

State of New Hampshire
Certification Pursuant to NH RSA 541-D
2023

(** NOTE: TO BE SUBMITTED BY MANUFACTURERS ONLY ****)**

GENERAL INFORMATION

Who is required to file this certification?

Any tobacco product manufacturer that intends to sell cigarettes, roll-your-own and/or smokeless tobacco products within the State of New Hampshire, whether directly or through any distributor, retailer, or similar intermediary, must file.

When is this certification due?

The Annual certificate of compliance is to be filed on or before **April 30, 2023**.

ELECTRONIC FILING OPTION: The Annual certificate may be filed using CertiVault or by sending the form via email to Tobacco@doj.nh.gov. If you choose to file by email, please label your cover e-mail with your company name and the words "RSA 541-D Annual Certification 2023" in the subject line.

If an electronic filing is submitted, using either email or CertiVault, the filing is complete. A hard copy of the filing is not required to be submitted.

This filing is in addition to, and does not supplant any filing obligations of non-participating manufacturers under RSA 541-C. However, the RSA 541-C filing may be made in conjunction with this filing and will be considered timely filed if received by this office by April 30, 2023.

Definitions:

- (a) **"Attorney General"** means the Attorney General of the State of New Hampshire, 33 Capitol Street, Concord, New Hampshire 03301.
- (b) **"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.
- (c) **"Brand Name"** includes all products sold within any Brand Family, including without limitation, products described by descriptors or modifiers such as "menthol," "lights," "kings," and "100s."
- (d) **"Cigarette"** has the same meaning as in RSA 541-C:2, IV, and includes roll-your-own and smokeless tobacco products.
- (e) **"Commissioner"** means the Commissioner of the New Hampshire Department of Revenue.
- (f) **"Directory"** means the listing of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of NH RSA 541-D and all Brand Families that are listed in such certifications; except as provided by NH RSA 541-D.
- (g) **"Master Settlement Agreement"** (or "MSA") has the same meaning as in RSA 541-C:2, V.
- (h) **"Non-Participating Manufacturer"** (or "NPM") means any Tobacco Product Manufacturer that is not a Participating Manufacturer.
- (i) **"Participating Manufacturer"** has the meaning given that term in Section II(jj) of the Master Settlement Agreement

and all amendments thereto.

- (j) “**Qualified Escrow Fund**” has the same meaning as that term is defined in RSA 541-C:2, VI.
- (k) “**Stamping Agent**” means a person that is authorized to affix tax stamps to packages or other containers of Cigarettes under RSA Ch. 78, or any person that is required to pay the tobacco tax imposed pursuant to RSA Ch. 78 on Cigarettes.
- (l) “**Tobacco Product Manufacturer**” has the same meaning as that term is defined in RSA 541-C:2, IX.
- (m) “**Units Sold**” has the same meaning as that term is defined in RSA 541-C:2, X.

SPECIFIC INSTRUCTIONS:

- Part 1: **Manufacturer's Identification**. Identify the name, address, zip code or (for manufacturers located outside the United States) local mail code, telephone, fax number and electronic mail address for the manufacturer and the person completing the form.
- Part 2: **Certification of Status**. State whether your company is a Participating Manufacturer or a Non-Participating Manufacturer in compliance with all applicable provisions of RSA 541-C.

Please note that the Certification Form was amended in 2006 to require that, if the submitting company is not the actual manufacturer of the tobacco products for which it is submitting the certification, it must identify the manufacturer and, as applicable, describe the relationship between the submitting company and the manufacturer. If the submitting company has agreed by contract or otherwise to assume escrow responsibility for a manufacturer, it must submit an executed copy of any such agreement.

NO AGREEMENT TO ACCEPT ESCROW RESONSIBILITY WILL BE RECOGNIZED WITHOUT SUBMISSION OF AN EXECUTED CONTRACT.

- Part 3: **Sales Year**. Identify the sales year during which the certification is filed.
- Part 4: **Brand Family Identification**. Identify by Brand Family and Brand Name all of the cigarettes that the Tobacco Product Manufacturer HAS SOLD OR 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 Participating Manufacturer shall include a list of its Brand Families and Brand Names as well as brands to be removed from the Directory. The Participating Manufacturer shall update such list thirty (30) calendar days prior to any addition to or modification of its Brand Families or Brand Names by executing and delivering a supplemental certification to the Attorney General and Commissioner.

IF THIS IS A SUPPLEMENTAL CERTIFICATION, YOU MAY NOTE THAT FACT ON THE CERTIFICATE AND SHOULD ONLY LIST NEW BRANDS WHICH YOU INTEND TO MARKET. PLEASE REVIEW YOUR BRAND LISTING ON THE STATE'S CERTIFICATION DIRECTORY (www.doj.nh.gov/consumer/tobacco) TO ENSURE THAT ALL OF YOUR COMPANY'S BRANDS ARE PROPERLY LISTED.

A Non-Participating Manufacturer shall include in its certification (i) a list of all of its Brand Families and Brand Names 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 and Brand Names that are being sold in the State at any time during the **current** year, (iii) a list identifying by name and address **any other manufacturer** of such Brand Families in the preceding or current calendar year, and (iv) a list of all Brand Families that are no longer

being sold and should be removed from the Directory. The Non-Participating Manufacturer shall update such list thirty (30) 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 Commissioner.

Part 5: **Non-Participating Manufacturer Certification.**

A.1. Verify that the Non-Participating Manufacturer is registered to do business in New Hampshire.

PROVIDE A COPY OF A CERTIFICATE OF GOOD STANDING ISSUED BY THE OFFICE OF THE NEW HAMPSHIRE SECRETARY OF STATE; OR

A.2. If your company has not registered to do business in New Hampshire, verify that it has appointed an agent for service of process and provided notice thereof as required by RSA 541-D. If no agent for service of process is appointed, the New Hampshire Secretary of State will be deemed the company's agent for service of process.

IF THIS IS A SUPPLEMENTAL CERTIFICATION OR AN ANNUAL CERTIFICATION (RENEWAL), AND THERE HAS BEEN NO CHANGE IN THE INFORMATION REQUIRED IN SECTION A.2, SINCE THE LAST ANNUAL OR ANY SUPPLEMENTAL CERTIFICATION, PLEASE RESPOND BY CHECKING THE BOX LABELED "NO CHANGE SINCE PRIOR CERTIFICATION"

B. 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 RSA 541-C; (ii) the account number of such Qualified Escrow Fund and any sub-account number for New Hampshire.

IF THIS IS A SUPPLEMENTAL CERTIFICATION OR AN ANNUAL CERTIFICATION (RENEWAL), AND THERE HAS BEEN NO CHANGE IN THE INFORMATION REQUIRED IN SECTION B SINCE THE LAST ANNUAL OR ANY SUPPLEMENTAL CERTIFICATION, PLEASE RESPOND BY CHECKING THE BOX LABELED "NO CHANGE SINCE PRIOR CERTIFICATION."

C. Identify the amount the Non-Participating Manufacturer is obligated to place in such Qualified Escrow Fund by multiplying the Total Number of Units Sold by the Inflation-Adjusted Statutory Rate. The Total Number of Units Sold is the number sold in the sales year prior to this Annual Certification.

Please note that the Certification Form was amended in 2022 to add part C. This part requires that each Non-Participating Manufacturer calculate the total amount due in escrow for the prior sales period. Additional escrow deposits are due if the actual inflation-adjusted statutory rate per Cigarette exceeds the estimated inflation-adjusted statutory rate per Cigarette on Quarterly Escrow Payment Compliance forms.

D. Identify (i) the amount such Non-Participating Manufacturer placed in such fund for Cigarettes sold in the State during the preceding calendar year, (ii) the date and amount of each such deposit; and (iii) 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.

IF THIS IS A SUPPLEMENTAL CERTIFICATION, YOU NEED ONLY LIST DEPOSITS OR WITHDRAWALS MADE SINCE THE DATE OF YOUR COMPANY'S LAST ANNUAL CERTIFICATION.

Part 6: **Signature:** The person executing the Certification must do so before an authorized notary.

Both Participating and Non-Participating Manufacturers must sign this document in the presence of a Notary or such similar official in the company's home nation.

If you have questions regarding this form, kindly direct them to:

Office of the Attorney General
Consumer Protection & Antitrust Bureau
Tobacco Enforcement
33 Capitol Street
Concord, NH 03301

Phone: (603) 271-1196
Fax: (603) 271-2110
e-mail: Tobacco@doj.nh.gov

Form: <http://www.doj.nh.gov/consumer/tobacco/forms.htm>

State of New Hampshire
Manufacturer Certification
Pursuant to NH RSA 541-D
APRIL 30, 2023

This is a(n) (check one):

INITIAL CERTIFICATION SUPPLEMENTAL CERTIFICATION
ANNUAL CERTIFICATION (RENEWAL)

Part 1: Tobacco Product Manufacturer Identification

Company: _____

Address: _____

City: _____

State: _____ Country: _____

Zip code: _____

Or other mail code: _____

Phone: _____ FAX: _____

Email: _____

Name/Title of Person Completing Report: _____

Address/Phone/Email of Person Completing Report: _____

Part 2: Certification of Status

The Tobacco Product Manufacturer identified above is, as of the date of this Certification: (Choose One)

_____ A Participating Manufacturer under the Tobacco Master Settlement Agreement.

_____ A Non-Participating Tobacco Product Manufacturer in full compliance with RSA 541-C.

_____ First Importer of Cigarettes Not Intended for Distribution in the United States, and which is in full compliance with RSA 541-C.

IF YOU CHECK THIS OPTION, PROVIDE ALL INFORMATION REQUIRED IN PART 1 FOR THE MANUFACTURER OF EACH BRAND FAMILY TO WHICH THIS OPTION APPLIES. (add additional sheets if necessary)

_____ A person or entity which has accepted responsibility for compliance with RSA 541-C under a written contract with the Manufacturer or Fabricator of the cigarettes for which this Certification is submitted.

IF YOU CHECK THIS OPTION:

- (1) PROVIDE ALL INFORMATION REQUIRED IN PART 1 FOR THE MANUFACTURER OF EACH BRAND FAMILY TO WHICH THIS OPTION APPLIES;
- (2) DESCRIBE THE RELATIONSHIP BETWEEN YOUR COMPANY AND THE MANUFACTURER OF EACH BRAND FAMILY TO WHICH THIS OPTION APPLIES; and
- (3) PROVIDE A COPY OF AN EXECUTED CONTRACT BETWEEN YOUR COMPANY.

Add additional pages if necessary.

Part 3: Sales Year

Year of Sales for this Certificate of Compliance is: **2023**.

Part 4: Brand Family Identification (Attach Additional Sheets if Necessary)

Participating Manufacturers are not required to fill out Section C of this Part. If this is a Supplemental Certification or Annual Certification (Renewal) and there has been no change in the Brand Families and Brand Names Listed in the most recent Annual or Supplemental Certifications submitted by your company, indicate this fact by marking the check box below.

PARTICIPATING MANUFACTURERS:

NO CHANGE SINCE PRIOR CERTIFICATION

NON-PARTICIPATING MANUFACTURERS must fill out Sections A, B, C, and D and E of this Part

NO CHANGE SINCE PRIOR CERTIFICATION

| A. Brand Families Sold in State in 2022¹ | B. Brand Names Sold in State in 2022 | C. Total Units sold in 2022 By Brand Family | D. Names of New Brands and Brand Families, If Any, To Be Sold In State in 2023² | E. Brand Names To be Removed from the Directory |
|------------------------------------------------------------|---------------------------------------------|----------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------------------------------------------------|
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Add additional pages if necessary

¹ Indicate with an asterisk (*) those Brand Families and/or Brand Names that will not be sold in the present year.

² The Attorney General may require additional information before new Brand Families or Brand Names are approved.

Part 5: NON-PARTICIPATING MANUFACTURER CERTIFICATION

A. 1. Registered to Do Business

State whether your Company is currently registered to do business in New Hampshire with the Office of the New Hampshire Secretary of State.

Yes _____ No _____

If yes, state the date of registration: _____

Describe the form of Organization (e.g., corporation, limited liability company, partnership, etc.)

Is your company registered as a Foreign or Domestic business entity?

PROVIDE A COPY OF A CERTIFICATE OF GOOD STANDING ISSUED BY THE OFFICE OF THE NEW HAMPSHIRE SECRETARY OF STATE.

2. Agent for Service of Process

NO CHANGE SINCE PRIOR CERTIFICATION

Agent Name: _____

Company: _____

Address: _____

Phone: _____ FAX: _____

E-mail: _____

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

By Whom: _____ Approval Date: _____

B. Qualified Escrow Fund – Financial Institution

NO CHANGE SINCE PRIOR CERTIFICATION

Name of Institution: _____

Address: _____

Representative Name: _____ Phone: _____

Escrow Acct No: _____ State Account No: _____

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

By Whom: _____ Approval Date: _____

C. Escrow Obligation for Sales Year

Total number of Units Sold in New Hampshire during Sales Year 2022: _____

Statutory rate per Cigarette (\$0.0188482), adjusted for inflation: \$0.0420119

Multiply Units Sold by the adjusted statutory rate per cigarette: _____

Amount Deposited in Escrow for Sales Year: _____

- *The inflation adjustment used for Quarterly Certifications is provisional; the total amount to be deposited into the Qualified Escrow may need to be recalculated at the time of this Annual Certification.*
- **If the above amount requires an additional deposit, attach proof of deposit from your financial institution.**

D. Escrow Deposit/Withdrawal History for New Hampshire

IF THIS IS A SUPPLEMENTAL CERTIFICATION ONLY DEPOSITS AND WITHDRAWALS MADE SINCE THE LAST ANNUAL CERTIFICATION NEED BE LISTED.

| Date | Deposit | Withdrawal | Balance |
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Part 6:

Signature of Tobacco Product Manufacturer

Under penalty of perjury, I state that (1) the information contained in this Certification is true and accurate and that I am authorized to sign this certification, to make all representations, and to make all appointments contained herein; (2) I understand that the Attorney General may require additional information and/or documentation to determine if the Tobacco Product Manufacturer qualifies for listing in the New Hampshire Directory of Certified Tobacco Manufacturers and to determine if the representations are accurate and complete; and (3) the Tobacco Product Manufacturer hereby submits itself to the jurisdiction of the courts of the State of New Hampshire for purposes of all actions and litigation arising out of this certification or the sale of tobacco products in New Hampshire.

Name of Authorized Agent: _____ Title: _____

Signature of Authorized Agent: _____ Date: _____

Subscribed and sworn to before me on this ____ day of _____, 20__ by _____, known to me or having satisfactorily demonstrated his/her identity.

Signature of Notary Public: _____ City or County of _____

My Commission Expires: _____

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Mail the completed certificate of compliance to: Office of the Attorney General Consumer Protection & Antitrust Bureau Tobacco Enforcement 33 Capitol Street Concord NH 03301</p> <p>Electronically: Tobacco@doj.nh.gov or CertiVault A hard copy is not required if filed electronically.</p> |
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