

STATE OF IOWA

2010 NON-PARTICIPATING MANUFACTURER CERTIFICATION FORM

➔ **NOTE: The Attorney General’s Office will not process incomplete or illegible certifications.**

Part 1: Manufacturer’s Identification

A: Complete Company Information Below:

Name: _____ Phone: _____

Address: _____ Fax: _____

_____ E-mail: _____

Contact Person: _____ Web site: _____

***Is this Non-Participating Manufacturer a tribal or tribally owned entity? Y/N**

PRINT Name and Title of Person Completing Report:

Address of Manufacturing Plant(s) (if necessary attach additional sheets) for each brand:

Name of Factory Manager(s): _____

Phone Number of Factory Manager(s): _____ Fax Number of Factory Manager(s): _____

If applicant located **in U.S.:** Manufacturer’s Federal Taxpayer ID number: _____

TTB Tobacco Manufacturer Permit Number: _____ Expiration Date: _____

TTB Tobacco Importer Permit Number: _____ Expiration Date: _____

Please supply a copy of permits.

If applicant located **outside U.S.:**

Submit copies of any documents you filed with your national, state, tribal or provincial government, for example: articles of incorporation, registration to do business in your country as a manufacturer of tobacco products, to export tobacco products, any permits or licenses.

Name of Importer: _____

Location of manufacturing plant (mailing address & physical address): _____

TTB Tobacco Importer Permit Number:
[include copy of permit]Expiration Date: _____

Importer’s business office address: _____

U.S. state where importing company is domiciled: _____

Include a copy of the importer’s latest secretary of state annual report from the state of domicile.

B: This form is (check below):

Initial Certification-Manufacturer is not currently listed on the Iowa NPM Tobacco Directory

Annual Certification-Due April 30, 2010, for May 1, 2010, through April 30, 2011.

Supplemental Certification - Change of information to an initial or Annual Certification.

Change of information must be submitted 30 days prior to change.

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Part 2: Sales Year

The Sales Year for this Certification Form. *(Complete a separate Certification Form for each sales year.)*

Sales Year: _____

Part 3: Escrow Due for Sales Year and Units Sold

- **Line a:** Number of individual cigarettes and "roll-your-own" tobacco units sold by the Manufacturer during the sales year.

Cigarettes:

Plus: +

Roll-Your- Own: _____

(total number of ounces sold divided by .09)

Total Units Sold: \$ _____ **(a)**

- **Line b:** The applicable base rate per unit sold in 2009 is: \$0.0188482 **(b)**
- **Line c:** Multiply lines (a) and (b) to determine the total base rate for total units sold. \$ _____ **(c)**
- **Line d:** Inflation adjustment for sales in 2009. \$0.0266359 **(d)**
- **Line e:** Multiply lines (a) and (d) to determine the escrow deposit for the 2009 sales made in Iowa. \$ _____ **(e)**
- **Line f:** Deduct amount previously deposited in quarterly payments if applicable. _____ \$ **(f)**
- **Line g:** Total due for payment on April 15, 2010. \$ _____ **(g)**

Part 4: Financial Institution/Escrow Agent/Escrow Agreement

Name of Institution: _____

Representative Name & Title: _____

Address: _____

State: _____ Zip: _____

Phone: _____ Fax: _____

Escrow Account Number: _____ Iowa Sub-Account Number: _____

Attach a copy of the CURRENT Qualified Escrow Agreement, executed by the Manufacturer, including amendments, to govern the payments into a Qualified Escrow Fund, made by the Manufacturer in accordance with Iowa Code Section 453C.2(2), on behalf of the State of Iowa.

Has the Qualified Escrow Agreement been approved by the Iowa Attorney General? _____

By Whom: _____ Approval Date: _____

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Part 5. Escrow Deposit/Withdrawal History for Iowa

Date	Deposit	Withdrawal*	Balance

*Withdrawals must comply with Iowa Code 453C.2(2)(b).

Part 6:

The Financial Institution/Escrow Agent listed in Part 4 & Part 5 of this certification is required to provide directly to the Tobacco Enforcement Program of the Iowa Attorney General's Office the following:

- I. Proof of amount and date of deposit to Iowa's segregated sub-account for 2009 sales.
- II. Current account ledger of the tobacco product manufacturer's segregated sub-account for Iowa.

NOTE: These items are part of the Certification and are due by **April 30th, 2010.**

Part 7: Brand Family Identification (attach additional sheets if necessary)

Non Participating Manufacturers must complete sections A through E. Note that pursuant to Iowa Code §453D.3(1)(d)(2), any brand families the non-participating manufacturer lists under this section are deemed to be its tobacco product. Under this code section, the Attorney General also retains the discretion to determine that the tobacco product in a brand family constitutes the tobacco product of another tobacco product manufacturer.

A. Brand Family*	B. Brand Name**	C. Identify Cigarettes Or Roll-Your-Own	D. Units Sold in calendar year 2009	E. Other Manufacturer***

- *Identify with an asterisk any Brand Family sold in the state during any preceding calendar year that is no longer being sold in the state as of the date of the Certification;
- ** NOTE: The Iowa MSA Directory does not require a separate listing for variations relating to width, length, filtration, amount of chemicals, or mentholating of a particular brand name, i.e., lights, 100's, regulars, and slims, may be included under one "brand family" name. Iowa DOES REQUIRE a separate listing for variations in flavor, i.e., alcohols, fruits, candies, etc. If in doubt about a variation, contact the Attorney General's Office for guidance.
- *** Identify other manufacturers including, but not limited to, any other current or previous fabricators of any brands or brand families listed on this certification.

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Identify by name and address any other Manufacturer/fabricator listed in Box 7A for the listed Brand Families in any preceding or current calendar year. _____

Brand/Brand Family	Manufacturer Name	Address	Year
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All listings must be legible. Any listing that is not legible will not be included in the State of Iowa's Directory of MSA compliant Brands/Brand Families.

***NOTE:** Iowa Code Chapter 101B became effective on January 1, 2009, requiring cigarettes to meet reduced ignition propensity fire safety standards.

Please list the brand family products that DO NOT meet reduced ignition propensity/FSC standards in Iowa:

I. Provide a sample of the packaging of each brand family. If the manufacturer has previously supplied such packaging to the Attorney General and if such packaging has not changed, samples need not be supplied this year.

Check here if previously supplied packaging samples have not changed.

II. For each of the above brand families (cigarettes only) provide a copy of the Federal Trade Commission (FTC) approval letter for the **current** year, for health warning rotation plan. Additional information is available from:

Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
General Information Locator: 202-326-2222
Website: <http://www.ftc.gov>

III. Provide a copy of the CDC ingredient listing compliance letter(s) pertaining to the above brands of cigarettes for the **current** year, **and a notarized statement** from the manufacturer as to which brand's ingredients were submitted for each approval letter.

Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30333
Phone: 1-800-311-3435
Website: <http://www.cdc.gov/netinfo.htm>

Part 8: Registered Agent

If the Manufacturer is not registered with the Iowa Secretary of State to do business in the State of Iowa as a foreign corporation or business entity, the Manufacturer must appoint and continually engage, without interruption, the services of an agent physically present in this state to act as agent for service of process on whom all process may be served in any manner authorized by law. If the Manufacturer has registered with the Iowa Secretary of State to do business in Iowa as a foreign corporation or business entity, please indicate such. Please submit the following regarding the Manufacturer's registered or appointed agent:

Registered Agent / Appointed Agent for service of process:

Registered Agent Company: _____ Agent Name (**Iowa person/firm**): _____

Iowa Local Address: _____

Iowa telephone #: _____ Fax: _____ E-mail: _____

Has the Agent for Service of Process been approved by the Attorney General?

By Whom: _____ Approval Date: _____

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A letter from the registered agent accepting the appointment for the current year must be attached.

Be advised that the Manufacturer must provide notice to the Office of the Attorney General and the Director thirty (30) calendar days prior to the termination of the authority of the agent named in Part 8 above. In the event of such termination, the Manufacturer must provide proof of the appointment or registration of a new Agent, together with the information contained in Part 9 above, no less than five (5) calendar days prior to the termination of the existing Agent's appointment or registration. In the event that the Agent described in Part 9 above terminates the agency appointment or registered agent status, the Manufacturer must notify the Attorney General and the Director of the termination within five (5) calendar days, and shall include proof of the appointment or registration of a new Agent, together with the information contained in Part 9 above, to the Office of the Attorney General.

Part 9: Stamping Agent

List below the names and addresses of distributors selling manufacturer's product(s) in Iowa to which the non-participating manufacturer has sold and intends to sell cigarettes and/or RYO tobacco. Attach additional sheets if necessary.

Distributor Name	Distributor Address	Phone No.	Brand

Part 10: Execution

I certify, under penalty of perjury, that all of the information contained in this five-page Certification Form is true, accurate, and complete. I further certify that the above named Manufacturer is in full compliance with 453D.3(c) (1) and (2), Iowa Code Chapters 453C and 453D and all rules adopted pursuant to those chapters. This Certification Form must be signed and dated by an authorized notary public.

Name of Authorized Manufacturer Representative and title (please print or type)

Signature of Authorized Manufacturer Representative

Date

Subscribed and sworn to before me on this date: _____

Signature of Notary Public: _____

City or County of _____

My Commission expires: _____

Mail this Certification Form to Both:

FOR THE ATTORNEY GENERAL

Joelyn L. Gast , Investigator
Iowa Attorney General's Office
2nd Floor, Hoover Building
1305 E. Walnut
Des Moines, Iowa 50319

FOR THE DIRECTOR OF REVENUE

Dale Thede
Program Manager, Excise Taxes, Compliance Division
4th Floor, Hoover Building
1305 E. Walnut
Des Moines, Iowa 50319

**Direct any inquiries to Joelyn Gast at the address listed above
or call (515) 281-8206 or fax (515) 281-6771 or e-mail Joelyn.Gast@iowa.gov
70-100 (020310) NPMCertForm2010**

State of Iowa
NON-PARTICIPATING MANUFACTURER CERTIFICATION
PURSUANT TO Iowa Code Chapter 453D (2009)

GENERAL INFORMATION

Who is required to file this certification?

Any tobacco product manufacturer, who is not a “Participating Manufacturer” as that term is defined in the Master Settlement Agreement (MSA), that intends to sell cigarettes within the state of Iowa, whether directly or through any distributor, retailer, or similar intermediary.

This Certification is in addition to any Certificate of Compliance that may be required pursuant to Iowa Code Chapter 453C (2009).

Definitions:

- (a) **“Brand Family”** means all styles of Cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors including, but not limited to, “menthol,” “lights,” “kings,” and “100s,” and includes any 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 product identification identical or similar to, or identifiable with, a previously known brand of Cigarettes.
- (b) **“Cigarette”** has the same meaning as in Iowa Code Section 453C.1(4).
- (c) **“Director”** has the same meaning as in Iowa Code Section 453A.1(8).
- (d) **“Directory”** means the listing of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of Iowa Code Section 453D.3(1) and all Brand Families that are listed in such certifications; except as provided by Iowa Code Section 453D.3(2).
- (e) **“Master Settlement Agreement”** (MSA) has the same meaning as in Iowa Code Section 453C.1(5).
- (f) **“Non-participating Manufacturer”** means any Tobacco Product Manufacturer that is not a Participating Manufacturer.
- (g) **“Participating Manufacturer”** has the meaning given that term in Section II(jj) of the Master Settlement Agreement and all amendments thereto.
- (h) **“Qualified Escrow Fund”** has the same meaning as that term is defined in Iowa Code Section 453C.1(6).
- (i) **“Stamping Agent” or “Distributor”** means a person that is authorized to affix tax stamps to packages or other containers of Cigarettes under Iowa Code 453A, or any person that is required to pay the excise tax or tobacco tax imposed pursuant to Iowa Code 453A on Cigarettes, as defined in Iowa Code Section 453C.1(4).
- (j) **“Tobacco Product Manufacturer”** has the same meaning as that term is defined in Iowa Code section 453C.1(9).
- (k) **“Units Sold”** has the same meaning as that term is defined in Iowa Code section 453C.1(10).

When is this certification due?

This certificate of compliance must be executed and delivered to the Iowa Attorney General and the Director on or before April 30, 2010.

SPECIFIC INSTRUCTIONS:

- Part 1: Manufacturer's Identification.** Provide the name, address, telephone, fax number and electronic mail address. If applicant is not a manufacturer domiciled in the U.S.A., please supply the name of your importer and their identifying information.
- Part 2: Sales Year.** Identify the sales year.
- Part 3: Units Sold and Escrow Due.** Identify the units sold. Using the formula provided, calculate the escrow due.
- Part 4: Financial Institution.** Identify (i) the name, address and telephone number of the financial institution where the Non-Participating Manufacturer has established a Qualified Escrow Fund pursuant to 453C.2(2); (ii) the account number of such Qualified Escrow Fund and any sub-account number for the State of Iowa.
- Qualified Escrow Agreement.** Attach a copy of the Qualified Escrow Agreement. Indicate whether and when the Agreement has been approved by the Attorney General
- Part 5: Escrow Deposit/Withdrawal History.** Identify (i) the amount such Non-Participating Manufacturer placed in such fund for Cigarettes sold in the State during all preceding calendar years, the date and amount of each such deposit; and (ii) the amount and date of any withdrawal or transfer of funds the Non-Participating Manufacturer made at any time from such fund or from any other Qualified Escrow Fund.
- Part 6: Notice of Escrow Deposit.** The Financial Institution/Escrow Agent noted in Part 4 & Part 5 of this certification, is required to provide directly to the Tobacco Enforcement Program of the Iowa Attorney General's Office the following: Proof of amount and date of deposit to Iowa's segregated sub-account for 2008 sales or current account ledger of the tobacco product manufacturer's segregated sub-account for Iowa. These items are part of the Certification and are due by **April 30th, 2010.**
- Part 7: Brand Family Identification:** Identify by Brand Family and Brand name all of the cigarettes that the Tobacco Product Manufacturer intends to sell in this State whether directly or through any distributor, retailer, or similar intermediary, and seeks to have included in the Directory. Only the brands identified may be included in the Directory.

A Non-Participating Manufacturer shall include in its certification (i) a list of all of its Brand Families and the number of Units Sold for each Brand Family that were sold in the State during the preceding calendar year, (ii) a list of all of its Brand Families that have been sold in the State at any time during the current calendar year, (iii) an indication, by an asterisk, of any Brand Family sold in the State during any preceding calendar year that is no longer being sold in the State as of the date of such certification, and (iv) identification by name and address of any other manufacturer of such Brand Families in any preceding or current calendar year. The Non-Participating Manufacturer shall update such list thirty calendar days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental certification to the Attorney General and the Director.

NOTICE: Iowa Code Chapter 101B became effective January 1, 2009, requiring that all cigarettes sold in/into Iowa must meet fire safety standards. Please list any brands included in this application (Part 7) which DO NOT meet Iowa's reduced ignition propensity/ FSC standards.

- Part 8: Registered Agent.** Certify that the Non-Participating Manufacturer is registered to do business in the State of Iowa or has appointed an agent for service of process who is LOCATED in Iowa and provided notice thereof as required by 453D.4.
- Part 9: Stamping Agent.** List the names and addresses of distributors selling manufacturer's products into Iowa to which the NPM intends to sell cigarettes and/or RYO tobacco.
- Part 10: Execution by Authorized Designees.** The person executing the Certification must be an authorized representative of the Tobacco Product Manufacturer identified in Part 1. The Designee's name and title must be printed and the Certification must be executed in the presence of an authorized notary.