



## Quarterly 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# \_\_\_\_\_

Verify that all currently held information is correct and has not changed or expired.

Yes \_\_\_\_\_ No \_\_\_\_\_ If "No," please attach updated documentation and complete all sections of this form.

### PART II: First Quarter Certifications (unless there have been changes to previously submitted information or previously submitted documentation has expired)

#### 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.

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2. 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 \_\_\_\_\_

3. Attached 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.

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4. Attached 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," please explain why it is not available.

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5. 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 information on these types of actions, please list year of disclosure.**

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6. 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 information on these types of actions, please list year of disclosure.**

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7. 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," please explain why it is not available.

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

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A \_\_\_\_\_ If "No," please explain why it is not available.

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9. Is a copy of your current qualified escrow agreement on file with our office?

Yes \_\_\_\_\_ No \_\_\_\_\_ If "No," please attach a copy of a new qualified agreement which has been approved by this office.

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

Yes \_\_\_\_\_ No \_\_\_\_\_

If "Yes" provide the FDA documentation regarding the **Non-Substantial Equivalence Order or recall** for all 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 all regulations promulgated thereunder, and therefore able to be sold legally in the United States.

Should a brand style be determined to be Non-Substantially Equivalent or otherwise recalled by the FDA 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.

11. 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 diagram of the manufacturing facility.

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12. Is the responsible party current with your 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? **For verification purposes, please provide all monthly Pact Act reports from the prior calendar year listing shipments of any of your tobacco products into Pennsylvania regardless of the entity who filed the Pact Act Reports.**

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

### **PART III: First, Second, Third and Fourth Quarter**

#### **Brand Family Identification** (attach additional sheets if necessary)

##### **Section A. Brands Currently Certified and on the Directory**

List brand styles that will remain on the Directory

<b>Brand</b>	<b>Style/Flavor</b>	<b>Filter/Non</b>	<b>Package</b>	<b>Cigarette/RYO</b>


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

**Section B. Brands to be Removed from the Directory**

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

Brand	Style/Flavor	Filter/Non	Package	Cigarette/RYO

**Section C. Additional Brands to be Certified**

List additional brand styles to be added to the Directory. List the Brand and Stamping Agent.

Brand	Style/Flavor	Filter/Non	Package	Cigarette/RYO

**Section D. Quarterly Shipment History**

Manufacturers filing quarterly must complete the following table with their prior quarter's shipments. Include all shipments to Pennsylvania distributors (directly or indirectly), regardless of whether the tobacco products ultimately remained in Pennsylvania. Also, include shipments from licensed non-resident (out-of-state) distributors that shipped into Pennsylvania.

List your brand families, distributors/CSAs and the number of sticks that were shipped into Pennsylvania last quarter. If you were not the sole manufacturer of a brand family, on a separate sheet provide the name and address of every other manufacturer and the dates of manufacture by each manufacturer.

Brand Family•	PA Licensed Cigarette Stamping Agent/Distributors	Number of Sticks/Ounces Shipped to each CSA
<b>Total Units Shipped</b>		

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

**PART IV: First Quarter Certifications** (unless there have been changes to previously submitted information or previously submitted documentation has expired)

**Residency Status**

The undersigned certifies that the above-named Tobacco Product Manufacturer (check one):

\_\_\_\_\_ is a resident of the Commonwealth of Pennsylvania  
 \_\_\_\_\_ has appointed the registered agent identified below for service of process in the  
 Commonwealth of Pennsylvania

Resident Agent/Company Name			Date of Appointment	
Address		City	State	Zip Code
Telephone Number	Fax Number	Email Address		

A current letter from the agent accepting the appointment must be attached to First Quarter Certifications.

**PART V: First, Second, Third and Fourth Quarter**

**Escrow Account Information**

Once an escrow agreement has been approved you cannot change it without prior approval of this Office. This Office reserves the right to require a new escrow agreement. We also, reserve the right to reject any revisions which have not been approved in advance. Please verify that your financial institution is submitting copies of your escrow statements to our office.

**Section A. Qualified Escrow Fund – Financial Institution**

Name of Institution				
Address		City	State	Zip Code
Authorized Representative Name/Title				
Telephone Number		Fax Number		
Email Address				
Escrow Account Number		Pennsylvania Sub-Account Number (if applicable)		
Date of Executed Escrow Agreement				

**Section B. Escrow Fund Deposit/Withdrawal History for Pennsylvania**

Provide the escrow deposit/withdrawal history. Attach proof of the current balance and updated account ledger of the escrow account as provided by the escrow agent and proof of the date of the most recent deposit. Failure to comply may result in denial of your certification.

Date	Deposit	Withdrawal•	Balance
	<b>Total:</b>	<b>Total:</b>	<b>Total:</b>

•Any withdrawals must comply with 35 P.S. §5674.

**PART VI: 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 Non-Participating Manufacturer in full compliance with the Tobacco Settlement Agreement Act, that is a resident of the Commonwealth or has appointed a registered agent for service of process, that has established and continuously maintains a qualified escrow fund, and that has executed a qualified escrow agreement approved by the Attorney General.

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: \_\_\_\_\_

**First Quarter Certification- 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 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.**
- If required, attached a copy of your Model Escrow Agreement.
- 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 Tobacco Products License (RYO).
- **Attached PACT Act reports.**
- **Attached FDA compliance affidavit 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.

**Second through Fourth Quarter Certifications- Required Checklist:**

- Attached a Cigarette Brand List designating brand styles to remain on the directory, brands to be removed from the directory or brands you request to be added to the directory.
- Attached a copy of Proof of Escrow Deposit.
- Attached any documentation that expired since your last certification (FTC, CDC, TTB, FSC, Trademark certificates, etc.).
- **Attached any necessary FDA 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  
15<sup>th</sup> 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](mailto: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 required 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 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.

### **Part II: First Quarter – General Questions for the Manufacturer**

### **Part III: First, Second, Third and Fourth Quarter - 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.**

**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.**

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

**Section B** - Identify the 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 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.

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.

**Section D** - On the table provided, identify by Brand Family all of the following for the prior quarter:

- a) the name of each brand family (identify with an asterisk any brands that are no longer being shipped);
- b) the name of every Pennsylvania licensed Cigarette Stamping Agent/Distributor for that brand family; and,
- c) the number of sticks/ounces shipped to that Cigarette Stamping Agent.

The completion of this table requires you to obtain the information from your Cigarette Stamping Agents.

#### **Part IV: First Quarter - Residency Status**

Unless your company is based in Pennsylvania, you must appoint an agent for service of process and provide the Attorney General with proof of that appointment. You must provide the agent's name, address, telephone number, fax number and email address. In addition, you must attach proof of the appointment and availability of the agent for the current year with your *First Quarter Certification*.

#### **Part V: First, Second, Third and Fourth Quarter - Escrow Account Information**

If you plan on changing any aspect of a previously approved escrow agreement, e.g. a change in financial institutions, you must first contact this Office. Once an escrow agreement has been approved you cannot change it without prior approval of this Office. This Office reserves the right to reject any revisions which have not been approved in advance.

#### **Section A – Financial Institution**

Identify the name, address, telephone and fax number of the financial institution and the name, title and e-mail address of a contact person authorized to conduct business on behalf of the financial institution; and, the account number of your Qualified Escrow Fund and the sub-account number for Pennsylvania. Also include the date of your executed agreement.

#### **Section B – Escrow History**

Identify the dates for every deposit or withdrawal from your escrow account.

Provide a dollar amount of each transaction and a running balance of the amount in the account.

Attach a bank statement and proof of deposit showing the most recent deposit and the current balance.

#### **Part VI: Execution by Corporate Officer or Director**

The Tobacco Product Manufacturer must certify that it is a Non-Participating Manufacturer in full compliance with the Tobacco Settlement Agreement Act, that is a resident in the Commonwealth (or has appointed a registered agent for service of process), that has established and continuously maintains a qualified escrow fund, and that has executed a qualified escrow agreement approved by the Attorney General.

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) "Qualified Escrow Fund" - An escrow arrangement with a federally chartered or State chartered financial institution that has no affiliation with any tobacco product manufacturer and has assets of at least \$1,000,000,000 in which the escrow arrangement:
  - (1) requires that the financial institution hold the principal of the escrowed funds for the benefit of the releasing parties as that term is defined in the Master Settlement Agreement; and
  - (2) prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the principal of the funds except as consistent with section

4 of the act of June 22, 2000, 35 P.S. § 5674, known as the Tobacco Settlement Agreement Act.

- g) "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?

A Non-Participating Manufacturer whose products have not been previously sold in Pennsylvania, must file quarterly certifications for the first twelve months of sales. You must secure a Pennsylvania licensed distributor and initiate sales within six months of approval. Failure to do so may result in removal from the Directory. A Non-Participating manufacturer may also be required to file quarterly certifications under the terms of an Assurance of Voluntary Compliance (AVC).

### 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 I make my escrow payment and submit Quarterly Certifications?

Non-Participating Manufacturers must make quarterly deposits & file quarterly certifications as set forth below:

- First quarter (January, February, March) due May 15,
- Second quarter (April, May, June) due August 15,
- Third quarter (July, August, September) due November 15
- Fourth quarter (October, November, December) due February 15 of the following year.

New Non-Participating Manufacturers must secure a CSA/Distributor and initiate sales within six (6) months of Directory Listing. Failure to do so will result in removal from the PA Directory.

### What must I submit with my Quarterly Certification?

- Brand List
- Proof of Deposit
- Copies of any documents that expired during the year
- Completed NPM Certification Form

### When must packaging be submitted?

A manufacturer is required to provide an electronic color copy of each brand style showing all sides of the packs when submitting their First Quarter Certifications or when a new brand style is added. Include views of each side of the packaging with UPC 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.**

### When must FSC Certificates and corresponding laboratory results be submitted?

A manufacturer is required to provide a copy of their Fire Safe Cigarette Manufacturer Certificate and the corresponding laboratory results when submitting their First Quarter Certifications.