission Expires: _____

[This Certification must be filed with the Montana Attorney General's Office and the Montana Department of Revenue:](#)

Montana Attorney General's
Office of Consumer Protection
Attn: Tobacco Enforcement Program
P.O. Box 200151
Helena, MT 59620-0151

AND

Mark Schoenfeld
Miscellaneous Tax Unit
Montana Department of Revenue
P.O. Box 5805
Helena, MT 59604-5805