



**COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL**

Tobacco Enforcement Section
15th Floor Strawberry Square
Harrisburg, PA 17120
Phone: (717) 783-1794
<http://www.attorneygeneral.gov>

PARTICIPATING MANUFACTURER CERTIFICATION FORM

Complete all fields or indicate N/A – Do not leave blanks.

Please review all instructions for further information.

Failure to provide all necessary information will result in the rejection of your certification.

PART I: Tobacco Product Manufacturer Identification

Company Name			
Address			
City	State	Zip Code	Country
Telephone Number		Fax Number	
Email Address Designated to Accept All Official Communication		Web Address	
Factory Addresses & Names of Plant Managers (use additional sheets if necessary)			Phone Numbers of Plant Managers

Manufacturer's Federal Taxpayer ID# _____

Name of Importer _____

Importer's Address _____

Importer's Federal Taxpayer ID# _____ US Customs ID# _____

This Form is (check one):

- Annual Certification (due April 30 for Pennsylvania sales in the previous year)
- Supplemental Certification (changes to information on previously submitted forms)
- Quarterly Certification (Manufacturers required to file each quarter)
- Initial Certification (Manufacturer not currently listed on Pennsylvania's directory)

Initial Certifications will require additional documentation.

PART II: General Questions for the Manufacturer (attach additional sheets if necessary)

1. Are you the actual manufacturer (i.e. fabricator) of the brands listed in this certification?
Yes _____ No _____ If "No," please explain your reason for certifying.

2. If you have an MSA Amendment, are you still in compliance with the provisions of that Amendment? (Do not check N/A if you have an MSA Amendment.)

Yes _____ No _____ N/A _____ If "No," please explain.

3. Are you the Trademark Owner of the brands listed in this certification?

Yes _____ If "Yes," attach a copy of your active trademark registration*

No _____ If "No," provide the name and contact information of the owner and attach an executed copy of the exclusive manufacturing agreement showing the right to use*

*If you have already submitted a trademark registration or agreement and it has not expired, you do not need to resubmit. Please indicate if this is the case → _____

Trademark Registration Attached _____ or, Executed Agreement Attached _____

4. Have you included a copy of the Federal Trade Commission (FTC) approval letter for the current year for all brands listed in this certification?

Yes _____ No _____ If "No," please explain why it is not available.

5. Have you included a copy of the U.S. Centers for Disease Control (CDC) ingredient listing compliance letter for the current year for all of the brands listed in this certification?

Yes _____ No _____ If "No," please explain why it is not available.

6. Have you ever had an enforcement action taken against you?

Yes _____ No _____

If "Yes," list the state(s) involved and a detailed explanation. (Attach additional sheets if necessary.)

7. Have you ever been denied Directory Listing in any other state or commonwealth?

Yes _____ No _____

If "Yes," list the state(s) involved and a detailed explanation. (Attach additional sheets if necessary.)

8. Have you included a copy of the PA Department of Revenue's Cigarette Manufacturer Certificate for fire safe cigarettes unless a previously supplied form has not expired or has not changed?

Yes _____ No _____

9. Are you registered with the PA Department of Revenue for compliance with the federal Prevent All Cigarette Trafficking Act/Jenkins Act 15 U.S.C § 375 - 378?

Yes _____ No _____ Verification will be made with the PA Department of Revenue.

INITIAL CERTIFICATIONS ONLY (Annual Certifications check N/A)

1. Have you attached a photograph and diagram of the manufacturing facility?
 Yes _____ No _____ N/A _____ If "No," please explain why it is not available.

2. Have you attached a copy of the company's organizational chart?
 Yes _____ No _____ N/A _____ If "No," please explain why it is not available.

PART III: Brand and Style Identification (attach additional sheets if necessary)
Provide a color CD/DVD of every brand style or promotional packaging. Include views of each side of the packaging.

Section A. Brands Currently Certified and on the Directory

List brands and styles that will remain on the Directory.

Brand	Style	Flavor	Filter/Non	Package

Indicate with an asterisk() any brands previously sold that are not being sold in the current year.*

Section B. Brands and Styles to be Removed from the Directory

List brands and styles currently on the Directory that will no longer be certified.

Brand	Style	Flavor	Filter/Non	Package

Section C. Additional Brands and Styles to be Certified

List additional brands and styles to be added to the Directory. List the Brand and Stamping Agent. If a brand family has been manufactured by more than one manufacturer, on a separate sheet of paper provide the name and address of every other tobacco product manufacturer and the dates the brand was produced by each manufacturer.

Brand	Style	Flavor	Filter/Non	Package

Brand	PA Licensed Cigarette Stamping Agent (if established)

PART IV: Execution by Corporate Officer or Director

Under penalty of perjury, I certify and declare that all of the statements and information contained in the certification, including but not limited to any accompanying statements or attachments herewith, are true, correct and complete and that I am a person authorized to bind the Tobacco Product Manufacturer making this certification either under the laws of the Commonwealth of Pennsylvania or of the jurisdiction where the manufacturer resides or is organized.

I understand that any violation of the requirements of the Tobacco Product Manufacturer Directory Act of the Tobacco Settlement Agreement Act of 2000 is a basis for removal of the manufacturer's brand families from the Commonwealth's Directory of Approved Brands.

I hereby certify under penalty of perjury that the Tobacco Product Manufacturer identified in Part 1 is a Participating Manufacturer under the Master Settlement Agreement who is compliant with their financial obligations as set forth in the MSA.

Signature of Officer or Director: _____ Date: _____

Print Name: _____ Title: _____

Required Checklist:

- Attached a copy of the current Federal Trade Commission (FTC) approval letter(s) for health-warning rotation plan for all brand families.
- Attached a copy of the current Centers for Disease Control (CDC) ingredient listing compliance letter(s) for all brand families.
- Attached a copy of my TTB Manufacturer's/Importer's Permit or, a previously submitted copy has not expired.
- If a previously submitted registration or agreement has expired, I have attached a copy of my new trademark certification for all brand families or, if I am not the trademark owner, I have attached a new executed exclusive manufacturing agreement entered into with the trademark owner(s).
- Included color CD/DVD of all packaging to be used in Pennsylvania during the certification year.
- For Initial Certifications – I have attached a photograph and diagram of the facility, an organizational chart of the company.
- Attached a copy of PA Department of Revenue's Cigarette Manufacturer Certificate for fire safe cigarettes unless a previously supplied form is not expired or has not changed.
- Completed this certification in its entirety or indicated N/A and I have signed it.
- I have reviewed and complied with the attached instructions.

Upon request, you may be required to submit additional documentation to verify your information such as articles of incorporation, corporate charters, corporate bylaws, operating agreements, contracts, leases, importer's certificates, licenses, BATF Form 7501s, bills of lading, customer invoices, etc.

Mail the completed original Tobacco Manufacturer's Certification and a complete set of all supporting documents to:

**Commonwealth of Pennsylvania
Office of Attorney General
Tobacco Enforcement Section
15th Floor Strawberry Square
Harrisburg, PA 17120**

Facsimiles will not be accepted.

Acceptance of this certification by the Commonwealth does not waive any rights to enforce the provisions of the Tobacco Settlement Agreement Act (TSAA), 35 P.S. §5671 et seq.

INSTRUCTIONS

This certification must be completed in English. All attachments must include a certified English translation if the original document is in a different language.

Fill out the certification form completely. Do not leave any fields blank. Indicate N/A when applicable.

Attachments must clearly indicate the section to which it corresponds.

Part I: Tobacco Product Manufacturer's Identification

Provide the company name and complete addresses. Provide the telephone number and fax number for the company official signing this certification. Provide an email address that is designated to receive all official office communication from our Office. Also provide the company web address. Identify the name and title of the person completing the certification form. Identify factory addresses, telephone numbers and names of plant managers where the cigarettes are made. If using an outside agency to complete this certification, please identify the name of that agency.

In the blocks provided, supply the Manufacturer and/or Importer's information where applicable. Be sure to indicate N/A where not applicable. Do not leave any fields blank, as this will cause the certification to be rejected and returned.

You must indicate whether this is an annual, supplemental, quarterly or initial certification by checking one of the blocks.

Initial Certification questions should be completed by companies not currently included on the Pennsylvania Directory.

Part II: General Questions

Answer the questions by checking yes or no or N/A. Supply detailed explanations when indicated. Attach required documentation and check applicable boxes.

Part III: Brand Family Identification

Provide a color CD/DVD of every brand style or promotional packaging. Include views of each side of the packaging. Each time you change your packaging; add new brand styles; or, create a special, limited edition package you must submit a color CD/DVD. When in doubt about packaging submission, please contact our Office for clarification.

Section A - Identify by brand and style all of the cigarettes that you intend to sell in Pennsylvania whether directly or through any distributor, retailer, or similar intermediary.

Do not include a Brand Family in the list unless the cigarettes are to be considered yours for purposes of calculating your payments under the Master Settlement Agreement (MSA). You need to have reported sales of those brands to the Independent Auditor, in the volume and shares as determined under the MSA.

Section B - Identify any brands and styles that you have discontinued selling in Pennsylvania and wish to remove from your Directory listing.

We recommend waiting a sufficient amount of time before delisting a brand to allow retailers time to clear their inventories.

Section C - Identify by brand and style brands currently not on the directory that you wish to add to the Directory listing. Only brands in compliance with FDA regulations are eligible for listing.

If a brand family has been manufactured by more than one manufacturer, on a separate sheet of paper provide the name and address of every other tobacco product manufacturer and the dates the brand was produced by each manufacturer.

Part IV: Execution by Corporate Officer or Director

The person executing the Tobacco Manufacturer Certification Form must be an authorized Officer or Director of the Tobacco Product Manufacturer. A power of attorney will not be accepted. The designee's name and title must be printed and signed.

Definitions:

- a) "Brand Family" - all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "kings," and "100s." The term includes any use of a 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 any product identification identical or similar to or identifiable with a previously known brand of cigarettes.

- b) "Cigarette" - any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use and consists of or contains any of the following:
- (1) Any roll of tobacco wrapped in paper, or in any substance not containing tobacco.
 - (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.
 - (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 paragraph (1).
- c) "Enforcement Action"- Any lawsuit filed by any state against a Tobacco Product Manufacturer for failure to make MSA payments, escrow deposits and/or file a certification.
- d) "Non-Participating Manufacturer"- any tobacco product manufacturer that is not a party to the Master Settlement Agreement (MSA).
- e) "Participating Manufacturer" - a tobacco product manufacturer that is a party to the Master Settlement Agreement (MSA).
- f) "Units Sold" - The number of individual cigarettes sold in this Commonwealth by the applicable tobacco product manufacturer during the year in question, as measured by taxes collected by the Commonwealth on packs bearing the tax stamp of the Commonwealth required under section 1215 of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971.

Frequently Asked Questions

Who is required to file this Certification?

Every MSA Participating Manufacturer that intends to sell cigarettes in the Commonwealth, whether directly or through any distributor, retailer, or similar intermediary. (Non-Participating manufacturers must file a different form - TES-006.)

Due to current Pennsylvania tax statutes, Roll-Your-Own (RYO) Tobacco Manufacturers are not required to file a certification at this time.

How is this certification used?

The Office of Attorney General uses the information provided in the certification to determine whether a tobacco product manufacturer's brand(s) should be included in the directory published pursuant to section 301 of the Tobacco Product Manufacturer Directory Act (TPMDA), 35 P.S. § 5702.301. If a cigarette brand is not listed on the directory, it cannot be sold in Pennsylvania.

Who should sign the certification?

The certification must be reviewed and signed by a director or officer of the Tobacco Product Manufacturer (TPM) with the authority to bind the company. A Power of Attorney will not be accepted.

When must an initial certification be filed?

A manufacturer that wants to start selling its cigarettes in Pennsylvania must file an initial certification prior to any sales in the Commonwealth. An initial certification may be submitted any time during the calendar year. Sales cannot commence until the initial certification is approved.

When must an annual certification be filed?

With one exception (see below), every manufacturer appearing on the Directory must file an annual certification. The certification must be filed between April 15 and April 30. It cannot be executed (signed) before April 15.

The only exception is for companies that are actively filing quarterly reports. Companies with quarterly requirements that have NOT yet had sales in Pennsylvania ARE required to file annual certifications.

When must a quarterly certification be filed?

A manufacturer must file quarterly certifications if required under the terms of an Assurance of Voluntary Compliance (AVC).

The certification for sales in the first calendar quarter is due May 15, the certification for sales in the second calendar quarter is due August 15, the certification for sales in the third calendar quarter is due November 15, and the certification for sales in the fourth calendar quarter is due February 15 of the following year.

When must a supplemental certification be filed?

A manufacturer must file a supplemental certification when there is a change in any of the information that it has provided in its most recent certification. Changes include, but are not limited to, additions or deletions of a brand family and changes in contact information, addresses, company organization/ownership, and/or packaging.

When must packaging be submitted?

A manufacturer is required to provide a color CD/DVD for each brand style showing all sides of the packs when submitting a certification.

New Fire Safe Cigarette Manufacturer Certificate must be submitted with all package changes.