



Participating Manufacturer Certification Form

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

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	
Factory Address (use additional sheets if necessary)			
Name of Designated Contact		Name of Legal Counsel for cc (optional)	
Email Address Designated to Accept All Official Communication		Legal Counsel Email Address	
Company Website Address			

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 between **April 15 and April 30** for Pennsylvania sales in the previous year)
- Supplemental Certification (changes to information on previously submitted forms)
- 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" 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" explain.

3. Have there been any changes to your MSA Amendment within the last certification year?
Yes _____ No _____ N/A _____ If "Yes" provide an updated MSA amendment and explain the recent change.

4. Are you the Trademark Owner of the brands listed in this certification?
Yes _____ If "Yes" attach a copy of your live trademark from the USPTO website.
No _____ If "No" provide the name and contact information of the owner, attach a copy of the live trademark from the USPTO website and a copy of any agreement that defines trademark rights and/or control over the manufacturing of the cigarettes (such as an exclusive manufacturing agreement) and attach an executed copy of such agreement.

Live Trademark Attached _____ Executed Agreement Attached _____

5. 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" explain why it is not available.

6. 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 _____ N/A _____ If "No" explain why it is not available.

7. Have you ever had an enforcement action taken against you that you have not previously disclosed to this Office?
Yes _____ No _____
If "Yes" list the state(s) involved, date and a detailed explanation. (Attach additional sheets if necessary.) **If you have previously supplied on these types of actions, please list year of disclosure.**

8. Have you ever been denied Directory Listing in any other state or commonwealth **that you have not previously disclosed to this Office?**

Yes _____ No _____

If "Yes" list the state(s) involved, date and a detailed explanation. (Attach additional sheets if necessary.) **If you have previously supplied on these types of actions, please list year of disclosure.**

9. Attached a copy of the PA Department of Revenue's Cigarette Manufacturer Certificate for fire safe cigarettes and corresponding laboratory test results?

Yes _____ No _____ N/A _____ If "No" explain why it is not available.

10. Attached a copy of the Pennsylvania Tobacco Products License (RYO)?

Yes _____ No _____ N/A _____ If "No" explain why it is not available.

11. Is the responsible party current with their monthly report filings to the PA Department of Revenue in accordance 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. If "No" explain why they are not current.

12. Are any of your brand styles, **contained in this certification**, currently under review or been **issued a Non-Substantial Equivalence Order** by the FDA within the past two (2) years?

Yes _____ No _____

If "Yes" provide the FDA documentation regarding the review/ recall of the brand or brand style and a detailed explanation.

If "No" provide the completed notarized affidavit located at the end of this form stating all certifying brands/styles are current and in compliance with FDA rules and regulations.

For any newly added brand style(s) please provide documentation to establish the style(s) in compliance with the Family Smoking Prevention and Tobacco Control Act, and therefore able to be sold legally in the United States.

Should a brand style be determined to be Non-Substantially Equivalent throughout the course of the year, you are required to provide information as soon as it is made available to ensure that products on the Directory remain legal for sale.

13. Have your manufacturing facilities changed locations within the last certification year?

Yes _____ No _____ If "Yes" provide an address of this facility as well as photos and a diagram of the manufacturing facility.

INITIAL CERTIFICATIONS ONLY (Annual Certifications check N/A)

1. Have you attached photographs and a diagram of the manufacturing facility?
Yes _____ No _____ N/A _____ If "No" explain why it is not available.
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2. Have you attached a copy of the company's organizational chart?
Yes _____ No _____ N/A _____ If "No" explain why it is not available.
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List all officers/owners of the applicant. Attach additional sheets if necessary.

Name & Title	Address	Telephone Number	Email Address

3. Do you have any parent, subsidiary sister or other affiliated entities?
Yes _____ No _____ If "Yes" list all such entities, their relationship and whether they manufacture, sell or distribute tobacco products for sale in PA. Attach additional sheets if necessary.

Company Name and Address	Contact Person and Telephone Number	Does this Company Sell or Distribute Tobacco Products for Sale in PA

PART III: Brand and Style Identification (attach additional sheets if necessary)
Provide an electronic color copy of every brand style or promotional packaging. Include views of each side of the packaging with UPC clearly visible.

Section A. Brands Currently Certified and on the Directory (required on Annual Certifications only)

List brands and styles that will remain on the Directory.

Brand	Style/Flavor	Filter/Non	Package	Cigarette/RYO

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	Cigarette/RYO

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	Cigarette/RYO

Brand	Cigarette/RYO	PA Licensed Cigarette Stamping Agent/Distributor

PART IV: Execution by Corporate Officer or Director

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 agree that all packaging images submitted with this certification are free of proprietary and confidential information and may be publicly posted on the Pennsylvania Tobacco Product Directory website.

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

I hereby certify under penalty of perjury that the brand families submitted for inclusion on the Pennsylvania Tobacco Product Directory of Approved Brands are legal to sell in the United States under the Family Smoking Prevention and Tobacco Control Act and all regulations promulgated thereunder and therefore have been approved/certified by the FDA and/or are currently under review by the FDA. If a brand family style has been issued a Non-Substantially Equivalent Order or any other determination by the FDA making the product no longer able to be sold in the US, we will notify the Office of Attorney General immediately.

I hereby certify under penalty of perjury that I will continually provide updated information throughout the year regarding any and all updated documentation to ensure the products contained on the Pennsylvania Tobacco Product Directory of Approved Brands are able to be legally sold.

I hereby certify and declare under penalty of perjury 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.

Signature of Officer or Director: _____ Date: _____

Print Name: _____ Title: _____

Required Checklist – *It is recommended that all attached documents be submitted electronically:*

- 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.
- If required, attached a copy of the most recent MSA Amendment.
- Attached a copy of TTB Manufacturer’s/Importer’s Permit.
- Attached a copy of live trademark for all brand families or, if not the trademark owner, attached an executed agreement that defines trademark rights and/or control over the manufacturing of the cigarettes (such as an exclusive manufacturing agreement).
- If there has been a facility change, attached photographs and diagram of the new facility.
- Included electronic color copy of all packaging to be used in Pennsylvania during the certification year. Include views of each side of the packaging with UPC clearly visible.

Please be sure the packaging provided is clear of any proprietary information as it will be displayed to the public on the Pennsylvania Tobacco Product Directory of Approved Brands.

- For Initial Certifications – attached photographs and diagram of the facility, an organizational chart of the company and list of related parent, subsidiary sister and/or affiliated entities list.
- Attached a copy of PA Department of Revenue’s Cigarette Manufacturer Certificate for fire safe cigarettes and corresponding laboratory test results.
- Attached a copy of the Pennsylvania Tobacco Products License (RYO).
- Attached FDA compliance verification and any necessary compliance documentation for new styles.
- Completed this certification in its entirety or indicated N/A with signature of Officer or Director.
- 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 (we recommend that you send all attachments via CD/DVD/USB Drive) to:

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

Facsimiles will not be accepted.

Beginning in 2019 you may email your completed certification forms to tobacco@attorneygeneral.gov. Attachments too large to email must be submitted via mail on a CD/DVD/USB Drive.

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.

AFFIDAVIT

I hereby certify that as of _____, 20____, all _____'s cigarette products listed on this certification form are lawful for marketing under the Family Smoking Prevention and Tobacco Control Act. Such products are either grandfathered, provisionally approved during the review process or authorized by the Food and Drug Administration to be able to be sold in the United States.

Date: _____

Signature

Print Name

Address

Subscribed and sworn to me on the _____ day of _____, 2019 by _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me. Witness by my hand and official seal.

Notary Public

My Commission Expires: _____

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. In place of paper copies, we recommend that you send all attachments via electronic media (CD/DVD/USB Drive).

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 products 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 an electronic color copy of every brand style or promotional packaging. Include views of each side of the packaging with the UPC code clearly visible. Each time you change your packaging; add new brand styles; or, create a special, limited edition package, you must submit an electronic color copy. When in doubt about packaging submission, please contact our Office for clarification.

Section A - Identify by brand and style all of the cigarettes/RYO's that you intend to sell in Pennsylvania whether directly or through any distributor, retailer, or similar intermediary. For RYO, please include package type and size of all brands and styles that you intend to sell in Pennsylvania.

Do not include a brand family in the list unless the cigarettes/RYO 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. For RYO, please include package type and size of all brands and styles that you intend to sell in Pennsylvania.

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

Section C - Identify any brands and styles that currently are not on the Directory that you wish to add to your Directory listing. Only brands in compliance with FDA regulations are eligible for listing. For RYO, please include package type and size of all brands and styles that you intend to sell in Pennsylvania.

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/RYO 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/RYO.
- 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).
 - (4) Any "roll-your-own," which means 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, 0.09 ounces of "roll-your-own" tobacco shall constitute one individual cigarette.

- 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, or "roll-your-own" tobacco containers, 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/RYO in the Commonwealth, whether directly or through any distributor, retailer, or similar intermediary. (Non-Participating manufacturers must file a different form - TES-006.)

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 cigarettes/RYO 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.

What type of Certification should I file?

Initial - A manufacturer that wants to start selling its cigarettes/RYOs 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.

Annual - All other manufacturers 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.

Supplemental - 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, packaging changes, additions or deletions of a brand family, changes in contact information, addresses, company organization/ownership, escrow information, and/or registered agent.

When must packaging be submitted?

A manufacturer is required to provide an electronic color copy of each brand style and size showing all sides of the packs when submitting a certification. Include views of each side of the packaging with UPC code clearly visible. If you add or entirely remove a typed color description from packaging, it will alter the brand style name and the change will not be considered a packaging change. In the event that you add a color or entirely remove a color from packaging, you will be required to submit a supplemental certification to add and/or remove a brand style on the directory. **Please be sure the packaging provided is clear of any proprietary information as it will be displayed to the public on the Pennsylvania Tobacco Product Directory of Approved Brands.**

New Fire Safe Cigarette Manufacturer Certificates and corresponding laboratory results must be submitted with all package changes.