The FTA Tobacco Uniformity Committee has developed the revised PACT Act forms, PA-1/PA-2, effective 3/2021. The Committee has approved these revised PDF and Excel versions. These are forms for the states that accept paper filing and have not yet fully adopted the electronic reporting using the FTA Tobacco Uniformity electronic XML filing schema. Please note the FTA Tobacco Uniformity electronic XML filing schema captures all data a state may need for all reports/files/returns (such as PACT, MSA, etc.).

The federal government has now included ENDS (vapor products, e-cigarettes, components even sold separate from the solution, etc) to be included on the federal PACT Act forms.  This will go into effect on March 27, 2021.  Companies shipping or selling into states will now be required to submit information about their sales of ENDS and comply with those states’ laws on licensing/filing/reporting.  ATF will also produce a non-compliant list of companies not adhering to the new law.  Accordingly, USPS, UPS, and FedEx have stated that they will not ship any ENDS to end consumers.

**2021 Updated PACT Act requirements -**

Companies that import, market and distribute vaping products will see significant changes to their businesses due to a major modification in the scope of products subject to the Prevent All Cigarette Trafficking (PACT) Act. The Consolidated Appropriations Act, 2021, which was signed into law on December 27, 2020, adds “electronic nicotine delivery system” to the definition of a “cigarette” in 15 U.S.C. 375(2)(A). The definition of an electronic nicotine delivery system is broadly worded to cover “any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device,” and includes:

1. an e-cigarette;
2. an e-hookah;
3. an e-cigar;
4. a vape pen;
5. an advanced refillable personal vaporizer;
6. an electronic pipe; and
7. any component, liquid, part, or accessory of a device…without regard to whether the component, liquid, part, or accessory is sold separately from the device.

**15 U.S.C. 375(7)**

Products determined to be included in the definition of an electronic nicotine delivery system are subject to a number of registration, labeling, delivery, tax, reporting and record-keeping requirements, which include:

* Registration of any person who advertises, offers, sells, transfers or ships for profit electronic nicotine delivery systems with The Bureau of Alcohol, Tobacco, Firearms and Explosives and the tobacco tax administrators of each state where shipments are made or advertisements or offers are disseminated.
* Monthly reporting about shipments made in the previous month to each state’s tobacco tax administrator.
* Providing the following statement on all bills of lading and shipping packages:

*Cigarettes/Smokeless Tobacco: Federal Law Requires the Payment of all Applicable Excise Taxes, and Compliance with Applicable Licensing and Tax-Stamping Obligations.*

* Confirmation by the common carrier or other delivery service of the legal age of the person accepting delivery of a consumer purchase through a valid, government-issued, photo identification.
* Limits on the weight of a single sale to a consumer to 10 pounds and prohibiting consumer deliveries through the U.S. Postal Service. Sellers to consumers must also obtain the full name, birth date, and residential address of the consumer and verify the provided information using a commercially available database for age and identity authentication.
* Payment of excise taxes to the state for consumer sales.