

STATE OF WEST VIRGINIA

Certification of Tobacco Product Manufacturer That Has Not Signed Master Settlement Agreement

(Pursuant to WV Code §16-9D-3)
Due by April 30 of Reporting Year

Part 1: Tobacco Product Manufacturer Identification

Company Name:	
Street Address:	
City:	
State/Country:	
Postal Code:	
Telephone:	
Fax Number:	
E-mail:	
Name and Title of Person Completing Report:	

Part 2A: Brand Family Identification of Nonparticipating Manufacturers

The Nonparticipating Manufacturer identified in Part 1 has the following Brand Families, each of which the manufacturer affirms are to be considered Cigarettes for purposes of WV Code §16-9B-3(b). Add additional pages as necessary.

Brand Family	Units Sold in WV in preceding calendar year	Units Sold in WV in current calendar year thru May 31	Name and address of other manufacturers of Brand Family in the preceding or current calendar year

Indicate with an asterisk (*) any Brand Family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of the Certification. Withdrawals must comply with WV Code §16-9B-3(b)(2). **Verification of compliance must be attached.**

Part 2B: Brand Names/Manufacturing Locations of Cigarettes not included in Part 2A —

List the brand name and manufacturing locations for any cigarettes that are not included in Part 2A.

Brand Name	Manufacturing Location

Part 3: Nonparticipating Manufacturer Certification.

A. Domicile (check appropriate box)

- The Nonparticipating Manufacturer identified in Part 1 is domiciled in the State of West Virginia.
- The Nonparticipating Manufacturer identified in Part 1 is a non-resident or foreign Nonparticipating Manufacturer that has registered with the West Virginia Secretary of State to do business in the State of West Virginia as a foreign corporation or business entity.
- The Nonparticipating Manufacturer identified in Part 1 has appointed a resident for service of process pursuant to WV Code Section 16-9D-5 on whom all process, and any action or proceeding arising out of enforcement of Code section 16-9B-1 *et seq.*, and section 16-9D-1 *et. seq.* may be served in any manner authorized by law.

B. Registered Agent for service of process

The Nonparticipating Manufacturer identified in Part 1 has appointed and continues to engage the following Resident Agent for Service of Process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of WV Code articles 16-9D and 16-9B, may be served in any manner authorized by law:

AGENT FOR NON-PARTICIPATING MANUFACTURER	
Agent Name:	
Company:	
Address:	
City:	
State/Country:	
Postal Code:	
Phone:	
FAX:	
E-mail:	

PLEASE ATTACH PROOF OF THE APPOINTMENT AND AVAILABILITY OF THE AGENT.

C. Qualified Escrow Fund – Financial Institution

ESCROW FUND – FINANCIAL INSTITUTION INFORMATION	
Name of Institution:	
Street Address:	
City:	
State/Country:	
Postal Code:	
Escrow Account No.:	
State sub-account No.:	
FAX:	
E-mail:	

PLEASE ATTACH AN EXECUTED COPY OF THE NON-PARTICIPATION MANUFACTURING’S ESCROW AGREEMENT.

Was this Escrow Agreement previously provided to the Attorney General of this State? Yes No

Was it rejected? Yes Rejection Date: _____ No

D. Escrow Deposit/Withdrawal History for West Virginia (attach additional sheets if necessary).

DATE	DEPOSIT	WITHDRAWAL	BALANCE
	Total:	Total:	Total:

PLEASE ATTACH COPIES OF RECORDS OF THE FINANCIAL INSTITUTION CONFIRMING THE FOREGOING.

All withdrawals must comply with WV Code § 16-9B-3(b)(2). *Verification of compliance must be attached.*

Part 4: Additional Certification of tobacco product manufacturer wanting to sell cigarettes in this State for the first time.

4.1. If the tobacco product manufacturer **has not** previously sold cigarettes in this State, complete the following if the tobacco product manufacturer is a partnership, limited liability company, corporation, association or other business entity. Please provide the following information, as applicable:

- a. The names and addresses of every partner, member, officer, resident agent, director or person performing a function similar to a director:

NAMES AND ADDRESSES OF PARTNERS, MEMBERS, OFFICERS, ETC.	
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	

- b. The names and addresses of any person owning of record a 10 percent (10%) or greater equity interest in the tobacco product manufacturer:

NAMES AND ADDRESSES OF 10% OR GREATER EQUITY INTERESTS	
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	

c. List all names under which the tobacco manufacturer, or any partner, member, officer, resident agent, director, or person owning a ten percent (10%) or greater equity interest in the tobacco manufacturer, previously did business as a tobacco product manufacturer in the United States within the five-year period preceding the date of submission of the certification:

4.2. Has the tobacco product manufacturer, or any partner, member, officer, resident agent, director, or person owning a ten percent (10%) or greater equity interest in the tobacco manufacturer, or in any subsidiary, affiliate or persons controlled by or under common control with the tobacco manufacturer, ever been an officer, partner, director or person owning a ten percent (10%) or greater equity interest in a tobacco product manufacturer that ever defaulted in fully funding the escrow account required by WV Code § 16-9B-1 *et seq.* in the five-year period prior to the date of this certification?

Yes No

If yes, provide a brief explanation of the fact involved (attach additional pages as necessary).

Part 5: Execution by Authorized Designee

Under penalty of perjury, I certify that the tobacco product manufacturer on whose behalf this certification is made is in full compliance with WV Code §§ 16-9B-1, including all quarterly installment payments as may be required by the West Virginia Attorney General; that the information contained in this certification is true and accurate; and that I am authorized to sign this certification.

Designee (Print Name):	
Title:	
Mailing Address:	
Telephone:	
E-mail:	
Signature of Designee:	
Date:	
Subscribed and sworn to before me on this date:	
City or County of:	
My Commission expires:	
Signature of Notary Public:	

MAIL COMPLETED CERTIFICATION TO:

Tobacco Litigation Unit
The Office of the Attorney General
State Capitol Complex
Building 1, Room W-435
Charleston, WV 25305

And to:

West Virginia State Tax Department
ATTN: Excise Tax Unit
P.O. Box 2991
Charleston, WV 25330-2991

SUPPLEMENTAL INFORMATION REQUIREMENTS

The West Virginia Attorney General's office also requests the following information:

1. Corporate documents evidencing officers and ownership of the NPM;
 2. Affidavit from the president of the NPM attesting that it physically manufactures its cigarettes at its manufacturing facility;
 3. The complete address of any facility where the NPM manufactures its cigarettes;
 4. Complete list of the brand names of all cigarettes the NPM manufactures or has manufactured, regardless of where the cigarettes are sold;
 5. Copy of the permit as a manufacturer or importer of tobacco products required pursuant to 26 U.S.C. §§ 5712 and 5713; see also 27 C.F.R. Parts 40.62 and 40.375;
 6. Copy of the current letter from the HHS/CDC Office of Smoking and Health approving the ingredient reporting;
 7. Copy of the current complete rotation plan, including package samples, submitted to the FTC for approval for each brand;
 8. Copy of the FTC rotation plan approval letter for each brand;
 9. If the NPM is located in a foreign country:
 - a. Copy of the license, permit or other registration document required by the government of the foreign country for a tobacco manufacturer whose manufacturing facilities are located in such country;
 - b. Copy of the letter the NPM provides to the importer to comply with 19 U.S.C. § 1681a;
 - c. Copies of representative brand Custom Forms 7501 for each of the proceeding two calendar years;
 - d. If the brand bears a U.S. registered trademark, a certificate signed by the owner of the trademark stating that, under penalty of perjury, the owner consents to the importation of cigarettes into the U.S.
 - e. A certificate signed by the importer stating that, under penalty of perjury, the consent referred to in the previous paragraph is accurate, remains in effect and has not been withdrawn.
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