

COMMONWEALTH OF VIRGINIA
Tobacco Product Manufacturer Certification for Non-Participating Manufacturers
Form TT-19-NPM

INSTRUCTIONS

What's new for 2008?

Please read these instructions and the Certification form carefully, as there have been some changes since last year:

- *The certification need no longer be accompanied by a copy of the Tobacco Product Manufacturer's application for a TTB permit, but a copy of the current TTB permit itself must still be included.*
- *In Part 6, page 5, the designation of brands to be certified requires an indication whether the brand is a rolled cigarette or an RYO brand.*
- *In Part 6, page 5, and item (6) in the affidavit on page 9, the Tobacco Product Manufacturer is expressly acknowledging, in accordance with Virginia Code § 3.1-336.4E(ii), that it accepts escrow responsibility for all cigarettes or RYO product sold in Virginia under the brand names it is certifying for.*
- *As in past years, the Annual Certification for Non-Participating Manufacturers must be accompanied by either a Compliance Certification form showing calculation of escrow deposited, or a Certification of No Sales. However, the calculation of escrow on these forms has been simplified for 2008, and the new 2008 forms must be used with the 2008 annual certification. The appropriate form(s) can be downloaded from the OAG website at oag.state.va.us. There are separate forms for annual deposits for cigarettes, annual deposits for RYO, quarterly deposits for cigarettes, quarterly deposits for RYO, and Certifications of No Sales for each of these categories.*

Part 1: Type of Certification.

Check the appropriate box. For Annual Certification, identify the current year.

Part 2: Tobacco Product Manufacturer Identification.

Identify the full legal name of the entity, state the type of business entity it is. Attach a current copy of the articles of incorporation, certificate of limited partnership, articles of organization, or comparable document establishing the existence, nature, and identity of the business entity, and copies of its current TTB Tobacco Permit and the application filed for that permit. Give **all** other names ever used, Federal Employers Identification Number, the Federal Tobacco Manufacturer Permint Number, physical address, mailing address, principal phone number, contact person, title, telephone number, facsimile number, electronic mail address, website, state and country where manufacturer is incorporated or registered, and the names and titles of all past and present officers, directors and partners.

If the entity is represented by outside counsel, identify the attorney's name, firm, address, telephone number, facsimile number and electronic mail address.

Part 3: Registered Agent for Service of Process within the Commonwealth of Virginia.

Identify the name of the Virginia registered agent, the name of the company, address, telephone number, facsimile number and electronic mail address.

A current statement from the registered agent certifying service in this capacity must be attached to the Certification.

Part 4: Fabricator Identification.

Check the appropriate box to identify whether the Tobacco Product Manufacturer is the actual physical fabricator of the Cigarettes or if the Tobacco Product Manufacturer causes the Brand Family(s) to be fabricated by another entity.

If the Tobacco Product Manufacturer is not the actual physical fabricator, the information called for about the actual fabricator must be provided and a copy of the manufacturing contract must be attached to the Certification.

A photograph or diagram of the Tobacco Product Manufacturer's fabricating facility and a list of every Brand Family the Tobacco Product Manufacturer has fabricated, or caused to be fabricated by another entity, since July 1, 1999 must be attached to the Certification. Indicate with an asterisk (*) any Brand Family not being sold in the current calendar year, and identify whether such Brand Family is still being manufactured and by what entity.

Part 5: Disclosure of Enforcement Actions and Prior Determinations .

Check the boxes for any statements that are applicable and supply all the information and documentation called for.

Part 6: Brand Family Identification and Certification.

- A. Identify each Brand Family of Cigarettes for which certification is sought . For each Brand Family, list the number of Units Sold in Virginia during the previous calendar year. For each Brand Family, if applicable, identify by name and address (1) the physical fabricator if different from the Tobacco Product Manufacturer and/or (2) any other manufacturer current or previous manufacturer of such Brand Family.

For each Brand Family, list every Brand Style for which certification is being sought.

For each Brand Family, provide to the Attorney General actual packaging for each Brand Style. Check the box if the Tobacco Product Manufacturer has previously submitted such packaging and such packaging has not been changed.

- B. For each Brand Family and Brand Style, provide: (1) the Federal Trade Commission's Health Warning Rotation Plan Approval letter(s); (2) the Centers for Disease Control and Prevention's Certificate(s) of Compliance and Ingredient Report; and (3) evidence of trademark ownership.

For each brand family not manufactured in the United States, provide copies of (1) the sworn statement of the original manufacturer that it will timely submit ingredients to the Secretary of Health and Human Services as required by 19 U.S.C. § 1681a(c)(1); (2) the importer's certificate under penalty of perjury as required by 19 U.S.C. § 1681a(c)(2) regarding the precise format of warnings and the rotation plan for health warnings; and (3) the trademark holder's certificate under penalty of perjury that is has not withdrawn consent to import into the United States as required by 19 U.S.C. § 1681a(3)(A) or a copy of the importer's certificate under penalty of perjury that the trademark owner has not withdrawn consent to import into the United States as required by 19 U.S.C. § 1681a(c)(3)(B).

For each brand family and style, provide the information called for regarding the entity that actually packaged the cigarettes with United States Surgeon General's warnings.

Part 7: Stamping Agent Identification.

Identify by name, address and telephone number the Stamping Agent(s) (1) to whom the Tobacco Product Manufacturer's Cigarettes are sold and/or (2) that affix the excise tax stamp of the Commonwealth of Virginia to the Tobacco Product Manufacturer's Cigarettes, and list the applicable Brand Family(s).

Part 8: Internet and Mail Order Sales.

If any of the Tobacco Product Manufacturer's cigarettes are sold through Internet or mail order sales, provide the information called for in Part 8.

Part 9: Qualified Escrow Fund.

- A. Identify the contact person's name, the financial institution where the certifying entity has established a Qualified Escrow Fund, address, telephone number, facsimile number and electronic mail address. Identify the account number of such Qualified Escrow Fund and any sub-account number for the Commonwealth of Virginia.
- B. Identify by date and amount each deposit and withdrawal from the Virginia sub-account, showing the resulting balance after each transaction. Calculate the total deposits and withdrawals.

A copy of the current Escrow Agreement and any amendments thereto must be attached to this Certification. The current Escrow Agreement and any amendments thereto must be

approved by the Attorney General of Virginia before the Tobacco Product Manufacturer can be certified.

A current account ledger and statement from the Escrow Agent verifying all transaction records for the Commonwealth of Virginia sub-account must be attached to the Certification.

Part 10: Affidavit of Tobacco Product Manufacturer.

Please read the affidavit carefully before signing and executing. The person executing the Certification must be a qualified officer of the Tobacco Product Manufacturer, ***authorized to bind the Manufacturer with respect to all statements and commitments in the affidavit, including the waiver of sovereign immunity, if any such immunity exists.*** The Certification must be executed in the presence of an authorized notary.

The original Certification must be mailed to the Attorney General of Virginia; a copy of the Certification must be mailed to the Virginia Department of Taxation.