



**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/consumers.aspx?id=2>

PARTICIPATING MANUFACTURER CERTIFICATION FORM

COMPLETE ALL FIELDS OR INDICATE N/A. DO NOT LEAVE ANY FIELDS BLANK

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

Please review all instructions for further information

PART 1: Tobacco Product Manufacturer Identification

Company Name			
Address			
City	State	Zip Code	Country
Telephone Number		Fax Number	
Email Address		Web Address	
Name & Title of Person Completing This Certification			
Factory Addresses and Names of Plant Managers		Phone Number of Factory Manager(s)	

If there are multiple manufacturing locations, list on a separate sheet which brands are manufactured at each facility.

If located in **the US**: Manufacturer's Federal Taxpayer ID # _____

If located **outside US**: Name of Importer _____

Importer's Address _____

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

This form is (check one):

- Annual Certification (due April 30 for 2008 Certification year)
- Supplemental Certification (changes to information on previously submitted forms)
- Quarterly Certification (Manufacturers required to file each quarter)
- Initial Certification (Manufacturer who has not previously sold in Pennsylvania)

NOTE: Initial Certifications will require additional documentation.

PART 2: General Questions for 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?

Yes _____ No _____ N/A _____

If "No", please explain _____

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

Yes _____ No _____

If "Yes", attach a copy of your Trademark Registration. Registration Attached

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. Agreement Attached

4. Have you included a copy of the Federal Trade Commission (FTC) approval 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.

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 _____ N/A _____

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 _____ N/A _____

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

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 3: Brand Family Identification (attach additional sheets if necessary)

Section A. Brands Currently Certified and on the Directory

List your brand families that you wish to keep on the Directory in the following table:

Brand Families	Brand Families

¹ Indicate with an asterisk (*) any brands previously sold that are not being sold in the current year.

Provide a sample of the packaging of each brand family and any special or limited edition packaging (CD Preferred)

NOTE: If previously supplied packaging has not changed and no special or limited edition packaging will be sold in PA, samples need not be supplied this year.



Check here if previously supplied packaging samples have not changed and there will be no specialty packaging marketed in the Commonwealth.

Section B. Brands to be Removed from the Directory

List your brand families currently on the Directory that you **no longer** wish to certify

Brand Families	Brand Families

Section C. Additional Brands To Be Certified

List your brand families that you wish to add to the Directory. If you are not or at any time were not the sole manufacturer of the brand family, on a separate sheet provide the name & address of every other manufacturer and the dates of manufacture by each manufacturer.

Brand Family	PA Licensed Cigarette Stamping Agents (if established)

Provide a sample of the packaging (remove cigarettes) or color photos (CD preferred) showing all sides of the packs of each brand family.

PART 4: Execution by Corporate Officer or Director

Under penalty of perjury, I certify and declare that all of the statements and information contained in this certification, including but not limited to any accompanying statements or attachments herewith, are true, correct, accurate 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 or 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 :

- I have attached a copy of the current Federal Trade Commission (FTC) approval letter(s) for health-warning rotation plan for all brand families.
- I have attached a copy of the current Centers for Disease Control (CDC) ingredient-listing compliance letter(s) for all brand families.
- I have attached a copy of my TTB Manufacturer's / Importer's Permit.
- I have attached a copy of my trademark certification for all brand families or, if I am not the trademark owner, I have attached executed exclusive manufacturing agreements entered into with the trademark owner(s).
- I have included packaging for all brand families, unless previously supplied samples have not changed or if no specialty or limited edition packaging will be used in Pennsylvania during this certification year.
- For Initial Certifications – I have attached a photograph and diagram of the facility and an organizational chart of the company.
- I have completed this certification in its entirety or indicated N/A and I have signed it.

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, importers certificates, licenses, BATF Form 7501s, bills of lading, customer invoices, etc.

Mail this completed certification form and attachments 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

GENERAL INFORMATION

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 in 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 sample packages or color photos (CDs preferred) showing all sides of the packs when submitting its initial certification.

New packaging is also required when a manufacturer wishes to add a new brand family, or changes the packaging of an existing brand family or wishes to use a special or limited edition packaging.

Please remove cigarettes from packs prior to submission.

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,” “lights,” “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.

SPECIFIC INSTRUCTIONS

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

Part 1: Tobacco Product Manufacturer's Identification

Provide the company name and complete addresses. Provide the telephone number, fax number, and e-mail address for the company official signing this certification. 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.

Part 2: 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.

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

Part 3: Brand Family Identification

Section A

Identify by Brand Family 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.

Provide sample packages (remove cigarettes) or color photos (CDs preferred) showing all sides of the packs for the brand families identified. If designs vary **significantly** within a brand family, submit examples of the different packages. Submit new packages or color photos each time you change your packaging or add new brand styles or create a special, limited edition package. When in doubt about packaging submission, please contact our Office for clarification.

Check the box if previously supplied packaging has not changed and no specialty packaging will be used in the certification year.

Section B

Identify any brands 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 Family any brands not currently on the directory that you wish to add to your Directory listing.

Please provide sample packages (remove cigarettes) or color photos (CDs preferred) showing all sides of the packs for the brand families identified.

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 manufactured by each manufacturer.

Part 4: 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.

GENERAL INSTRUCTIONS

This certification must be completed in English. For all attachments, if the original is in a language other than English, a certified translation into English must be attached as well.

Any attachment must clearly indicate the section to which it corresponds.

Be sure to include or complete all of the following:

- A copy of the current Federal Trade Commission (FTC) approval letter(s) for health-warning rotation plan for all brand families.
- A copy of the current Centers for Disease Control (CDC) ingredient-listing compliance letter(s) for all brand families.
- A copy of your TTB Manufacturer's / Importer's Permit.
- A copy of your trademark registration for all brand families.
- If you are **not** the trademark owner, submit a copy of the exclusive manufacturing agreement entered into with the trademark owner.
- Packaging (if previously supplied samples have changes or if specialty or limited edition packaging will be used in Pennsylvania during this certification year.)
- For Initial Certifications- Submit a photograph and diagram of the facility and an organizational chart of the company.
- Fill out the form in its entirety or indicate N/A and sign it.

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, importers certificates, licenses, BATF Form 7501s, bills of lading, customer invoices, etc.

Facsimiles are **not** acceptable. Mail the 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

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.