

# CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE, § 30165.1)



## GENERAL INSTRUCTIONS

### **Who is required to file this Certification (JUS-TOB1)?**

Tobacco product manufacturers whose cigarettes (as defined in subdivision (d) of section 104556 of the Health and Safety Code) are sold in California, whether directly or through any distributor, retailer, or similar intermediary, are required to complete and file this form (JUS-TOB1).

This certification is in addition to the Nonparticipating Manufacturer ("NPM") Certification of Compliance (JUS-TOB3) required by California's Reserve Fund Statute (Health and Safety Code sections 104555-104557) and implementing regulations (California Code of Regulations, Title 11, sections 999.10-999.14).

The answers provided in this certification, when completed, must be reviewed, and signed by an officer with the authority to bind the applicant company. ("Applicant")

### **When is this Certification Due?**

**Initial/Annual Certifications:** Every tobacco product manufacturer currently selling cigarettes in California must file a certification (JUS-TOB1) no later than April 30, 2004. After April 30, 2004, tobacco product manufacturers which intend to sell cigarettes in California shall file a certification and qualify for listing on the directory prior to any sales in California. Tobacco product manufacturers listed on the directory must file this form on or before April 30th each year.

**Supplemental Certifications:** In completing a supplemental certification, applicant must check the "supplemental" box at the top of page one, enter only the new or changed information, then sign and date the supplemental certification form. A tobacco product manufacturer shall file a supplemental certification (JUS-TOB1) no later than thirty days prior to any change in a fabricator for any brand family or any addition to or modification of its brand families by executing and delivering the supplemental certification to the Attorney General. In all other circumstances in which information provided on the certification becomes inaccurate, a supplemental certification must be filed within thirty (30) days after the information becomes inaccurate.

### **Where must this certification be filed?**

This certification must be filed with the Attorney General's Office:

Mailing Address

Or

Street Address

**Office of the Attorney General  
for the State of California  
Tobacco Litigation & Enforcement Section  
P.O. Box 944255  
Sacramento, CA 94244-2550**

**Office of the Attorney General  
for the State of California  
Tobacco Litigation & Enforcement Section  
1300 I Street, Suite 125  
Sacramento, CA 95814**

### **Definitions:**

(a) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person, as defined in subdivision (b) of section 104556 of the Health and Safety Code.

(b) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers, including, but not limited to, "menthol," 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.

(c) "Cigarette" has the same meaning as in subdivision (d) of section 104556 of the Health and Safety Code. (Roll-your-own "RYO" tobacco is included in the definition of cigarette under section 104556.)

(d) "Directory" means the listing of all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of Revenue and Taxation Code section 30165.1 and all brand families that are listed in such certifications.

(e) "Distributor" has the same meaning as in section 30011 of the Revenue and Taxation Code.

(f) "MSA" means the "Master Settlement Agreement," as defined in subdivision (e) of section 104556 of the Health and Safety Code.

(g) "Nonparticipating manufacturer," or "NPM," means any tobacco product manufacturer that is not a participating manufacturer.

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## GENERAL INSTRUCTIONS CONT'D.

- (h) "Participating manufacturer" has the same meaning as in subsection II(J) of the MSA.
- (i) "Person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.
- (j) "Qualified Escrow Fund" has the same meaning as in subdivision (f) of section 104556 of the Health and Safety Code.
- (k) "Reserve Fund Statute" means Chapter 1 of Part 3 of Division 103 of the Health and Safety Code (commencing with section 104555).
- (l) "Tobacco product manufacturer" has the same meaning as in subdivision (i) of section 104556 of the Health and Safety Code.

**This certification and all other required forms must be completed in English. For all attachments required by the certification, if the original document is in a language other than English, a true and correct translation into English must be attached as well.**

**All attachments to this certification must indicate to which question it corresponds.**

**If any section of this certification is not applicable to your company, be sure to check the box "Not Applicable" where relevant.**

**Any person who makes an assertion in this certification that he or she knows is false regarding a material matter is guilty of a misdemeanor punishable by imprisonment or a fine, or both.**

## Specific Instructions

### **Part I. General Business and Ownership Information**

**3-6.** Health and Safety Code section 104556(l) sets forth three circumstances under which an entity is a tobacco product manufacturer. Those circumstances are individually set out in questions 3, 4, and 5. If applicant answered "no" to questions 3, 4, and 5, applicant must provide an explanation for its assertion that it is a tobacco product manufacturer in its response to question 6.

**7.** Applicants must obtain a cigarette and/or tobacco products manufacturer's license and attach a copy of such license(s). (Cal. Code Regs., tit. 11, ch. 16, § 999.16, subd.(b)(2)(D).) All non-participating manufacturers must also provide a copy of a valid federal permit from the U.S. Treasury, Alcohol and Tobacco Tax and Trade Bureau. (Cal.Code Regs., tit. 11, ch. 16, § 999.16, subd. (b)(2)(J).)

### **Part II. Brand Family Identification**

#### **1. Brand Family Identification**

Identify by brand family all of the cigarettes that the tobacco product manufacturer intends to sell in California, 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. A participating manufacturer shall list all of its brand families. By listing a brand family, the participating manufacturer affirms that the brand family is deemed to be its cigarettes for the purpose of calculating its payments under the MSA for the relevant year. The participating manufacturer shall update such list at least thirty (30) days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification (JUS-TOB1) to the Attorney General.

Attach samples of the actual packaging and labeling of cartons and packs for each brand style of cigarettes that applicant intends to sell in California. Also submit, on CD or DVD, a color photograph in Adobe 6.0 (.PDF) software, of the packaging and labeling. For each brand family, attach copies of your written certification of compliance with the California Cigarette Fire Safety and Firefighter Protection Act, which you filed with the State Fire Marshal. (Health & Saf. Code, § 14951(A).) Finally, attach a completed JUS-TOB15, Cigarette Brand Authentication Information form. (Cal. Code Regs., tit. 11, ch. 16, § 999.16, subd. (b)(1).)

A nonparticipating manufacturer (NPM) shall: (I) List all of its brand families and the number of units sold of each brand family that were sold in California during the preceding calendar year; (II) Identify by an asterisk any brand family sold in California during the preceding calendar year that is no longer being sold in California as of the date of the certification; and (III) Provide the complete name and address of every tobacco product manufacturer that manufactured a brand family described in (I) above in the preceding calendar year. The NPM shall update such list at least thirty (30) days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification (JUS-TOB1) to the Attorney General. By listing a brand family, the NPM affirms that the brand family is deemed to be its cigarettes for the purpose of calculating its reserve fund deposits pursuant to Health & Safety Code §§104555-104557 and implementing regulations.

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**Part III. Additional Business and Ownership Information (NPM Applicants only)**

**1. Organizational documents to be attached:**

If applicant is a:	Attach to certification:
Partnership or Association	Current copy of articles, if any, or the certificate required to be filed by any state municipality
Corporation	1. Current copy of the corporate charter or certificate of corporate existence or incorporation. This copy must be executed by the appropriate state officer for the jurisdiction in which incorporated. 2. Extracts of stockholders' meetings, bylaws, directors' meetings or other documents that list the officers authorized to sign documents or otherwise act on behalf of the corporation. The accuracy of the copy must be certified by an appropriate officer of the corporation.
Limited liability company or other business organization	Current copy of the business document(s) filed with a state, county or municipality when such filing is required. The copy must show that it was filed with the appropriate government agency. A limited liability company must provide an accurate copy of its operating agreement.

**3. Affiliates**

Identify any affiliate that also manufactures, imports, distributes, or sells cigarettes or other tobacco products in California by completing the table on the application. For the purposes of this certification & application for listing, the term "own" means ownership of an equity interest, or the equivalent thereof, of 10 percent or more. List the names of the brands and the affiliate in the first two columns. List the type of business by writing in the third column (type of business): "M" for manufacturer, "I" for importer, "D" for distributor, and "W" for wholesaler.

**Part IV. Marketing and Distribution Information**

**3. Agreements with participating manufacturers**

Identify every agreement between applicant and any participating manufacturer (PM) or affiliate of a PM which relates to the making, importing, distribution, transportation, or sale of a brand family. List the brand family and the name, address, and phone number of the PM involved in any agreement. For each brand family, describe the agreement or arrangement with any PM or affiliate of a PM in the making, importing, distribution, transportation or sale of the brand family, and provide the name and address of the PM(s), subsidiary(ies), affiliate(s) or partner(s). A list of the participating manufacturers is available on the NAAG website at <http://www.naag.org>. Attach a copy of any written contract(s) and/or agreement(s).

**4. Agreements regarding compliance with the MSA**

List every brand family that is the subject of an agreement regarding compliance with the MSA and the name, address, and phone number of the participating manufacturer involved in such agreement(s). Attach a copy of any written contract(s) and/or agreement(s).

**5. Agreements regarding compliance with the Reserve Fund Statute**

List every brand family that is the subject of an agreement regarding compliance with the NPM Reserve Fund Statute and the name, address, and phone number of the person or entity with whom applicant has a contractual arrangement and/or agreement concerning compliance with the NPM Reserve Fund Statute. Attach a copy of any written contract(s) and/or agreement(s).

**Part V. Manufacturing and Compliance Information**

**5. Internet or mail order sales**

If applicant intends to sell any cigarettes (including RYO tobacco) by mail order or through the internet, list and describe: (A) Any website advertising the cigarettes, (B) the address from where the cigarettes will be shipped, (C) and the total sales in California in the previous year.

**Attach copies of Jenkins Act Reports.** If applicant is applying for listing on California's Directory for the first time, attach copies of all reports, if any, filed with the California Board of Equalization to comply with the Jenkins Act (Chapter 10A of Title 15 of the U.S. Code, section 375 et seq.) for sales in the preceding 12 months. If applicant has already been listed on California's directory, but is applying to list other or new brand families, attach copies of the Annual Certification of Compliance (JUS-TOB3) and the Jenkins Act reports for sales of the already listed brand families for the period of time reported in applicant's Annual Certification of Compliance.

## CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE, § 30165.1)

### Specific Instructions (Continued)

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**Part VI. Disclosure of Enforcement Actions to California Purchasers** (NPM Applicants only)

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**Part VII. Imported Cigarettes-Documentation and Verification** (NPM Applicants only)

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1. Submit a completed United States Importer Accepting Joint and Several Liability form (JUS-TOB12). (Cal.Code Regs., tit. 11, ch. 16, § 999.16, subd. (b)(2)(L).)
2. Submit a completed Notice of Appointment of Registered Agent and Registered Agent's Statement form for Importer (JUS-TOB13). (Cal. Code Regs., tit. 11, ch. 16, § 999.16, subd (b)(2)L.)

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**Part VIII. NPM Application Certification** (NPM Applicants only)

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**1. Agent for Service of Process**

Certify whether the NPM is (I) domiciled in the State of California; (II) a non-resident or foreign NPM that has registered to do business in California as a foreign corporation or business entity; or (III) an NPM that has appointed a resident agent for service of process pursuant to Revenue and Taxation Code section 30165.1 on whom all process, and any action against it concerning or arising out of the enforcement of Health and Safety Code sections 104555 et. seq., Revenue and Taxation Code section 30165.1 and implementing regulations, may be served in any manner authorized by law, and attach Notice of Appointment of Registered Agent (JUS-TOB2). (Cal. Code Regs., tit. 11, ch. 16, § 999.16, subd. (b)(1)(C).)

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**Mail the original certification (JUS-TOB1) and all required forms and documents to:**

Mailing Address:

OR

Street Address:

**Office of the Attorney General  
For the State of California  
Tobacco Litigation & Enforcement Section  
P.O. Box 944255  
Sacramento, CA 94244-2550**

**Office of the Attorney General  
for the State of California  
Tobacco Litigation & Enforcement Section  
1300 I Street  
Sacramento, CA 95814**

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