

SUBCHAPTER 04C - TOBACCO PRODUCTS TAX

SECTION .0100 - GENERAL PROVISIONS

17 NCAC 04C .0101 DEFINITIONS

In addition to those definitions as set out in G.S. 105-113.4, the following terms and phrases as used in this Subchapter have the following meanings:

- (1) "Article 2A" means the Tobacco Products Tax Act or Tobacco Products Tax Article, Article 2A, Chapter 105 of the General Statutes of North Carolina.
- (2) "Equivalent information" means the information required by Rule .0903(c) of this Subchapter in an alternative format such as a spreadsheet, database, or other compilation.
- (3) "Excise tax" means the excise tax levied under G.S. 105-113.5, G.S. 105-113.6, G.S. 105-113.35, or G.S. 105-113.35A.
- (4) "In this State or within this State" means within the exterior limits of the State of North Carolina, and includes all territory within the limits owned by, leased by, or ceded to the United States of America.
- (5) "Nonparticipating manufacturer" means the term as defined in G.S. 66-292(3).
- (6) "Nonresident distributor" means a distributor who is licensed pursuant to G.S. 105-113.24.
- (7) "Nonresident purchaser" means a person who is not a consumer and does not have a place of business in this State.
- (8) "Other tobacco products" means a cigar or any other product that contains tobacco, other than a cigarette, and is intended for inhalation or oral use; and a vapor product.
- (9) "Resident distributor" means a distributor who has a place of business within this State.
- (10) "Roll-your-own cigarette tobacco" means the term as defined in G.S. 66-290(4).
- (11) "Tax-paid cigarettes" mean cigarettes where the excise tax imposed by G.S. 105-113.5 or G.S. 105-113.6 has been paid.
- (12) "Tax-paid tobacco products" mean tobacco products where the excise tax imposed by G.S. 105-113.5, G.S. 105-113.6, G.S. 105-113.35, or G.S. 105-113.35A has been paid.
- (13) "Vending machine" means a dispenser or dispensing machine.

History Note: Authority G.S. 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994; June 1, 1992; October 30, 1981;
Readopted Eff. January 1, 2021.

17 NCAC 04C .0102 RATE OF EXCISE STAMP TAX 17 NCAC 04C .0103 RATE OF DISCOUNT ALLOWED

History Note: Authority G.S. 105-113.5; 105-113.21; 105-113.37;
Eff. February 1, 1976;
Repealed Eff. October 30, 1981.

17 NCAC 04C .0104 APPLICATION OR RENEWAL REQUIREMENTS FOR APPLICANTS AND LICENSEES UNDER ARTICLE 2A

- (a) A distributor obtaining, renewing, or updating a license pursuant to G.S. 105-113.12 shall use Form B-A-2.
- (b) A wholesale dealer or retail dealer obtaining, renewing, or updating a license pursuant to G.S. 105-113.36 shall use Form B-A-2.
- (c) Form B-A-2 requires the following:
 - (1) a description of the transactions requested, including:
 - (A) a designation of whether the applicant or licensee is requesting an initial license, renewing a license, or updating information previously submitted on the form;
 - (B) the applicant's or licensee's business structure, such as a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership;
 - (C) if requesting a new license or renewal of an existing license, the type of license requested;

- (D) the seven digit number assigned by the North Carolina Secretary of State, if applicable; and
- (E) the total payment due;
- (2) the applicant's or licensee's business information, including:
 - (A) information required by 17 NCAC 01C .0322(b);
 - (B) the legal name;
 - (C) the date the business began operations;
 - (D) the trade name or doing-business-as name, if applicable;
 - (E) the physical location where non-tax-paid tobacco products are manufactured, received, or stored;
 - (F) the mailing address;
 - (G) the location where records are kept;
 - (H) the e-mail address, if available; and
 - (I) if the applicant or licensee elects to designate a contact person, the identity of the contact person including his or her legal name, telephone number, fax number, and e-mail address;
- (3) the identity of the applicant's or licensee's owners, officers, partners, or members, and for each person identified, their:
 - (A) social security number, if a natural person;
 - (B) legal name;
 - (C) job title;
 - (D) residential address;
 - (E) phone number; and
 - (F) misdemeanor or felony convictions, if any, and a statement describing the circumstances of the conviction, including the offense, date of offense, date of conviction, case number, court jurisdiction, and any active terms of probation;
- (4) the identity of persons who previously held an ownership interest in the applicant, and for each person identified:
 - (A) their legal name;
 - (B) the name of business at the time the interest was held;
 - (C) the address of business at the time the interest was held; and
 - (D) the last date of ownership in the applicant or licensee;
- (5) if any person identified on the form previously owned, operated, or managed another legal entity selling, receiving, or purchasing tobacco products, the applicant or licensee shall include for each person identified:
 - (A) the person's legal name;
 - (B) the person's social security number;
 - (C) the person's residential address;
 - (D) the name of the legal entity; and
 - (E) the person's job title held at the legal entity;
- (6) a description of the applicant's or licensee's operations, including:
 - (A) a designation of whether the applicant or licensee is a resident, nonresident, affiliated manufacturer, or integrated wholesaler;
 - (B) the percentage of operations that are associated with retail, distribution or wholesale, manufacturing, or other activities;
 - (C) the number of locations storing non-tax-paid tobacco products and the physical address for each location;
 - (D) the number of locations storing tax-paid tobacco products and the physical address for each location;
 - (E) the date when the applicant or licensee began or intends to begin to sell non-tax-paid tobacco products;
 - (F) a designation of whether a surety bond or letter of credit is included with the form;
 - (G) a designation of whether the applicant or licensee currently or intends to buy or sell tobacco products by Internet, telephone, catalog, or any other means that would qualify as a delivery sale;

- (H) a designation of whether the applicant or licensee currently or intends to buy or sell roll-your own cigarette tobacco;
 - (I) a designation of whether the applicant or licensee currently or intends to import tobacco from out-of-country vendors;
 - (J) if the applicant or licensee is a nonresident distributor or wholesale dealer, designating whether the applicant or licensee is licensed in the applicant's or licensee's state of residence;
 - (K) a designation of whether the applicant or licensee currently or intends to purchase vapor products;
 - (L) a list of all states where the applicant or licensee holds a tobacco products license and the license number for each license;
 - (M) if the applicant or licensee is applying for a distributor's license:
 - (i) a list of all manufacturers that will sell to the applicant or licensee non-tax-paid cigarettes;
 - (ii) the address and phone number of all manufacturers that will sell to the applicant or licensee non-tax-paid cigarettes;
 - (iii) a letter from those manufacturers affirming the manufacturers intent to sell to the applicant or licensee non-tax-paid cigarettes; and
 - (iv) a list of all cigarette brands the applicant or licensee intends to sell;
 - (N) if the applicant or licensee is applying for wholesale dealer's or retail dealer's license:
 - (i) a list of all suppliers providing the applicant or licensee other tobacco products where the excise tax under G.S. 105-113.35 or G.S. 105-113.35A has not been paid;
 - (ii) the supplier's legal name;
 - (iii) the supplier's address;
 - (iv) the supplier's telephone number;
 - (v) for each supplier, the date the applicant or licensee first purchased other tobacco products from the supplier; and
 - (vi) the delivery method for each supplier not located in this State; and
 - (O) a list of roll-your-own cigarette tobacco brands that the applicant or licensee intends to sell, if any; and
- (7) for the person authorized to legally bind the applicant or licensee, his or her:
- (A) typed legal name;
 - (B) job title;
 - (C) signature;
 - (D) date of signature;
 - (E) telephone number;
 - (F) fax number;
 - (G) e-mail address; and
 - (H) affirmation that the form is accurate and complete.

History Note: Authority G.S. 105-113.11; 105-113.12; 105-113.36; 105-262; Eff. January 1, 2021.

SECTION .0200 - CIGARETTE DISTRIBUTOR'S LICENSE

17 NCAC 04C .0201 APPLICATION OR RENEWAL REQUIREMENTS FOR A DISTRIBUTOR'S LICENSE; DUTY TO UPDATE

- (a) A distributor obtaining, renewing, or updating a license pursuant to G.S. 105-113.12 shall use Form B-A-2 as set forth in Rule .0104 of this Subchapter.
- (b) A distributor shall notify the Department of any changes to the information previously provided on Form B-A-2 by submitting a revised Form B-A-2. A distributor shall notify the Department at least 30 days before changing the physical location where non-tax-paid tobacco products are manufactured, received, or stored. A distributor shall notify the Department of all other changes previously provided on Form B-A-2 within 30 days of the change.
- (c) A distributor obtaining a new license or renewing an expired license shall remit the tax required by G.S. 105-113.12 with Form B-A-2.

- (d) A distributor obtaining a new license shall include a bond or an irrevocable letter of credit pursuant to G.S. 105-113.13 with Form B-A-2.
- (e) A distributor shall notify the manufacturers from whom cigarettes are purchased or received when the Department issues it a distributor's license or when there are changes to its distributor's license.
- (f) A distributor shall submit Form B-A-2 for each place of business as defined by G.S. 105-113.12.

History Note: Authority G.S. 105-113.11; 105-113.12; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994; October 30, 1981;
Readopted Eff. January 1, 2021.

17 NCAC 04C .0202 OUT-OF-STATE DISTRIBUTOR
17 NCAC 04C .0203 LICENSE NOT PRORATED

History Note: Authority G.S. 105-113.13; 105-113.24; 105-113.37;
Eff. February 1, 1976;
Repealed Eff. October 30, 1981.

17 NCAC 04C .0204 EXHIBIT OF LICENSE

History Note: Authority G.S. 105-113.17; 105-262;
Eff. February 1, 1976;
Expired Eff. January 1, 2019 pursuant to G.S. 150B-21.3A.

17 NCAC 04C .0205 DISTRIBUTOR TO NOTIFY MANUFACTURER

It shall be the responsibility of each cigarette distributor to notify the cigarette manufacturers from whom non-tax-paid cigarettes are purchased or received of the cigarette distributor's license issued by the Secretary and of any subsequent changes to the license.

History Note: Authority G.S. 105-113.12; 105-113.13; 105-262;
Eff. October 30, 1981;
Amended Eff. January 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

SECTION .0300 - PURCHASE AND SALE OF DECAL STAMPS

17 NCAC 04C .0301 DECAL STAMPS
17 NCAC 04C .0302 CREDIT SALES OF STAMPS

History Note: Authority G.S. 105-113.19; 105-262;
Eff. February 1, 1976;
Amended Eff. April 1, 1986; July 1, 1984; October 30, 1981;
Repealed Eff. January 1, 1994.

SECTION .0400 - PURCHASE AND SALE OF METER IMPRINT STAMPS

17 NCAC 04C .0401 AUTHORIZATION
17 NCAC 04C .0402 SETTING
17 NCAC 04C .0403 CREDIT SALES
17 NCAC 04C .0404 INSPECTION

History Note: Authority G.S. 105-113.19; 105-113.23; 105-262;
Eff. February 1, 1976;
Amended Eff. October 30, 1981;

Repealed Eff. January 1, 1994.

17 NCAC 04C .0405 METER MACHINE MAINTENANCE

*History Note: Authority G.S. 105-113.23; 105-262;
Eff. June 11, 1977;
Repealed Eff. January 1, 1994.*

SECTION .0500 - AFFIXATION OF STAMPS AND IMPRINTS

**17 NCAC 04C .0501 MANNER OF AFFIXING
17 NCAC 04C .0502 UNSTAMPED CIGARETTES
17 NCAC 04C .0503 RESPONSIBILITY OF PURCHASER**

*History Note: Authority G.S. 105-113.9; 105-113.20; 105-113.22; 105-113.27; 105-262;
Eff. February 1, 1976;
Amended Eff. October 30, 1981; June 11, 1977;
Repealed Eff. January 1, 1994.*

17 NCAC 04C .0504 INTERSTATE CIGARETTE SALES; LICENSURE

(a) A nonresident purchaser is not required to obtain a license under G.S. 105-113.12 if it accepts delivery of non-tax-paid cigarettes in this State and all the following apply:

- (1) The nonresident purchaser receives non-tax-paid cigarettes from a licensed distributor at the licensed distributor's business location in this State.
- (2) The nonresident purchaser is purchasing cigarettes for the purpose of resale outside of North Carolina.
- (3) The licensed distributor affixes to the cigarettes taxpaid cigarette indicia of the state of the nonresident dealer where required by the state of the nonresident dealer.

(b) A distributor who sells cigarettes outside this State or delivers cigarettes to a nonresident purchaser in this State for resale outside of this State shall affix to cigarettes taxpaid cigarette indicia of the state of the nonresident purchaser where required by the state of the nonresident purchaser.

(c) A distributor shall report sales to nonresident purchasers on Form B-A-5 as required in Rule .0901 of this Subchapter.

*History Note: Authority G.S. 105-113.9; 105-262;
Eff. September 20, 1977;
Amended Eff. April 1, 2008; January 1, 1994; October 30, 1981;
Readopted Eff. January 1, 2021.*

17 NCAC 04C .0505 LIMITED TIME TO AFFIX TAXPAID INDICIA (STAMPS AND IMPRINTS)

*History Note: Authority G.S. 105-113.20; 105-262;
Eff. October 1, 1991;
Repealed Eff. January 1, 1994.*

SECTION .0600 - CIGARETTE MANUFACTURER

17 NCAC 04C .0601 SALES TO LICENSED DISTRIBUTORS

*History Note: Authority G.S. 105-113.10; 105-113.37;
Eff. February 1, 1976;
Repealed Eff. October 30, 1981.*

17 NCAC 04C .0602 INVOICE REQUIREMENT

History Note: Authority G.S. 105-113.10; 105-262;

Eff. February 1, 1976;
Amended Eff. October 30, 1981; June 11, 1977;
Repealed Eff. January 1, 2021.

17 NCAC 04C .0603 TAX ON COMPLIMENTARY PACKS

History Note: Authority G.S. 105-113.5; 105-113.10; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. July 1, 2000.

17 NCAC 04C .0604 MANUFACTURER ACTING AS DISTRIBUTOR

History Note: Authority G.S. 105-113.10; 105-262;
Eff. February 1, 1976;
Repealed Eff. January 1, 1994.

SECTION .0700 - RECEIPT OF UNSTAMPED CIGARETTES

17 NCAC 04C .0701 DISTRIBUTOR RESPONSIBLE FOR TAX

History Note: Authority G.S. 105-113.10; 105-113.5; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. August 1, 2003.

17 NCAC 04C .0702 EXCISE TAX LIABILITY FOR CIGARETTE INVENTORY

A distributor is liable for the tax upon any non-tax-paid cigarettes that are stolen or otherwise unaccounted for.

History Note: Authority G.S. 105-113.5; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Readopted Eff. January 1, 2021.

SECTION .0800 - EXEMPTIONS

17 NCAC 04C .0801 FEDERAL GOVERNMENT

- (a) Non-tax-paid cigarettes may be sold to the federal government and its instrumentalities, such as the Armed Forces Exchange Services, but sales by such services shall be limited to members of the armed forces and their dependents who hold identification cards entitling them to make purchases through armed forces exchange services.
- (b) Whenever deliveries of non-tax-paid cigarettes are made by distributors to armed forces exchange services, the person making such delivery shall have in his actual possession invoices for such cigarettes which shall show date, invoice number, name and address of distributor, and the name and address of the purchaser and the quantity and brands of cigarettes being transported. If these conditions are not complied with, the non-tax-paid cigarettes shall be subject to confiscation, and the distributor taxed on such sales or deliveries made in an unauthorized manner. In the event of such deliveries of non-tax-paid cigarettes, the cigarettes shall be physically delivered by the distributor's conveyance or a duly authorized common carrier directly to the situs where the installation of the governmental agency is located. Upon such delivery the distributor shall require a duly receipted invoice or copy thereof from the governmental agent, designated to accept delivery. Distributor shall have a bona fide bill of lading, if delivery is made by common carrier.
- (c) No sales of non-tax-paid cigarettes on military installations may be made through vending machines, other than those owned and operated by the federal government or instrumentalities thereof.
- (d) If a person engages in the sale of cigarettes on a military reservation, regardless of the fact that he may have a contract with the federal government, whereby the federal government will receive a commission, flat fee or some other type of compensation on such sales, same does not exempt the sale of such cigarettes from the cigarette excise

tax. In such instance, such sales would not be made by the federal government or an instrumentality of the federal government. Instead, on all such sales, the cigarette tax is due.

History Note: Authority G.S. 105-113.8; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994; October 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

17 NCAC 04C .0802 FREE DISTRIBUTION BY MANUFACTURER

History Note: Authority G.S. 105-113.5; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994; October 30, 1981;
Repealed Eff. January 1, 2005.

SECTION .0900 - REPORTS AND RECORDS REQUIRED OF DISTRIBUTORS

17 NCAC 04C .0901 MONTHLY REPORT FOR RESIDENT DISTRIBUTORS

(a) Resident distributors filing a report pursuant to G.S. 105-113.18(1) shall file Form B-A-5 and Form B-A-7.

(b) Form B-A-5 requires the following:

- (1) the reporting period for the report;
- (2) information required by 17 NCAC 01C .0322(b);
- (3) the distributor's legal name and mailing address;
- (4) the trade name or doing-business-as name, if applicable;
- (5) if the distributor elects to designate a contact person, the identity of a contact person, including his or her legal name, phone number, and fax number;
- (6) the distributor's state of domicile;
- (7) designation of whether the form is an amended form;
- (8) an inventory of non-tax-paid cigarettes during the reporting period, designated by packs, including:
 - (A) the beginning inventory of non-tax-paid cigarettes possessed by the distributor on the first day of the reporting period;
 - (B) the number of non-tax-paid cigarettes sold to the distributor from a manufacturer, and the following information regarding these transactions to be included on Schedule C of the form:
 - (i) the invoice date;
 - (ii) the invoice number;
 - (iii) the name and address of the person who sold the distributor cigarettes; and
 - (iv) the amount of cigarettes sold to the distributor;
 - (C) the number of non-tax-paid cigarettes sold to the federal government, and the following information regarding these transactions to be included on Schedule B of the form:
 - (i) the date cigarettes were sold;
 - (ii) the name and address of the agency or instrumentality to whom cigarettes were sold; and
 - (iii) the amount of cigarettes sold;
 - (D) the number of non-tax-paid cigarettes sold outside North Carolina, and the following information regarding these transactions to be included on Schedule I:
 - (i) the date the cigarettes were shipped;
 - (ii) the shipping method (such as distributor truck, common or contract carrier, parcel post, or customer truck);
 - (iii) the name and address of the person to whom cigarettes were sold;
 - (iv) the identification of cigarette brands from a nonparticipating manufacturer; and
 - (v) the amount of cigarettes sold outside North Carolina;
 - (E) the number of non-tax-paid cigarettes returned to a manufacturer;

- (F) other increases or decreases in non-tax paid inventory, with explanations provided with the form; and
- (G) the ending physical inventory of non-tax-paid cigarettes possessed by the distributor on the last day of the reporting period;
- (9) an inventory of tax-paid cigarettes during the reporting period, designated by packs, and the following information to be included on Schedule D:
 - (A) the beginning inventory of tax-paid cigarettes possessed by the distributor on the first day of the reporting period;
 - (B) tax-paid cigarettes purchased or received from other sources, and the following information regarding these transactions to be included on Schedule E:
 - (i) the invoice date;
 - (ii) the invoice number;
 - (iii) the name and address of the person who sold the distributor cigarettes;
 - (iv) the amount of cigarettes sold; and
 - (v) copies of all invoices containing the information listed in Rule .0903(c) of this Subchapter;
 - (C) non-tax-paid purchases that are paid with the submission of the form;
 - (D) other increases or decreases in tax paid inventory, with explanations provided with the form;
 - (E) the number of tax-paid cigarettes sold in North Carolina;
 - (F) the number of tax-paid cigarettes returned to the manufacturer; and
 - (G) the ending physical inventory of tax-paid cigarettes possessed by the distributor on the last day of the reporting period;
- (10) the excise tax due on non-tax-paid cigarettes;
- (11) the discount under G.S. 105-113.21(a1), if applicable;
- (12) penalty and interest due on non-tax paid cigarettes, if any, in accordance with G.S. 105-236 and G.S. 105-241.21;
- (13) total payment due; and
- (14) for the person authorized to legally bind the distributor, his or her:
 - (A) signature;
 - (B) job title;
 - (C) date of signature; and
 - (D) affirmation that the form is accurate and complete.
- (c) The distributor shall include a separate Schedule I for each state to which the distributor shipped cigarettes during the reporting period.
- (d) When cigarettes are returned to a manufacturer, the distributor shall include the following information on Schedule J:
 - (1) the date the cigarettes were shipped;
 - (2) the shipping method (such as distributor truck, common or contract carrier, parcel post, or customer truck);
 - (3) the name and address of the manufacturer;
 - (4) the identification of cigarette brands from nonparticipating manufacturers;
 - (5) designating whether the cigarettes returned were non-tax paid cigarettes or tax-paid cigarettes; and
 - (6) the total non-tax paid cigarettes and total tax-paid cigarettes returned to the manufacturer.
- (e) Form B-A-5 shall be filed each month even if no cigarettes were sold, shipped, delivered, or otherwise disposed of during the reporting period.
- (f) The Department may disallow any deduction for the distributor's failure to include information on a designated schedule.
- (g) Form B-A-7 requires the following:
 - (1) the reporting period for the report;
 - (2) information required by 17 NCAC 01C .0322(b);
 - (3) the legal name and mailing address of the person filing the form;
 - (4) the trade name or doing-business-as name, if applicable;
 - (5) if the person filing the form elects to designate a contact person, the identity of a contact person, including his or her legal name, phone number, and fax number;
 - (6) designation of whether the form is an amended form;

- (7) for all tax-paid products from nonparticipating manufacturers, the person filing the form shall include:
 - (A) the brand name;
 - (B) the number of tax-paid cigarettes, designated by packs;
 - (C) the number of ounces of roll-your-own cigarette tobacco;
 - (D) the name and address of the nonparticipating manufacturer;
 - (E) the name and address of the person from whom the brand was purchased; and
 - (F) the name and address of the first importer of foreign manufactured brands; and
 - (8) for the person authorized to legally bind the person required to file the form, his or her:
 - (A) signature;
 - (B) job title;
 - (C) date of signature; and
 - (D) affirmation that the form is accurate and complete.
- (h) Form B-A-7 shall be filed each month even if no tobacco products from nonparticipating manufacturers were sold, shipped, delivered, or otherwise disposed of in this State for the reporting period.
- (i) Form B-A-7 shall be filed in duplicate.

*History Note: Authority G.S. 105-113.4G; 105-113.18; 105-262;
 Eff. February 1, 1976;
 Amended Eff. January 1, 1994;
 Readopted Eff. January 1, 2021.*

17 NCAC 04C .0902 MONTHLY REPORT FOR NONRESIDENT DISTRIBUTORS

- (a) Nonresident distributors filing a report pursuant to G.S. 105-113.18 shall file Form B-A-6 and Form B-A-7. The requirements of Form B-A-7 are provided in 17 NCAC 04C .0901(g) through (i).
- (b) Form B-A-6 requires the following:
- (1) the reporting period for the report;
 - (2) information required by 17 NCAC 01C .0322(b);
 - (3) the distributor's legal name and mailing address;
 - (4) the trade name or doing-business-as name, if applicable;
 - (5) if the resident distributor elects to designate a contact person, the identity of a contact person, including his or her legal name, phone number, and fax number;
 - (6) the distributor's state of domicile;
 - (7) designation of whether the form is an amended form;
 - (8) the number of cigarettes sold, designated by packs, in North Carolina where excise tax is due;
 - (9) the excise tax due on non-tax-paid cigarettes;
 - (10) the discount under G.S. 105-113.21(a1), if applicable;
 - (11) penalty and interest due on non-tax paid cigarettes, if any, in accordance with G.S. 105-236 and G.S. 105-241.21;
 - (12) total payment due;
 - (13) for the person authorized to legally bind the distributor, his or her:
 - (A) signature;
 - (B) job title;
 - (C) date of signature; and
 - (D) affirmation that the form is accurate and complete; and
 - (14) an inventory of tax-paid cigarettes during the reporting period, designated by packs, including the following information on Schedule B of the Form:
 - (A) the beginning inventory of tax-paid cigarettes possessed by the distributor on the first day of the reporting period;
 - (B) the number of tax-paid cigarettes purchased or received from other sources, including the following information regarding these transactions to be included on Schedule C of the form:
 - (i) the invoice date;
 - (ii) the invoice number;
 - (iii) name and address from where the cigarettes were purchased or received;
 - (iv) the amount of cigarettes purchased or received; and

- (v) copies of all invoices containing the information listed in Rule .0903(c) of this Subchapter;
- (C) the number of tax-paid cigarettes sold in this State;
- (D) the number of cigarettes returned to a manufacturer, including information regarding these transactions to be included on Schedule J as required by Rule .0901(d) of this Section;
- (E) other increases or decreases in inventory, with explanations provided with the form;
- (F) the ending inventory of tax-paid cigarettes possessed by the distributor on the last day of the reporting period; and
- (G) the number of non-tax-paid cigarettes, designated by packs, sold to the federal government, including the following information regarding these transactions to be included on Schedule D of the form:
 - (i) the date the cigarettes were sold;
 - (ii) the name and address of the agency or instrumentality to whom cigarettes were sold; and
 - (iii) the amount of cigarettes sold.

(c) Form B-A-6 shall be filed each month even if no cigarettes were sold, shipped, delivered, or otherwise disposed of in North Carolina for the reporting period.

History Note: Authority G.S. 105-113.18; 105-262;
Eff. February 1, 1976;
Readopted Eff. January 1, 2021.

17 NCAC 04C .0903 INVOICING REQUIREMENTS FOR DISTRIBUTORS

(a) Except for sales to consumers, where other record keeping requirements apply, a distributor shall maintain an invoice for every cigarette it sells, ships, or delivers in this State or outside of this State. A distributor shall also maintain an invoice when it transfers cigarettes to other places of business maintained by the distributor.

(b) A distributor shall forward to the Department copies of invoices of cigarette sales or transfers required by Paragraph (a) of this Rule, or equivalent information, monthly.

(c) Invoices shall include the following information:

- (1) the invoice date;
- (2) the invoice number;
- (3) the date of purchase, if applicable;
- (4) the name and address of the purchaser and seller, if applicable;
- (5) the name and address of the person from whom tobacco products were shipped;
- (6) the name and address of the person to whom tobacco products were shipped;
- (7) the mode of transportation;
- (8) the brand and the quantity of tobacco products;
- (9) the price charged for the tobacco products, if applicable; and
- (10) when the excise tax has been paid, the following phrase shall appear on the invoice: "North Carolina Tobacco Products Tax Paid."

(d) Invoices addressed in Paragraph (a) of this Rule shall be maintained for three years by all persons party to cigarette sales who are required to be licensed under Article 2A. All persons party to the sale must be issued identical invoices, and the invoices shall not be altered after issuance. If the invoice requires modification, a separate document must accompany the invoice describing the change to the invoice. This document must include the date it was prepared and must be delivered to and maintained by any other party to the sale.

(e) Notwithstanding Paragraph (a) of this Rule, a distributor shall comply with the invoice requirements for delivery sales in accordance with G.S. 105-113.4F.

History Note: Authority G.S. 105-113.4G; 105 113.10; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Readopted Eff. January 1, 2021.

17 NCAC 04C .0904 RECORD REQUIREMENTS FOR DISTRIBUTORS

Distributors maintaining records pursuant to G.S. 105-113.4G shall segregate records of cigarette sales that are exempt from the excise tax.

History Note: Authority G.S. 105-113.4G; 105-262;
Eff. January 1, 2021.

SECTION .1000 - REFUND

17 NCAC 04C .1001 RETURN UNUSED STAMPS: NO TRANSFER

History Note: Authority G.S. 105-113.20; 105-113.25; 105-113.37;
Eff. February 1, 1976;
Repealed Eff. October 30, 1981.

17 NCAC 04C .1002 REFUNDS ONLY TO LICENSED DISTRIBUTORS

(a) A distributor filing a refund claim pursuant to G.S. 105-113.21(b) shall file Form B-A-18.

(b) Form B-A-18 requires the following:

- (1) the reporting period for the refund claim;
- (2) information required by 17 NCAC 01C .0322(b);
- (3) the distributor's legal name and mailing address;
- (4) the trade name or doing-business-as name, if applicable;
- (5) if the distributor elects to designate a contact person, the identity of a contact person, including his or her legal name, phone number, and fax number;
- (6) the distributor's state of domicile;
- (7) designation of whether the form is an amended form;
- (8) the number of tax-paid cigarettes, designated by packs, returned to the manufacturer;
- (9) any discount previously allowed under G.S. 105-113.21(a1);
- (10) the refund due;
- (11) for the person authorized to legally bind the person required to file the form, his or her:
 - (A) signature;
 - (B) job title;
 - (C) date of signature; and
 - (D) affirmation that the form is accurate and complete; and
- (12) an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the distributor requesting the refund.

(c) Only the licensed distributor who originally paid excise tax pursuant to G.S. 105-113.5 is eligible for the refund.

History Note: Authority G.S. 105-113.21; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Readopted Eff. January 1, 2021.

17 NCAC 04C .1003 MUTILATED BUT IDENTIFIABLE STAMPS

17 NCAC 04C .1004 OUT-OF-STATE SHIPMENTS: NO REFUND

History Note: Authority G.S. 105-113.25; 105-262;
Eff. February 1, 1976;
Amended Eff. June 11, 1977;
Repealed Eff. January 1, 1994.

SECTION 1100 – RAILROADS AND OCEAN-GOING VESSELS

17 NCAC 04C .1101 DEALERS ON TRAINS

History Note: Authority G.S. 105-113.6; 105-262;
Eff. February 1, 1976;

*Amended Eff. July 1, 2000; January 1, 1994;
Expired Eff. January 1, 2019 pursuant to G.S. 150B-21.3A.*

17 NCAC 04C .1102 OCEAN-GOING VESSELS

Non-tax-paid cigarettes may be sold for use or consumption by or on ocean-going vessels which leave the continental United States and which ply the high seas in interstate or foreign commerce in the transport of freight or passengers for hire exclusively when delivered to an officer or agent of such vessel for use by or on such vessel accordingly. Receipt for delivery of such non-tax-paid cigarettes shall be signed for by an authorized officer or agent of such vessel, and such signed receipts shall be retained by the distributor for a period of three years; also, a copy of same shall be appended to the appropriate monthly tax report of the distributor. Only North Carolina tax-paid cigarettes may be sold by such vessels while in port or within the territorial limits of this state.

*History Note: Authority G.S. 105-113.6; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

SECTION .1200 - CIGARETTE VENDING MACHINES

17 NCAC 04C .1201 IDENTIFICATION REQUIREMENT FOR EACH MACHINE

(a) Distributors, wholesalers or retail dealers owning, leasing, furnishing or operating cigarette vending machines shall affix to each such machine in a conspicuous place an identification sticker or device, which shall show the name, address and telephone number of the operator owning and placing such machine on location. The owner of the business wherein such machine is located shall also be responsible for seeing that such vending machine is so identified.

(b) No cigarette dispensing machine shall be allowed to operate in this state that does not have affixed thereto the identification required under G.S. 105-113.17.

*History Note: Authority G.S. 105-113.17; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

17 NCAC 04C .1202 VENDING MACHINE OPERATORS

*History Note: Authority G.S. 105-65.1; 105-113.18; 105-262;
Eff. February 1, 1976;
Amended Eff. July 1, 1984;
Expired Eff. January 1, 2019 pursuant to G.S. 150B-21.3A.*

17 NCAC 04C .1203 DISTRIBUTORS WITH VENDING MACHINES

*History Note: Authority G.S. 105-113.18; 105-250.1; 105-113.37;
Eff. February 1, 1976;
Repealed Eff. July 1, 1984.*

17 NCAC 04C .1204 DISPLAY STAMPED CIGARETTES IN MACHINES

*History Note: Authority G.S. 105-113.22; 105-113.28; 105-262;
Eff. February 1, 1976;
Repealed Eff. January 1, 1994.*

SECTION .1300 - OTHER TOBACCO PRODUCTS LICENSES

17 NCAC 04C .1301 APPLICATION OR RENEWAL REQUIREMENTS FOR WHOLESALE DEALER'S OR RETAIL DEALER'S LICENSE; DUTY TO UPDATE

- (a) A wholesale dealer or retail dealer obtaining, renewing, or updating a license pursuant to G.S. 105-113.36 shall use Form B-A-2 as set forth in Rule .0104 of this Subchapter.
- (b) A wholesale dealer or retail dealer shall notify the Department of any changes to the information previously provided on the Form B-A-2 by submitting a revised Form B-A-2. A wholesale dealer or retail dealer shall notify the Department at least 30 days before changing the physical location where non-tax-paid tobacco products are manufactured, received, or stored. A wholesale dealer or retail dealer shall notify the Department of all other changes previously provided on Form B-A-2 within 30 days of the change.
- (c) A wholesale dealer or retail dealer obtaining a new license or renewing an expired license shall remit the tax required by G.S. 105-113.36 with Form B-A-2.
- (d) A wholesale dealer or retail dealer obtaining a new license shall include a bond or an irrevocable letter of credit pursuant to G.S. 105-113.38.
- (e) A wholesale dealer or retail dealer shall notify the manufacturers from whom other tobacco products are purchased or received when the Department issues it a wholesale dealer's license or retail dealer's license or when there are changes to its license.
- (f) A wholesale dealer or retail dealer shall submit Form B-A-2 for each place of business as defined by G.S. 105-113.36.
- (g) A wholesale dealer who is also a retail dealer is only subject to the license tax under G.S. 105-113.36(a)(1) and is not required to remit the license tax for its retail dealer activity.

History Note: Authority 105-113.36; 105-262;
Eff. June 1, 1992;
Amended Eff. January 1, 1994;
Readopted Eff. January 1, 2021.

SECTION .1400 - MANUFACTURERS OF OTHER TOBACCO PRODUCTS

17 NCAC 04C .1401 INVOICE REQUIREMENT 17 NCAC 04C .1402 SALES TO LICENSED DEALERS ONLY 17 NCAC 04C .1403 MANUFACTURERS ACTING AS RETAILER

History Note: Authority G.S. 105-113.35; 105-113.37; 105 262;
Eff. June 1, 1992;
Amended Eff. January 1, 1994;
Repealed Eff. January 1, 2021.

SECTION .1500 - LIABILITY FOR OTHER TOBACCO PRODUCTS EXCISE TAX

17 NCAC 04C .1501 PRIMARY LIABILITY

History Note: Authority G.S. 105-113.35; 105-262;
Eff. June 1, 1992;
Amended Eff. January 1, 1994;
Expired Eff. January 1, 2019 pursuant to G.S. 150B-21.3A.

SECTION .1600 - MILITARY EXEMPT SALES

17 NCAC 04C .1601 EXEMPT SALES LIMITED TO ARMED FORCES AND THEIR DEPENDENTS

Other tobacco products sold to the Federal Government and its instrumentalities, such as the Armed Forces Exchange Services, are exempt from the excise tax. However, sales of other tobacco products by such services **MUST BE LIMITED** to members of the armed forces and their dependents who hold identification cards entitling them to make purchases through armed forces exchange services.

History Note: Authority G.S. 105-113.35; 105-262;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

17 NCAC 04C .1602 DELIVERIES TO ARMED FORCES EXCHANGE SERVICES

Whenever tax exempt deliveries of other tobacco products are made by dealers to armed forces exchange services, the dealer must require a duly receipted invoice or copy thereof from the governmental agent designated to accept delivery.

History Note: Authority G.S. 105-113.35; 105-262;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

17 NCAC 04C .1603 SALES OF OTHER TOBACCO PRODUCTS: BY OTHERS: NOT EXEMPT

If a person engages in the sale of any other tobacco products on a military reservation, regardless of the fact that he may have a contract with the Federal Government, whereby the Federal Government will receive a commission, flat fee or some other type of compensation on such sales, same does not exempt the sale of such products from the excise tax. In such instances, such sales would not be made by the Federal Government or an instrumentality thereof. Instead, all such sales are subject to the excise tax.

History Note: Authority G.S. 105-113.35; 105-262;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

SECTION .1700 - DESIGNATION OF EXEMPT SALES

17 NCAC 04C .1701 MUST SELL AS DESIGNATED

Once other tobacco products are designated as tax exempt under G.S. 105-113.35, they must be sold in tax exempt transactions.

History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

17 NCAC 04C .1702 NO DELAYED OR DEFERRED TAX PAYMENT ALLOWED

No wholesale dealer or retail dealer or customer of a wholesaler may delay payment of the tax due on other tobacco products by failing to pay tax on a sale that is not a designated sale or by overstating the quantity of other tobacco products that will be resold in an exempt transaction.

History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

17 NCAC 04C .1703 PRIOR WRITTEN NOTIFICATION REQUIRED FROM NC CUSTOMERS

A wholesale dealer may sell other tobacco products nontaxpaid to a customer who has tax exempt sales provided the customer has notified the wholesale dealer in writing that the customer intends to resell the items in exempt transactions. Where prior written notification is not provided, the wholesale dealer must remit applicable tax.

History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

17 NCAC 04C .1704 INVOICING REQUIREMENTS

The wholesale dealer must separately invoice and indicate the other tobacco products designated for exempt transactions. For example, sales designated for customers with other tobacco product sales outside North Carolina must be invoiced to read, "Designated for Sale Outside North Carolina".

*History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

17 NCAC 04C .1705 REPORTING REQUIREMENTS

The wholesale dealer selling the designated other tobacco products must file a monthly report using Form B-A-101 within 20 days after the end of the month covered by the report.

*History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;
Amended Eff. January 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

17 NCAC 04C .1706 ORIGINAL SELLER NOT LIABLE FOR TAX

The wholesale dealer, who relies on the prior written exempt intent of its customer, is not required to pay tax on the designated sales when filing a monthly report. However, the wholesaler must pay the tax due on all other taxable sales.

*History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

17 NCAC 04C .1707 PENALTIES FOR IMPROPER HANDLING OF DESIGNATED PRODUCT

The tax liability plus penalties and interest will be held against the wholesaler's customer who sells other tobacco products designated exempt in a taxable transaction. Customers violating designation procedures are not entitled to the timely payment discount.

*History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;
Amended Eff. January 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

SECTION .1800 – REPORTS AND RECORDS REQUIRED OF WHOLESALE DEALERS AND RETAIL DEALERS

17 NCAC 04C .1801 MONTHLY REPORT FOR WHOLESALE DEALERS AND RETAIL DEALERS

(a) Wholesale dealers and retail dealers filing a report pursuant to G.S. 105-113.37 for other tobacco products, except vapor products, shall file Form B-A-101 and Form B-A-7. The requirements of B-A-7 are provided in 17 NCAC 04C .0901(g) through (i).

(b) Form B-A-101 requires the following:

- (1) the reporting period for the report;
- (2) information required by 17 NCAC 01C .0322(b);
- (3) the wholesale dealer or retail dealer's legal name and mailing address;
- (4) the trade name or doing-business-as name, if applicable;

- (5) if the wholesale dealer or retail dealer elects to designate a contact person, the identity of a contact person, including his or her legal name, phone number, and fax number;
- (6) the wholesale dealer's or retail dealer's state of domicile;
- (7) designation of whether the form is an amended form;
- (8) the cost price of other tobacco products, except vapor products, subject to the excise tax under G.S. 105-113.35(a), sold or purchased during the reporting period, with a copy of an invoice or equivalent information for each sale or purchase;
- (9) the cost price of other tobacco products, except vapor products, sold or purchased during the reporting period that were sold outside the State, with a copy of an invoice or equivalent information for each sale or purchase;
- (10) the cost price of other tobacco products, except vapor products, sold or purchased during the reporting period that were sold to the federal government, with a copy of an invoice or equivalent information for each sale or purchase;
- (11) the cost price of other tobacco products, except vapor products, sold or purchased during the reporting period that were exempt or subject to an excise tax reduction under G.S. 105-113.4E;
- (12) any discount allowed under G.S. 105-113.39;
- (13) the total excise tax due;
- (14) penalty and interest due on tobacco products, if any, in accordance with G.S. 105-236 and G.S. 105-241.21;
- (15) total payment due; and
- (16) for the person authorized to legally bind the person required to file the form, his or her:
 - (A) signature;
 - (B) job title;
 - (C) date of signature; and
 - (D) affirmation that the form is accurate and complete.

(c) Wholesale dealers and retail dealers filing a report pursuant to G.S. 105-113.37 for vapor products shall file Form B-A-102.

(d) Form B-A-102 requires the following:

- (1) the reporting period for the report;
- (2) information required by 17 NCAC 01C .0322(b);
- (3) the wholesale dealer or retail dealer's legal name and mailing address;
- (4) the trade name or doing-business-as name, if applicable;
- (5) if the wholesale dealer and retail dealer elects to designate a contact person, the identity of a contact person, including his or her legal name, phone number, and fax number;
- (6) the wholesale dealer's or retail dealer's state of domicile;
- (7) designation of whether the form is an amended form;
- (8) the number of milliliters of vapor products sold or purchased during the reporting period, with a copy of an invoice or equivalent information for each sale or purchase;
- (9) the number of milliliters of vapor products sold or purchased during the reporting period that were sold outside the State, with a copy of an invoice or equivalent information for each sale or purchase;
- (10) the number of milliliters of vapor products sold or purchased during the reporting period that were sold to the federal government with a copy of an invoice or equivalent information for each sale or purchase;
- (11) the number of milliliters of vapor products sold or purchased during the reporting period that were exempt or subject to an excise tax reduction under G.S. 105-113.4E;
- (12) the total vapor products tax due;
- (13) penalty and interest due on tobacco products, if any, in accordance with G.S. 105-236 and G.S. 105-241.21;
- (14) the total payment due; and
- (15) for the person authorized to legally bind the person required to file the form, his or her:
 - (A) signature;
 - (B) job title;
 - (C) date of signature; and
 - (D) affirmation that the form is accurate and complete.

(e) Invoices or equivalent information provided in accordance with Paragraphs (b) and (d) of this Rule shall contain the information required in Rule .0903(c) of this Subchapter.

(f) Wholesale dealers and retail dealers required to file Form B-A-101 shall file the form even if no other tobacco products, except vapor products, were sold, shipped, delivered, or otherwise disposed of during the reporting period. Wholesale dealers and retail dealers required to file Form B-A-102 shall file the form even if no vapor products were sold, shipped, delivered, or otherwise disposed of during the reporting period.

History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;
Amended Eff. July 1, 2000;
Readopted Eff. January 1, 2021.

17 NCAC 04C .1802 INVOICING REQUIREMENTS FOR WHOLESALE DEALERS AND RETAIL DEALERS

(a) Except for sales to consumers, where other record keeping requirements apply, a wholesale dealer or retail dealer shall maintain an invoice for every other tobacco product that it sells, ships, or delivers in this State or outside this State. A wholesale dealer or retail dealer shall also maintain an invoice when it transfers other tobacco products to other places of business operated or caused to be operated by the wholesale dealer or retail dealer.

(b) A wholesale dealer or retail dealer shall forward to the Department copies of invoices of other tobacco product sales or transfers required by Paragraph (a) of this Rule, or equivalent information, monthly.

(c) Invoices shall contain the information required in Rule .0903(c) of this Subchapter.

(d) Invoices addressed in Paragraph (a) of this Rule shall be maintained for three years by all persons party to the sale of other tobacco products who are required to be licensed under Article 2A. All parties to the sale must be issued identical invoices, and the invoices shall not be altered after issuance. If the invoice requires modification, a separate document must accompany the invoice describing the change to the invoice. This document must include the date it was prepared and must be delivered to and maintained by any other party to the sale.

(e) Notwithstanding Paragraph (a) of this Rule, a wholesale dealer or retail dealer shall comply with the invoice requirements for delivery sales in accordance with G.S. 105-113.4F.

History Note: Authority G.S. 105-113.37; 105-262;
Eff. June 1, 1992;
Readopted Eff. January 1, 2021.

17 NCAC 04C .1803 RECORDS REQUIREMENTS FOR WHOLESALE DEALERS AND RETAIL DEALERS

Wholesale dealers and retail dealers maintaining records pursuant to G.S. 105-113.4G shall segregate records of other tobacco product sales that are exempt from the excise tax.

History Note: Authority G.S. 105-113.4G; 105-262;
Eff. June 1, 1992;
Readopted Eff. January 1, 2021.

SECTION .1900 - OTHER TOBACCO PRODUCTS VENDING MACHINES

17 NCAC 04C .1901 IDENTIFICATION AND LOCATION REQUIRED

History Note: Authority G.S. 105-65.1; 105-113.17; 105-262;
Eff. June 1, 1992;
Expired Eff. January 1, 2019 pursuant to G.S. 150B-21.3A.

SECTION .2000 – MANUFACTURER CERTIFICATION AND DIRECTORY OF VAPOR AND CONSUMABLE PRODUCTS

17 NCAC 04C .2001 DEFINITIONS

- (a) Certifying Manufacturer – Any manufacturer of vapor products or consumable products, as those terms are defined in G.S. 14-313(a), that submits an initial certification or annual certification renewal to the Secretary as required in G.S. 143B-245.11.
- (b) Directory – A public listing on the Department's website, www.ncdor.gov, of certifying manufacturers whose initial certification or annual certification renewal have been submitted and approved by the Secretary.
- (c) Initial Certification Fee – The initial certification fee of two thousand dollars (\$2,000) as set by G.S. 143B-245.11(b)(2). The initial certification fee is per certifying manufacturer and is not based on the number of vapor products or consumable products submitted by the certifying manufacturer to the Department.
- (d) Product Offered for Sale – Each unique vapor product name, consumable product name, or brand name along with the product code or stock-keeping unit (SKU) constitutes a separate product offered for sale in this State.
- (e) Annual Renewal Fee – The annual certification renewal fee five hundred dollars (\$500.00) as set by G.S. 143B-245.11(b)(2). The annual renewal fee is per certifying manufacturer and is not based on the number of vapor products or consumable products submitted by the certifying manufacturer to the Department.
- (f) Vapor Product – As defined in G.S. 14-313(a)(5), shall apply to the manufacturer certification of vapor products and consumable products and the directory of vapor products and consumable products. The definition of vapor product found in G.S. 105-113.4(13a) shall not apply to the administration of the manufacturer certification and directory.

History Note: Authority G.S. 143B-245.16;
Eff. March 1, 2025.

17 NCAC 04C .2002 DIRECTORY

- (a) Pursuant to G.S. 143B-245.12, beginning May 1, 2025, and on the first of each month thereafter, the Department shall post to its website, www.ncdor.gov, a directory of certifying manufacturers. The directory shall include the certifying manufacturer's name, along with a listing of the certified and approved products, to include vapor product names, consumable product names, brand names, type or category of products, and flavor of products.
- (b) Only those products appearing on the directory shall be products offered for sale in this State. All other products not appearing on the directory are prohibited from retail sale in this State.
- (c) The Department, within each monthly publication of the directory, shall separately list additions or removals of certifying manufacturers or their vapor products or consumable products for that month.

History Note: Authority G.S. 143B-245.12; 143B-245.16;
Eff. March 1, 2025.

17 NCAC 04C .2003 CERTIFICATION

- (a) Initial Certification Application - Beginning March 1, 2025, each certifying manufacturer shall electronically submit to the Department an initial certification application. The certifying manufacturer shall also electronically submit to the Department the initial certification fee at the time a certifying manufacturer submits the initial certification application.
 - (1) Manufacturers of vapor products or consumable products, offered for sale in this State prior to March 1, 2025, shall submit the initial certification application and initial certification fee by April 15, 2025.
 - (2) Manufacturers of vapor products or consumable products, who intend to offer products for sale in this State after March 1, 2025, shall submit the initial certification application and initial certification fee prior to shipping any vapor products or consumable products to a retailer, distributor, or wholesaler in this State for the purpose of making retail sales.
- (b) The initial certification application and initial certification fee shall be completed through the Department's website at the following link: <https://www.ncdor.gov/taxes-forms/tobacco-products-tax>.
- (c) The initial certification application shall include the following information:
 - (1) the manufacturer's legal business name or assumed name for sole proprietors, business mailing address, daytime telephone number, fax number, and email address;
 - (2) federal employer identification number (FEIN) or social security number for proprietorships;
 - (3) a contact person, including that person's legal name, telephone number, fax number, and e-mail address.
 - (4) a designation of whether the manufacturer is requesting an initial certification or updating information to a previously submitted application;

- (5) the seven-digit Secretary of State identification number assigned by the North Carolina Secretary of State when the manufacturer registered its business entity to do business in the State.
 - (6) the name, address, telephone number, fax number, and email address of a registered agent as required in Rule .2006 of this Section;
 - (7) a manufacturer located outside of the United States shall list the importers of any of the manufacturer's products to be sold in this State, as well as the name, address, telephone number, fax number, and email address of the importers registered agent.
 - (8) a list of each vapor product or consumable product that is sold in this State to include the brand name, category (e.g., e-liquid, power unit, device, e-liquid cartridge, e-liquid pod, disposable), product name, product code or stock-keeping unit (SKU), and flavor; and
 - (9) the Food and Drug Administration (FDA) tracking number and order date for each vapor product and consumable product offered by the manufacturer, and shall upload a copy of:
 - (A) the marketing granted order issued by the FDA pursuant to 21 U.S.C. 387j;
 - (B) the acceptance letter issued by the FDA pursuant to 21 U.S.C. 387j for a Timely Filed Premarket Tobacco Product Application; or
 - (C) a document issued by the FDA or by a court confirming that the premarket tobacco product application has received a denial order that is not yet in effect and remains stayed or rescinded by FDA or vacated by a court; and
 - (10) the total certification fee due and remitted.
- (d) Failure to submit the required information for the initial certification application or the initial certification fee will result in a denial of the application and exclusion from the vapor product and consumable product directory, pursuant to G.S. 143B-245.12(b). If an initial certification application is denied pursuant to a provision of G.S. 143B-245.12(b), the certifying manufacturer shall electronically resubmit to the Department a new initial certification application and initial certification fee.
- (e) Failure to submit the initial certification application or initial certification fee to the Department 15- days prior to the first of each month, when the Department makes the vapor product and consumable product directory available for public inspection on the Department's website, will result in a manufacturer's products offered for sale to be prohibited from retail sale in this State, pursuant to G.S. 143B-245.13 until the manufacturer becomes certified.

History Note: Authority G.S. 143B-245.11; 143B-245.12; 143B-245.13; 143B-245.16; Eff. March 1, 2025.

17 NCAC 04C .2004 ANNUAL CERTIFICATION RENEWAL

- (a) Beginning January 1, and not later than March 1, of each subsequent year, certifying manufacturers of vapor products shall electronically submit to the Department an annual renewal application. The certifying manufacturer shall also electronically submit to the Department the annual renewal fee at the time a certifying manufacturer submits the annual renewal application.
- (b) The annual certification renewal application and annual renewal fee shall be completed through the Department's website at the following link: www.ncdor.gov.
- (c) The annual certification renewal application shall include the following information:
 - (1) the manufacturer's legal business name or assumed name for sole proprietors, business mailing address, daytime telephone number, fax number, and email address;
 - (2) federal employer identification number (FEIN) or social security number for proprietorships;
 - (3) a contact person, including that person's legal name, telephone number, fax number, and e-mail address;
 - (4) a designation of whether the manufacturer is requesting a renewal certification or updating information to a previously submitted application;
 - (5) the seven-digit Secretary of State identification number assigned by the North Carolina Secretary of State when the manufacturer registered its business entity to do business in the State;
 - (6) the name, address, telephone number, fax number, and email address of the registered agent as required in Rule .2006 of this Section;
 - (7) a manufacturer located outside of the United States shall list the importers of any of the manufacturer's products to be sold in this State, as well as the name, address, telephone number, fax number, and email address of the importers registered agent;

- (8) a list of each vapor product or consumable product that is sold in this State to include the brand name, category (e.g., e-liquid, power unit, device, e-liquid cartridge, e-liquid pod, disposable), product name, product code or stock-keeping unit (SKU), and flavor; and
 - (9) the Food and Drug Administration (FDA) tracking number and order date for each vapor product and consumable product offered by the manufacturer, and shall upload a copy of:
 - (A) the marketing granted order issued by the FDA pursuant to 21 U.S.C. 387j;
 - (B) the acceptance letter issued by the FDA pursuant to 21 U.S.C. 387j for a Timely Filed Premarket Tobacco Product Application; or
 - (C) a document issued by the FDA or by a court confirming that the premarket tobacco product application has received a denial order that is not yet in effect and remains stayed or rescinded by FDA or vacated by a court; and
 - (10) the total certification fee due and remitted.
- (d) The certifying manufacturer shall submit the annual renewal application and annual renewal fee to the Department during the annual renewal period to be timely. Failure of a certifying manufacturer to renew its certification or remit the annual renewal fee with the Department shall result in the expiration of the manufacturer's certification and exclusion from the vapor product and consumable product directory, pursuant to G.S. 143B-245.12(b).
- (e) If a certifying manufacturer's certification expires, the certifying manufacturer shall electronically submit to the Department a new initial certification application and initial certification fee as set out in Rule .2003 of this Section, to be recertified.

History Note: Authority G.S. 143B-245.11; 143B-245.12; 143B-245.13; 143B-245.16;
Eff. March 1, 2025.

17 NCAC 04C .2005 MATERIAL CHANGES TO CERTIFICATION

- (a) Pursuant to G.S. 143B-245.11(e), certifying manufacturers shall notify the Department of any material change to the certification. A material change is any change in the criteria found under G.S. 143B-245.11(a), G.S. 143B-245.11(c), or a change as described in G.S.143B-245.11(e). Certifying manufacturers shall electronically submit the changes to the Department through their original initial certification application. There is no fee to update a certification. Certifying manufacturers shall notify the Department not more than 30 days after any material change to the certification.
- (b) Failure to notify the Department of a material change to a certification may result in removal of the certifying manufacturer or its vapor products or consumable products from the directory.

History Note: Authority G.S. 143B-245.11; 143B-245.12; 143B-245.16;
Eff. March 1, 2025.

17 NCAC 04C .2006 REGISTERED AGENT

- (a) Pursuant to G.S. 143B-245.14, a manufacturer shall appoint a registered agent in this State for service of process. This applies to a manufacturer that is a sole proprietor in this State, an out-of-state business not required to register with the North Carolina Secretary of State to do business in this State, or a manufacturer located outside of the United States.
- (b) A manufacturer located outside of the United States shall require its importers of any of its vapor products or consumable products, to be sold in this State, to appoint a registered agent.
- (c) Certifying manufacturers shall notify the Department of the name, address, telephone number, fax number, and email address of their registered agent through the electronic initial certification application and annual certification renewal.

History Note: Authority G.S. 143B-245.14; 143B-245.16;
Eff. March 1, 2025.