

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 16. Master Settlement Agreement, Tobacco

UPDATED INFORMATIVE DIGEST

On March 9, 2022, the Department made the following changes to the proposed amended regulations as originally noticed on December 18, 2020:

999.10(b). This provision was amended to add definitions for the following terms: Certification, Deposit Date, Escrow Agent, Escrow Rate, Fire Standard Compliant, Ledger, MSA, NPM Certification, PACT Act, PM Certification, and Qualified Escrow Fund Principal. The provision was also amended to define each of the Tobacco Directory forms. The provision was further amended to make additional revisions to the terms: Participating Manufacturer and Qualified Escrow Fund.

The remaining regulations were amended to revise short-hand references to Tobacco Directory Forms and update form references to conform to additional form changes. The regulations were also amended to make the following cleanup changes: replace the terms "tobacco escrow" or "escrow" or "escrow principal" with "Qualified Escrow Fund Principal;" replace the terms "reserve fund requirements" with "the Reserve Fund Statute;" to replace "financial institution holding the funds in escrow" with the term "Escrow Agent;" to replace "resident agent for service" with "registered agent for service."

On May 5, 2021 and March 9, 2022, the Department made the following changes to the forms:

Form JUS-TOB1 (Rev. 11/2021) - The Department amended the form as follows: to require Applicant's Brand List to include all Brand Styles fabricated by Applicant with the past 12 months (instead of 39 months) and to define fabricated; to replace the term "entities" with "persons;" to delete references to Affiliates and Domestic Affiliates; to add a question regarding fabrication in Part IV; to inquire how many importers have imported Applicant's cigarettes into the United States during the past 12 months (instead of 39 months); to delete and revise questions relating to Pact Act Compliance in Part VII; and to revise the look back period relating to certifications in other states.

Form JUS-TOB3 (Rev. 11/2021) - The Department amended the form to add regulation citations to defined terms.

Form JUS-TOB4 (Rev. 11/2021) - The Department amended the form to display the requirements of the form in a different format.

Form JUS-TOB5 (Rev. 11/2021) - The Department amended the form as follows: to require Applicant's Brand List to include all Brand Styles fabricated by Applicant with the past 12 months (instead of 39 months) and to define fabricated; to replace the term "entities" with "persons;" to delete references to Affiliates and Domestic Affiliates; to add a question regarding fabrication in Part IV; to inquire how many importers have imported Applicant's cigarettes into the United States during the past 12 months (instead of 39 months); and to revise the look back period relating to certifications in other states. The Department also repealed the 2004 version of the form.

Form JUS-TOB8 (Rev. 11/2021) - The Department repealed the originally noticed version of the form, and renumbered the TOB15 form as the TOB8 form. The definitions proposed in the originally noticed version of the form have been moved to Section 999.10(b).

Form JUS-TOB 15 - The Department repealed the originally noticed version of the form. The Department amended the form to renumber it as TOB8 and to display the requirements of the form in different format. The Department also deleted the following columns from the form: Date of Last FSC Test, Date Last FSC Test Expires, Date FSC Test was Submitted to California, Cigarette is Flavored, Applicant contends that product was first commercially marketed on or before 2/25/07, Applicant contends that product was first commercially marketed after 2/15/07 but before 3/22/11, Applicant contends that product was first commercially marketed after 3/22/11.

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