

**COMMONWEALTH OF MASSACHUSETTS  
TOBACCO PRODUCT MANUFACTURER (“TPM”) CERTIFICATION (M.G.L. c. 94F)  
(March 2021)**

*Please type or print legibly in permanent blue ink.*

**Select one** (see instructions):

☐ Initial TPM Certification    ☐ Annual TPM Certification    ☐ Supplemental TPM Certification

**PART I: MANUFACTURER INFORMATION (All TPMs)**

Company Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

\_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Website: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address of Manufacturing Facility: \_\_\_\_\_

\_\_\_\_\_

Name of Factory Manager(s): \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Manufacturer's Federal Taxpayer ID Number: \_\_\_\_\_

TTB Manufacturer or Importer Permit Number: \_\_\_\_\_ Expiration: \_\_\_\_\_

Name and Title of Person Completing This Certification: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

## PART II: PM/NPM STATUS (All TPMs)

The undersigned certifies that, as of this date, the above-named manufacturer is (select one):

- ☐ a Participating Manufacturer (“PM”) under the MSA
- ☐ a Non-Participating Manufacturer (“NPM”) in full compliance with M.G.L. c. 94E and M.G.L. c. 94F, and implementing regulations, and has made all required deposits into a qualified escrow fund approved by the Attorney General for sales in Massachusetts since June 29, 2000.

## PART III: BRAND FAMILY and BRAND STYLE IDENTIFICATION

### A. ALL MANUFACTURERS (see Instructions)

1. All TPMs **must** submit their Brand Family and Brand Style identification on the Excel Spreadsheets made available for them to download at [www.mass.gov/ago/tobacco](http://www.mass.gov/ago/tobacco) as follows:

- Manufacturers seeking an **annual certification must** download, complete, and submit the Excel spreadsheet with your name that lists the cigarette Brand Styles and RYO Brand Families you manufacture currently on the Massachusetts Tobacco Product Directory.
- Manufacturers seeking an **initial certification** of its Brand Styles **must** download, complete, and submit the Excel spreadsheet entitled *Product Certification Template*.
- Manufacturers submitting a **supplemental certification** that is adding, deleting, or changing the information of a listed Brand Style **must** download, complete, and submit the Excel spreadsheet entitled *Product Certification Template*.

2. Following the instructions on the relevant spreadsheet, please (a) indicate whether a listed Brand Style should remain on the Massachusetts Directory; (b) indicate whether a listed Brand Style should be deleted from the Massachusetts Directory because you discontinued it and it is no longer in the stream of commerce, or, if you no longer wish to certify it for sale in Massachusetts; (c) add any Brand Styles and Brand Families you are seeking to certify for sale in Massachusetts through this certification and, for each cigarette Brand Style, include the 12 or 13 digit UPCs appearing on the carton; and/or (d) “redline” any changes to the Brand Styles and Brand Families (e.g. change in Brand Style Name, change in Packaging Type, etc.). You must notify the Attorney General and Department of Revenue at least 30 days in advance of any changes in the UPCs. Products with unreported UPCs will not be able to be sold in Massachusetts.

3. ***NOTE:*** All TPMs’ menthol Brand Styles are pre-marked for deletion on their respective spreadsheets and will be deleted from the TPM Directory on **June 1, 2021 unless** a TPM notifies the Attorney General’s Office by **May 28, 2021** that it will retain their menthol Brand Styles on the TPM Directory. Massachusetts has included this requirement because as of June 1, 2020, Massachusetts law substantially limits the sale menthol cigarettes.<sup>1</sup>

4. If you manufacture any other Brand Families that are **not** sold in Massachusetts, please attach a separate list of these additional Brand Families you manufacture.

5. ***NOTE:*** By listing these Brand Styles and Brand Families in an Annual, Initial, and/or Supplemental TPM Certification, a Participating Manufacturer affirms that they are deemed to be its Cigarettes for

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<sup>1</sup> Pursuant to G.L. 270, § 28, as of June 1, 2020 “no person, retailer or manufacturer shall sell, distribute, cause to be sold or distributed, offer for sale any [menthol Cigarettes] in any retail establishment, online or through any other means to any consumer in the commonwealth; provided, however, that this subsection shall not apply to the sale or distribution by a smoking bar, as defined in [G.L. 270, §] 22, of [menthol Cigarettes] for on-site consumption.”

*purposes of calculating its payments under the MSA for the relevant year, in the volume and shares determined pursuant to the MSA.*

6. By listing these Brand Styles and Brand Families, a **Non-Participating Manufacturer** affirms that they are deemed to be its Cigarettes for purposes of M.G.L. c. 94E.

**B. NON-PARTICIPATING MANUFACTURERS** (see Instructions)

1. State the quantity of Units Sold for each Brand Family for which you are the TPM.

Brand Family			Units Sold in MA (2020)
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
_____	<input type="checkbox"/> Cigarette	<input type="checkbox"/> RYO	_____
Use additional sheets if necessary.	Total from additional sheets:		_____

0.09 oz. of RYO constitutes one unit.

**TOTAL UNITS SOLD (2020):**

**Escrow Deposit for Sales in 2020:** x \$ 0.0368704= \$ \_\_\_\_\_

**2. NPM Supplemental Documentation**

NPMs must attach the following as exhibits to this Certification:

- Attach documentation such as sales invoices to substantiate the reported RYO units sold in Massachusetts during 2020. This documentation must identify name and address of the entity (wholesaler/distributor/retailer/consumer) to which the RYO was sold and identify the brand name and quantity of units sold. Please note that this documentation is required for all RYO sold in Massachusetts, regardless of whether it is a direct sale or through a distributor (whether or not located in Massachusetts).
- State the address(es) where each Brand Family was manufactured, if different from the addresses provided in Part I. (Check here if not applicable: ☐ )
- State the name and address of any other manufacturer (including prior manufacturer) of each Brand Family, and the applicable time period(s). (Check here if not applicable: ☐ )

**PART IV: ALL TPMs SUPPLEMENTAL DOCUMENTATION**

**A. Packaging Sample** - Provide a sample of the packaging for each Brand Style, unless you have previously provided packaging samples which have not changed. You must submit these samples digitally.

☐ Check here if you have previously provided packaging samples and the packaging has not changed in any manner. Date: \_\_\_\_\_

*Please note that a Supplemental TPM Certification is required for any packaging changes subsequent to the date of this Certification.*

**B. Affirmation of Compliance with Federal Requirements** - For each Brand Style of cigarettes listed in Part III.A., provide the documentation required below if (a) you are seeking to add new Brand Styles to

the Massachusetts Tobacco Product Directory or (b) there was any change or updated documentation regarding the following:

1. A copy of the current Federal Trade Commission (“FTC”) approval letter for the health warning rotation plan. Not applicable to RYO.  
☐ Check here if you have previously provided this approval letter and the FTC has not issued you a new letter for the health warning rotation plan. Date: \_\_\_\_\_
  2. A copy of the current Center for Disease Control and Prevention (“CDC”) ingredient-listing compliance letter(s) pursuant to 15 U.S.C. § 1335a(a); 19 U.S.C. § 1681a(1). Not applicable to RYO.  
☐ Check here if you have previously provided the CDC’s compliance letter(s) and the CDC has not issued you a new letter pursuant to 15 U.S.C. § 1335a(a); 19 U.S.C. § 1681a(1). Date: \_\_\_\_\_
  3. Proof you submitted your disclosure of tobacco product ingredients that was due by June 2010 to the Center for Tobacco Products (“CTP”) pursuant to 21 U.S.C.A. § 387d.  
☐ Check here if you have previously provided this submission and (a) you have not provided a new or updated submission to the CTP and (b) the CTP has not issued you any new documentation regarding your disclosure of tobacco product ingredients that was due by June 2010. Date: \_\_\_\_\_
  4. The name and address of the trademark holder and if different from the certifying Company, state whether the holder is an Affiliate of the Company. If the holder is not an Affiliate, provide contact information for the trademark holder, and a copy of all manufacturing agreements or other documents granting the certifying Company the right to manufacture the cigarettes or RYO.
  5. A copy of the Company’s TTB Tobacco Manufacturer and/or Tobacco Importer Permit(s).
  6. A notarized statement that the Brand Styles listed in Part III.A. do not contain as a constituent or additive, any artificial or natural flavors (other than tobacco or menthol) or any herb or spice, that is a characterizing flavor of the tobacco products or their smoke, as required by 21 U.S.C.A. § 387g(a)(1)(A).
  7. ☐ Check here if you filed your registration and all monthly shipment reports with the Massachusetts Department of Revenue since April 2018, as required by the federal Prevent All Cigarette Trafficking Act (“PACT”), 15 U.S.C. §§ 375 *et seq.* If you have failed to register and report as required by PACT, please provide a detailed explanation on a separate sheet. **NOTE all PACT registration and monthly shipment reports submitted to the Massachusetts Department of Revenue will be reviewed to confirm they were filed.**
- C. Has the Massachusetts State Fire Marshal provided approval letters to the Manufacturer that all Brand Styles of cigarettes listed in Part III.A. are certified as Fire Standard Compliant? If the Massachusetts State Fire Marshal has **not** certified any Brand Style listed in Part III.A. as Fire Standard Compliant, explain why the Brand Style has not been certified. Provide any documentation explaining why the Massachusetts Fire Marshall has not certified any Brand Style listed in Part III.A. as Fire Standard Compliant. **NOTE all Brand Styles of cigarettes the manufacturer lists in Part III.A. will be compared to the Massachusetts State Fire Marshall’s database of Brand Styles that are certified as Fire Standard Compliant.** Not applicable to RYO.
- D. State the name and address of the person who made the most recent filings of the nicotine yield report required by M.G.L. c. 94, § 307B(b) as well as the date on which the filing was made.

**PART V: ESCROW ACCOUNT INFORMATION (NPMs only; PMs skip to Part VIII)**

**A.** Identify the financial institution where the Company has established and maintains an escrow account for purposes of M.G.L. c. 94E:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Website: \_\_\_\_\_

Contact Person/Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Account No.: \_\_\_\_\_

MA Sub-Account No.: \_\_\_\_\_

Date of Escrow Agreement: \_\_\_\_\_

Date(s) of All Amendments to Escrow Agreement: \_\_\_\_\_

**SUBMIT A COPY OF YOUR CURRENT ESCROW AGREEMENT AND ALL AMENDMENTS.**

Have you previously submitted the current Escrow Agreement and all amendments to the Massachusetts Attorney General?

☐ Yes ☐ No

Has the Attorney General approved the Escrow Agreement and all amendments?

☐ Yes ☐ No

**B. Deposit/Withdrawal History for Massachusetts Sub-Account:**

<b>Date</b>	<b>Deposit<sup>2</sup></b>	<b>Withdrawal</b>	<b>Balance</b>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*NOTE: You must attach to this TPM Certification a copy of a receipt or other confirmation from the financial institution for each deposit (or state that the receipt previously filed was with a TPM Certification) and for the current balance of the Massachusetts Sub-Account.*

**PART VI: AGENT FOR SERVICE OF PROCESS (NPMs only)**

\_\_\_\_\_

<sup>2</sup> The escrow amounts due each year is calculated by multiplying the number of Units Sold in the previous year by the Base Amount and by the Inflation Adjustment (see Exhibit C of the tobacco Master Settlement Agreement): *e.g.*, by \$0.0368704 for sales in 2020.

The Company (select one):

- ☐ is registered to do business in Massachusetts (attach a copy of most recent registration filing)
- ☐ has attached an executed Notice of Appointment
- ☐ has previously filed a Notice of Appointment that remains in effect. Date of Notice: \_\_\_\_\_.

## **PART VII: NPM COMPANY AND COMPLIANCE INFORMATION (NPMs only)**

**A.** Stampers/Wholesalers -- On an attached sheet of paper labeled "Stampers/Wholesalers," provide the name and address of each stamper that affixes the Massachusetts excise stamp to your Cigarettes and/or for RYO, the name and address of each wholesaler/distributor that re-sells your RYO to Massachusetts retailers, and the name and address of each retailer or consumer in Massachusetts that you sell to directly. Be sure to include any stampers/wholesalers that may be located outside of Massachusetts.

**B.** Has any State brought a civil enforcement action against the Company or an Affiliate (see definitions) for an alleged failure to comply with the NPM escrow statute of any State (e.g., M.G.L. c. 94E) or for an alleged failure to comply with the NPM "complementary legislation" of any State (e.g., M.G.L. c. 94F)?

☐ Yes ☐ No

**If "Yes":** on an attached sheet of paper labeled "Enforcement Actions," provide the title of the action, the court in which it was brought, and whether a judgment was entered.

**C.** Has any State denied the application of the Company or an Affiliate for listing any brand in a Directory under its NPM "complementary legislation" (e.g., M.G.L. c. 94F)?

☐ Yes ☐ No

**If "Yes":** on an attached sheet of paper labeled "Directory," identify the company, the Brand Families, and the State.

## **PART VIII: DECLARATION, ACKNOWLEDGMENT, AND SIGNATURE**

Under penalties of perjury, the undersigned authorized officer of the Company states that:

- A.** I am an officer of the Company, and I am authorized to execute this TPM Certification on its behalf.
- B.** I have read the Instructions for this TPM Certification. I understand that any misrepresentation may be grounds for not including the Company on the TPM Directory.
- C.** I understand that the Attorney General may require additional information and/or documentation with regard to this TPM Certification. I understand that failure to provide additional information and/or documentation may be grounds for not including the Company on the TPM Directory.
- D.** I have examined this TPM Certification, as well as the attachments and other accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.
- E.** The Company will immediately notify the Attorney General in the event that the submitted information and documents are no longer accurate or complete.
- F.** The Company executes this TPM Certification pursuant to M.G.L. c. 94F, in order to sell its Cigarettes in Massachusetts, and specifically consents to the jurisdiction of the Superior Court of Massachusetts, and waives any objection to such jurisdiction for purposes of any enforcement action that may be brought by the Attorney General under M.G.L. c. 94E or M.G.L. c. 94F with respect to the TPM Certification or any Cigarettes sold in Massachusetts, or otherwise failing to comply with either M.G.L. c. 94E or M.G.L. c. 94F.

- G. The Company waives any sovereign immunity defense that may apply to enforcement actions that may be brought by the Attorney General under M.G.L. c. 94E or M.G.L. c. 94F with respect to the TPM Certification or any Cigarettes sold in Massachusetts.

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Typed or Printed Name of Authorized Officer

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Title

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Signature of Authorized Officer

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Date

Subscribed and sworn to before me on this date:

Signature of Notary Public:

Country and City or County of:

My Commission Expires:

## **PART IX: DIGITAL FILING**

Please file this completed TPM Certification and all supporting documentation (attachments, exhibits, packaging samples, etc.) digitally. Digital filing may be accomplished in the following ways:

- a. email files to [msa@mass.gov](mailto:msa@mass.gov);
- b. emailing a “link” to a “share folder” from which the Attorney General’s Office may download the files. Please email the link to [msa@mass.gov](mailto:msa@mass.gov) and include any passcodes or other instructions needed to access the share folder; or
- c. if your files are too big to email **and** you do not have a “share folder” to grant our office access, please email the Attorney General’s Office at [msa@mass.gov](mailto:msa@mass.gov) and we will set up a share folder for you to upload your files to our office.

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