

NPM INSTRUCTIONS

Every Non-Participating Manufacturer that intends to sell cigarettes/RYO in the Commonwealth, whether directly or through any distributor, retailer, or similar intermediary is required to file this Certification. (Participating manufacturers must file a different form.)

This certification must be completed in English. All attachments must include a certified English translation if the original document is in a different language. Attachments must clearly indicate the section to which it corresponds.

Complete the certification form. Do not leave any required fields blank.

Part I: Tobacco Product Manufacturer's Identification

Provide the name, complete address and telephone 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 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 (if applicable) all of your Importer(s)' contact information and Federal Permit(s). Identify factory addresses, telephone numbers and names of plant managers where the cigarettes/RYO are made. 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 for the Manufacturer

Answer the questions by checking the applicable boxes, supplying detailed explanations when indicated, and attaching required documentation.

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. 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. Brand Styles - Using the Required Brand List template provided, indicate all styles to add/remove/remain. We recommend waiting a sufficient amount of time before delisting a brand to allow retailers time to clear their inventories.

The Required Brand List Template has conditional formatting to prevent errors in data entry. The following columns only accept specific answers: C, D, E, I, J. You may copy, paste, and drag data into each cell as long as the input matches the acceptable answers. If, for any reason, your data does not conform to these answers, please add a detailed explanation in an open cell on the corresponding row.

C	D	E	I	J
Menthol	Filtered	Box	Cigarette	Add
Non-Menthol	Non-Filtered	Soft Pack	RYO	Remain
				Remove
PLEASE NOTE THAT ANSWERS ARE NOT CASE-SENSITIVE.				

Section B. Brand Transfer - If a brand family or style has ever been owned, marketed or manufactured by more than one manufacturer and/or a brand formula was ever marketed as another brand style, use the Required Brand Transfer Template. Further documentation may be requested to verify sales and purchase details.

Section C. Yearly Shipment History - On the Required Shipment Template provided, identify all shipments of unstamped cigarettes or non-SET-paid RYO tobacco manufactured by your company during the prior year. Please note this section may require you to obtain information from importers and other entities.

Section D. Units Sold History - On the Required Units Sold Template provided, identify all units sold into PA of stamped cigarettes or SET-paid RYO tobacco manufactured by your company during the prior year.

Part IV: Residency Status

If your company is located outside of Pennsylvania, you must appoint a resident 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, and email address, and attach proof of the appointment and availability of the agent for the current year.

Additionally, if your company is located outside of the United States, each importer of cigarettes belonging to your brand families must execute a declaration accepting joint and several liability with you under the Tobacco Settlement Agreement Act and the Tobacco Product Manufacturer Directory Act and, if the importer is located outside

of Pennsylvania, appoint a resident agent for service of process. Separate declarations must be executed by each such importer.

You must certify whether your cigarettes are manufactured outside of the United States and, if so, attach the required executed importer(s)' declaration(s) forms(s) and proof of the appointment of the importer(s)'s resident agent(s) for service of process.

Part V: Escrow Account Information

Initial Certification – non-participating manufacturers must supply an escrow agreement with a qualified financial institution. Prior to certification, this agreement must be approved by TES. A copy of Pennsylvania's Model Escrow Agreement form may be found on our website. Any variation from Pennsylvania's model escrow agreement may delay approval of your certification. See the definition of "qualified escrow fund" in these instructions.

If you plan on changing any aspect of a previously approved escrow agreement, e.g. a change in financial institutions (including a buyout or merger of an existing institution), 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 that have not been approved in advance.

Section A – Financial Institution

Identify the name, address and telephone 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.

Section C – Surety Bond Status

The NPM bond you post must be completed on the bond form prescribed by the Attorney General. You must provide the amount of your NPM bond, the bond number, effective date, and the surety's name, phone number, email address, and attach a copy of the bond.

You must ensure ahead of each calendar quarter that the amount of your NPM bond is at least the bond amount required under 35 P.S. §5702.313, which is equal to the highest amount of escrow owed for units sold within Pennsylvania for any four consecutive calendar quarters over the past 12 calendar quarters. For illustrative purposes, if you were to use the table below to find the required bond amount, first enter your quarterly units sold. Next, multiply the quarterly units sold by the corresponding escrow rate for that sales year, and that will produce the escrow owed for that quarter. This table is appropriate for use with the 2024 Annual Certification.

Calendar Quarter	Quarter Number	Quarterly Units Sold	Escrow Rate	Escrow Owed
2021 Q2	1		\$0.0394647	
2021 Q3	2		\$0.0394647	
2021 Q4	3		\$0.0394647	
2022 Q1	4		\$0.0420119	
2022 Q2	5		\$0.0420119	
2022 Q3	6		\$0.0420119	
2022 Q4	7		\$0.0420119	
2023 Q1	8		\$0.0434202	
2023 Q2	9		\$0.0434202	
2023 Q3	10		\$0.0434202	
2023 Q4	11		\$0.0434202	
2024 Q1	12		\$0.0447228*	

*(the 2024 escrow rate will be at least \$0.0447228, but may be adjusted higher depending upon inflation)

After determining your quarterly escrow owed, add the amounts of escrow owed in groups of four consecutive calendar quarters, as illustrated below. For example, add the escrow owed for quarters 1 through 4, then quarters 2 through 5, and so forth until you add quarters 9 through 12.

Quarter Numbers	Collective Escrow Owed
1-4	
2-5	
3-6	
4-7	
5-8	
6-9	
7-10	
8-11	
9-12	

If none of the collective amounts of escrow owed for any four consecutive calendar quarters over the past 12 calendar quarters are greater than \$25,000, then the bond

amount required is \$25,000.

Otherwise, the bond amount required is the highest collective amount of escrow owed for any four consecutive calendar quarters over the past 12 calendar quarters (i.e. the highest amount of "collective escrow owed" found in the table above). As a reminder, the number of units sold of RYO tobacco can be calculated by dividing the number of ounces of RYO sold by 0.09.

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 Signator executing the Tobacco Manufacturer Certification Form must be an authorized Officer or Director of the Tobacco Product Manufacturer and is responsible for all information contained within. Questions regarding this certification may directed to the Designee. A power of attorney will not be accepted. The Signatory's name, title, email address and telephone number must be completed.

Definitions:

- a) "Bond" or "NPM Bond" – The bond required to be posted by non-participating manufacturers pursuant to 35 P.S. §5702.313.
- b) "Bond Form" – The form of the bond prescribed by the Attorney General for purposes of compliance with 35 P.S. §5702.313.
- c) "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.
- d) "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.
- e) "Distributor" – Any person or entity that purchases, ships, delivers, sells, consigns, or transfers "cigarettes" as defined in the Tobacco Settlement Agreement Act, 35 P.S. §5673 for ultimate resale in Pennsylvania, regardless of whether they knew that such cigarettes were intended to be sold or distributed in Pennsylvania. The term distributor includes, but is not limited to, any "cigarette stamping agent" or "wholesaler" as those terms are defined in Pennsylvania's Cigarette Sales and Licensing Act, 72 P.S. §202-A, and includes the domestic manufacturer or importer of cigarettes distributed into Pennsylvania.
 - f) "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.
 - g) "Importer" – Any person in the United States to whom cigarettes that are manufactured outside the United States are shipped, delivered or consigned for resale.
 - h) "Non-Participating Manufacturer" - Any tobacco product manufacturer that is not a party to the Master Settlement Agreement (MSA).
 - i) "Participating Manufacturer" - A tobacco product manufacturer that is a party to the Master Settlement Agreement (MSA).
 - j) "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.

- k) "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.