

STATE OF HAWAII
Department of the Attorney General
Tobacco Enforcement Unit

**Certification for Hawai'i Tobacco Directory
Pursuant to Chapters 245 and 486P, Hawaii Revised Statutes (HRS)
for Cigarettes and Roll-Your-Own (RYO) Tobacco**

Initial Certification

Annual Certification

Supplemental Certification

Part I. Tobacco Product Manufacturer¹ Identification

Name: _____

Address: _____

Telephone: _____ Facsimile: _____

Website: _____

Contact person: _____ Contact Email: _____

Mailing address (if different from above):

Manufacturing plant(s) name and address (if different from above):

The Tobacco Product Manufacturer identified above is, as of the date of this certification: (check one box)

A Participating Manufacturer (PM) under the Master Settlement Agreement (MSA).

A Non-Participating Manufacturer (NPM) in full compliance with HRS §675-3(b).

The Tobacco Product Manufacturer identified above has:

Complied with its reporting requirements as provided by HRS chapter 486P.
(Failure to comply with reporting requirements will result in denial of certification.)

Part II. Calendar Year (Provide a separate certification for each year.)

2022

¹ The term "Tobacco Product Manufacturer" means an entity that after July 2, 1999 directly (and not exclusively through any affiliate): (1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as the term is defined in the Master Settlement Agreement (MSA)) that will be responsible for the payments under the MSA with respect to such cigarettes as a result of the provisions of subsection II(mm) of the MSA and that pays the taxes specified in subsection II(z) of the MSA, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States); (2) 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; or (3) becomes a successor of an entity described in paragraph (1) or (2). The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of (1) to (3) above. See HRS § 675(2)(i).

Part III. Brand Family Identification (Attach additional sheet(s), as needed, to provide complete response.)

1. The **PM** identified in Part I has the following Brand Families, each of which the manufacturer hereby affirms are to be deemed its Cigarettes² for purposes of calculating its payments under the MSA for the relevant year, in the volume and shares determined pursuant to the MSA. List each Brand Family including all “styles”; a Brand Family will be assumed to be cigarettes unless designated as RYO. Attach additional pages as needed.

Brand Family (indicate with an asterisk (*) those brands that will not be sold in 2022)			
Name	Fire Safe Certified (Y/N)	Name	Fire Safe Certified (Y/N)

2. The **NPM** identified in Part I has the following Brand Families, each of which the manufacturer hereby affirms are to be deemed its Cigarettes³ for purposes of HRS chapter 675 for the relevant year. List each Brand Family including all “styles”; a Brand Family will be assumed to be cigarettes unless designated as RYO.

Provide a depiction of the actual packaging, preferably via electronic format, for each brand of cigarette and RYO to be listed in the Directory.

A. Brand Family (indicate with an asterisk (*) those brands that will not be sold in 2022)	B. Units sold in preceding calendar year	C. Manufacturer of brands listed (include complete address information)

² The term “cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term “cigarette” includes “roll-your-own” (i.e. any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of “cigarette,” 0.09 ounces of “roll-your-own” tobacco shall constitute one individual “cigarette.” See HRS §§ 486P-1 and 675-2(d).

³ See footnote 2 for definition of “cigarette.”

Part IV. Non-Participating Manufacturer's Additional Information

1. **Company Officers and Owner(s) Identification.** List all company officers and owners (all persons with an equity interest of 10% or more in the applicant company). Attach additional sheet(s), as needed, to provide complete response.

<p><u>President:</u> _____ Address: _____ _____ Email: _____ _____</p>	<p><input type="checkbox"/> Owner _____ % interest</p>
<p><u>Vice President:</u> _____ Address: _____ _____ Email: _____ _____</p>	<p><input type="checkbox"/> Partner</p> <p><input type="checkbox"/> Owner _____ % interest</p> <p><input type="checkbox"/> Partner</p>
<p><u>Secretary:</u> _____ Address: _____ _____ Email: _____ _____</p>	<p><input type="checkbox"/> Owner _____ % interest</p> <p><input type="checkbox"/> Partner</p>
<p><u>Treasurer:</u> _____ Address: _____ _____ Email: _____ _____</p>	<p><input type="checkbox"/> Owner _____ % interest</p> <p><input type="checkbox"/> Partner</p>
<p><u>Other:</u> _____ Address: _____ _____ Email: _____ _____</p>	<p><input type="checkbox"/> Owner _____ % interest</p> <p><input type="checkbox"/> Partner</p>

2. **Applicant Information.** Indicate whether the following statements describe applicant by marking the box "Yes" or "No" after the statement.

	<u>Yes</u>	<u>No</u>
A. Applicant sold (whether directly or through a distributor, retailer or similar intermediary or intermediaries) cigarettes to consumers within the State of Hawai'i in the preceding calendar year.	<input type="checkbox"/>	<input type="checkbox"/>
B. Applicant placed moneys into a Qualified Escrow Fund pursuant to HRS chapter 675 for its sales in the preceding calendar year.	<input type="checkbox"/>	<input type="checkbox"/>
C. There has been a change in manufacturer (i.e., fabricator) for one or more of the brands listed in this certification within the past two calendar years.	<input type="checkbox"/>	<input type="checkbox"/>
D. Applicant sells cigarettes via the internet or direct mail order to consumers within the State of Hawai'i.	<input type="checkbox"/>	<input type="checkbox"/>

3. Registered Agent for Service of Process.

Please certify as follows (check one):

- The NPM identified in Part I is domiciled in the State of Hawai'i.
- The NPM identified in Part I is a non-resident or foreign NPM that has registered to do business in the State of Hawai'i as a foreign corporation or business entity.
- The NPM identified in Part I has appointed and continues to engage the following agent located in the United States for service of process on whom all process, any action or proceeding against it concerning or arising out of the enforcement of HRS chapters 486P or 675, may be served in any manner authorized by law. (Proof of appointment and availability must be submitted directly from agent.)

Name of Agent: _____
Address: _____
Telephone: _____ Facsimile: _____
Email: _____

4. Qualified Escrow Fund – Financial Institution.

Name of Institution: _____
Address: _____
Telephone: _____ Facsimile: _____
State Sub-Account No.: _____ Escrow Account No.: _____
Contact Person: _____ Email: _____

(Attach an executed copy of current escrow agreement along with Attachment A listing Hawai'i.)

5. Escrow Deposit/Withdrawal History for Hawai'i. (Attach additional sheet(s) as needed.)

Date	Deposit*	Withdrawal*	Balance

* Amounts must comply with HRS chapter 675.

6. **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 (FTC) before the cigarettes were distributed into the United States.

A. Brand Family	B. Filer	C. Street Address

For each Brand Family, attach the FTC's written approval of applicant's annual Cigarette Health Warning Rotation Plan. Attach additional sheet(s), as needed, to provide a complete response.

7. **Tobacco Ingredient Reporting.** For each Brand Family, list the name and address of the entity that submitted the Tobacco Ingredient Reporting information to the Secretary of the U.S. Department of Health and Human Services as required by the Federal Cigarette Labeling and Advertising Act (FCLAA) (§1335a(a), title 15, United States Code (USC)).

A. Brand Family	B. Submitter	C. Street Address

For each Brand Family, attach copies of all Certificates of Compliance received from the Center for Disease Control and Prevention for applicant's annual Tobacco Ingredient Reporting required by the FCLAA. Attach additional sheet(s), as needed, to provide a complete response.

8. **Imported Cigarettes; Documentation and Verification.** If the cigarettes applicant sells or intends to sell are not made in the United States, provide the documents listed below:

- A. A copy of the importer permit issued pursuant to 26 USC §5713 to the person engaged in the importing of the cigarettes into the United States; and
- B. A copy of the certificate required by 19 USC §1681a(c)(1) that was signed by the NPM of such cigarettes, that such NPM will timely submit to the Secretary of the U.S. Department of Health and Human Services the tobacco ingredient reporting information required by 15 USC §1335a(a); and
- C. A copy of the certificate required by 19 USC §1681a(c)(2) that was signed by the importer regarding the precise format of warning statements, and the rotation plan for health warnings; and
- D. A copy of the certificate required by 19 USC §1681a(c)(3)(A) that was signed by the U.S. trademark owner that such owner consents to the importation of such cigarettes into the United States; and
- E. A copy of the certificate as required by 19 USC §1681a(c)(3)(B) that was signed by importer that the consent referred to in 19 USC § 1681a(c)(3)(A) is accurate, remains in effect, and has not been withdrawn.
- F. The complete address of the factory at which the cigarettes are fabricated.
 Name: _____
 Address: _____

(Identify the factory that fabricates each Brand Family; attach additional sheet(s), as needed.)

9. Trademark Owner; Cigarette and Roll-Your-Own Tobacco Brands.

Submit a list of trademark owners for those brands of cigarettes and roll-your-own tobacco listed in Part III (2). Those brands for which the trademark owner is other than the applicant, documentation that shows the trademark owner authorizes applicant to manufacture subject tobacco product(s) must be provided.

Part V. All Tobacco Product Manufacturers
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1. Fire Safe Cigarette Certification.

Pursuant to HRS chapter 132C, effective September 30, 2009, only reduced ignition propensity cigarettes (fire safe cigarettes or “FSC”) may be sold in the State. Written certifications must be submitted to the State Fire Council in accordance with HRS chapter 132C.

State Fire Council
636 South Street
Honolulu, Hawaii 96813-5007
(808) 723-7173
(808) 723-7179 facsimile
email: ekealoha@honolulu.gov

Please indicate on the list of the brands and styles submitted under Part III herein, those brand styles currently FSC certified by the Hawai'i State Fire Council.

2. PACT Act Registration and Reporting.

On March 31, 2010, the federal Prevent All Cigarette Trafficking Act (Pact Act), 15 USC §375 et seq., was signed into law. The Pact Act amended provisions of the Jenkins Act (15 USC §§375 - 378) regarding the shipment and packaging of tobacco products, compliance with state tax and licensing requirements, and the filing of certain reports with the state tobacco tax administrator.

The Jenkins Act, as amended, requires every person including cigarette manufacturers, wholesalers, distributors, and delivery sellers, who sell, transfer, or ship for profit cigarettes, roll-your-own (RYO) tobacco, and smokeless tobacco in interstate commerce to (1) register with the United State's Attorney General and the state tobacco tax administrator of each state into which shipments are made, and (2) file monthly reports with the state tobacco tax administrator, no later than the 10th of each month.

Pursuant to HRS §486P-2(4)(e), any tobacco product manufacturer selling cigarettes to consumers within this State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) shall register and submit monthly reports as set forth in the PACT Act. The Tobacco Product Manufacturer identified in Part I has:

- Registered with the Hawai'i Department of Taxation and Hawai'i Department of the Attorney General; and has complied with its monthly reporting requirements pursuant to the PACT Act.
- Not previously registered or reported pursuant to the PACT Act; but submitted its registration form to the Hawai'i Department of Taxation and includes herein its registration form to the Hawai'i Department of the Attorney General and intends to submit monthly reports to both entities on go-forward basis.

Additional instructions may be found at <http://ag.hawaii.gov/cjd/tobacco-enforcement-unit/>.

Part VI. Notarized Signature

I certify that the information and documentation submitted with this certification are true, correct, and complete. Documentation pertaining to the signatory's status as an owner, partner, or officer of the corporation is attached.

Print Name: _____ Title: _____

Signature: _____

Date: _____

Subscribed and sworn to before me on this date: _____ City or County of: _____

Signature of Notary Public: _____ State or Country of: _____

Print Name: _____ Date of Document: _____

My Commission expires: _____ Description of Document: _____

Number of pages: _____

Notary Seal

Part VII. Delivery to the Hawai'i Attorney General

The certification must be executed and delivered to the attorney general no later than **April 30th** of each year. Supplemental certifications must be executed and delivered to the attorney general thirty calendar days before any addition to or modification of a Tobacco Product Manufacturer's Brand Family.

Deliver to:

State of Hawai'i
Department of the Attorney General
Tobacco Enforcement Unit
425 Queen Street
Honolulu, Hawai'i 96813