

State of Nebraska  
**Tobacco Product Manufacturer's Certification**  
Pursuant to Neb. Rev. Stat. § 69-2706 (Cum. Supp. 2016)

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**General Information and Directions for Completion of Selected Provisions of Form 55B**

**Definitions:**

- (a) "Brand Family: means all styles of cigarettes sold under the same trademark 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 Neb. Rev. Stat. § 69-2702(4).
- (c) "Directory" means the listing of all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of Neb. Rev. Stat. §§ 69-2706 through 69-2711 and all brand families that are listed in such certifications, except as provided by said statutes.
- (d) "Master Settlement Agreement" has the same meaning as in Neb. Rev. Stat. § 69-2702(9).
- (e) "Participating Manufacturer" has the same meaning prescribed in Section II(jj) of the Master Settlement Agreement defined in Neb. Rev. Stat. § 69-2702(9).
- (f) "Nonparticipating Manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.
- (g) "Qualified Escrow Account" has the same meaning as in Neb. Rev. Stat. § 69-2702(10).
- (h) "Stamping Agent" means a person that is authorized to affix tax stamps to packages or other containers of cigarettes under Neb. Rev. Stat. § 77-2603 or any person that is required to pay the tobacco tax imposed pursuant to Neb. Rev. Stat. § 77-4008 on roll-your-own cigarettes.
- (i) "Tobacco Product Manufacturer" has the same meaning prescribed in Neb. Rev. Stat. § 69-2702(13).
- (j) "Units sold" has the same meaning prescribed in Neb. Rev. Stat. § 69-2702(14).

**Who is required to file this Certification?**

- Every tobacco product manufacturer that intends to sell cigarettes, including roll-your-own cigarettes, within the State of Nebraska, whether directly or through any distributor, retailer, or similar intermediary.
- Participating manufacturers must complete Parts 1, 2(A), 2(C-E), 3, and 9.
- Nonparticipating manufacturers must complete the entire form except Part 2A.

**When is the Certification due?**

- For manufacturers whose cigarettes are sold in Nebraska, this Certification is due on an annual basis no later than April 30th of each year.

- For manufacturers whose cigarettes are not yet sold in Nebraska, this Certification must be submitted and the manufacturer and its brands must be listed on the Directory **before** beginning sales in Nebraska.
- For manufacturers making any changes to their annual Certification or initial Certification, the **supplemental** Certification noting the changes must be submitted at least thirty (30) calendar days **prior** to that change becoming effective.

**To whom are Certifications delivered:**

The Certification and any supplemental Certification must be delivered to **both** the:

Nebraska Department of Revenue  
PO Box 94818  
Lincoln, NE 68509-4818  
Attention: Cliff Thomas  
Tax Specialist Sr.

and

Nebraska Attorney General's Office  
Consumer Protection Division  
PO Box 98920  
Lincoln, NE 68509-8920

- All other correspondence, escrow agreements, bank account statements, packaging samples, and other documents pertaining to the Nebraska Tobacco Product Manufacturer's Certification must be sent to the Attorney General's Office.

**Records Retention Requirement**

Tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for the certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

**Compliance with other statutes:**

The fact that a tobacco product manufacturer or brand family is listed on the Directory maintained by the Nebraska Department of Revenue merely means that the tobacco product manufacturer and brand family have been approved pursuant to Neb. Rev. Stat. § 69-2706 and does not mean that they are compliant with other State laws applicable to the sale and/or distribution of cigarettes.

**Instructions:**

**Part 1: Manufacturer's Identification.**

Every participating and nonparticipating cigarette manufacturer must complete Part 1 A and B.

A nonparticipating cigarette manufacturer must be in full compliance with Neb. Rev. Stat. § 69-2703(2), which requires quarterly payments of escrow.

## **Part 2: Brand Family Identification.**

Only those brand families listed may be included on the Directory.

### **A. Participating Manufacturers**

A 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 the Tax Commissioner.

- If you need additional information regarding the Federal Trade Commission (FTC) approval letter for the health-warning rotation plan, you can contact the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington D.C. 20580, General Information Locator: (202) 326-2222, <http://www.ftc.gov>
- If you need additional information regarding the Center for Disease Control ingredient listing compliance letter, you can contact the Center for Disease Control and Prevention, 1600 Clifton Road, Atlanta, GA 30333, 1-800-232-4636, <http://www.cdc.gov/netinfo.htm>

### **B. Nonparticipating Manufacturers**

A nonparticipating 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 the Tax Commissioner.

- If you need additional information regarding the health-warning rotation plan or the ingredient compliance letter, please refer to the information above.

## **Part 6: Nonparticipating Manufacturer Liability; Joint and Several Liability.**

### **A. Agent for Service of Process**

Every nonparticipating manufacturer shall execute and deliver a supplemental certificate to the Nebraska Attorney General and the Tax Commissioner thirty (30) days prior to the termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the appointment of a new agent not less than five (5) days prior to the termination of an existing agency appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the Attorney General and Tax Commissioner within five (5) days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

- (1) **If the nonparticipating manufacturer has appointed an agent for service of process, you must supply a current letter from the registered agent accepting the appointment.**

### **B. Consent to Suit.**

The nonparticipating manufacturer must consent to suit in the district courts of the State of Nebraska if the State of Nebraska commences litigation to enforce the provisions of Neb. Rev. Stat. §§ 69-2703 to 69-2710 or if the State of Nebraska brings any action regarding a released claim as that term is defined by Neb. Rev. Stat. § 69-2702. Appropriate documentation authorizing the person executing the certification to consent on behalf of the nonparticipating manufacturer to its being sued in Nebraska district court must also be attached (i.e. Board of Director's resolution).

### **C. Importer's Joint and Several Liability.**

Every nonparticipating manufacturer located outside of the United States must provide a fully and correctly executed copy of the Importer Acceptance of Joint and Several Liability Form prepared by the office of the Nebraska Attorney General with all required attachments.

## **Part 7: Nonparticipating Manufacturer Qualified Escrow Account.**

### **A. Qualified Escrow Fund Information**

Pursuant to Neb. Rev. Stat. § 69-2706(1)(d)(ii), all Escrow Agreements must be approved by the Attorney General.

### **B. Escrow Deposit/Withdrawal History for Nebraska**

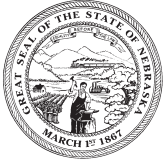
Identify: (i) the amount the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold in the state during each preceding calendar year; (ii) the amount of and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which the manufacturer ever made escrow payments pursuant to Neb. Rev. Stat. § 69-2703(2), § 69-2708 and all regulations promulgated pursuant thereto. You must attach copies of records of the financial institution confirming the foregoing. **Note:** All withdrawals must comply with Neb. Rev. Stat. § 69-2703(2)(b). Verification of compliance must be provided.

## **Part 8: Bond or Cash Equivalent for Nonparticipating Manufacturer.**

### **Part 9: Execution by Authorized Designee.**

The person executing the certification must be an officer or other authorized designee of the tobacco product manufacturer identified in Part 1. Proof of such authorization may be required. The designee's name and title must be clearly printed and the certification must be executed in the presence of an authorized notary public.

**NOTE: Incomplete and/or illegible Certification forms and any attachments will be returned.**



# State of Nebraska Tobacco Product Manufacturer's Certification, Form 55B

Certification Year  
**2017**

For Official Use Only
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**This form is (check one below):**

- Initial Certification — Tobacco Product Manufacturer is not currently listed on the Nebraska Directory of Certified Tobacco Product Manufacturers and Brands (Directory).
- Annual Certification — Due April 30th of each year.
- Supplemental Certification — Change in brands, registered agent, or other information.

**Note: All tobacco product manufacturers must file a Supplemental Certification 30 calendar days prior to any addition, removal, or modification of the brand families on the Directory.**

## Part 1: Tobacco Product Manufacturer Identification

**A. Business Information (please type or print):**

Business Name	
Physical Address	
Mailing Address	
City/State/Country/Zip Code	County
Phone Number, Including Area Code	
Fax Number	
Email Address	
Name/Title of Person Completing Report	
If located in the U.S., Manufacturer's Federal Taxpayer ID Number:	
If located in the U.S., attach a copy of your TTB Tobacco Manufacturer's Permit and provide the permit number and expiration date below. Permit Number _____ Expiration Date _____	

**B. The Tobacco Product Manufacturer Identified in Part 1A, as of the Date of This Certification, is a (check one below):**

- Participating manufacturer, as defined in the Master Settlement Agreement (MSA), generally performing its financial obligations as required by Neb. Rev. Stat. § 69-2703(1)(Cum. Supp. 2016). Complete Parts 1, 2A, 2C-E, 3, and 9.
- Nonparticipating manufacturer in full compliance with the escrow requirements of Neb. Rev. Stat. § 69-2703(2)(a) (Cum. Supp. 2016). Complete entire form, except Part 2A.

## Part 2: Brand Family Identification

### A. Participating Manufacturer

The participating manufacturer identified in Part 1 has the following brand families, each of which the manufacturer affirms are to be deemed its cigarettes for purposes of calculating its payments under the MSA.

Indicate with an asterisk (\*) those brands not being sold in Nebraska as of the date of this Certification (attach additional sheets if necessary).

Brand Family Name	Cigarettes or Roll-Your-Own		Brand Family Name	Cigarettes or Roll-Your-Own	
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO

Note: Notwithstanding the brands listed in Part 2A, the State of Nebraska retains the right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the MSA or depositing escrow under § 69-2703(2)(a).

### B. Nonparticipating Manufacturer

The nonparticipating manufacturer identified in Part 1 has the following brand families, each of which the manufacturer affirms are to be deemed its cigarettes for purposes of the escrow obligation set forth in Neb. Rev. Stat. § 69-2703(2)(a).

List all brand families sold in the preceding calendar year and at any time in the current calendar year. Indicate by an asterisk (\*) any brand no longer being sold in Nebraska as of the date of this Certification. .09 oz. of RYO constitutes one unit (attach additional sheets if necessary).

Brand Family Name	Cigarettes or Roll-Your-Own		Units Sold		Name and Address of All Previous Manufacturers of Brand Family
			in 2016	in 2017	
	Cigarettes	RYO			
	Cigarettes	RYO			
	Cigarettes	RYO			
	Cigarettes	RYO			

Note: Notwithstanding the brands listed in Part 2B, the State of Nebraska retains the right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the MSA or depositing escrow under § 69-2703(2)(a).

### C. Packaging or Labeling

For each brand family identified in Part 2A or 2B, provide:

1. A current listing of all UPC codes of cigarettes and RYO products that are manufactured by your company; and
2. A copy of the packaging or labeling.

Note: A copy need not be submitted if a copy of the packaging or labeling has been previously provided to the Office of the Attorney General and it remains unchanged. If so, check box .

### D. Department of Health and Human Services Ingredient List

For each brand family identified in Part 2A or 2B, provide a copy of the current documentation provided by the Department of Health and Human Services, Centers for Disease Control and Prevention, and the Office on Smoking Health showing compliance with the ingredient list submission requirement pursuant to 15 U.S.C. § 1335a.

### E. Federal Trade Commission Rotation Plan

For each brand family identified in Part 2A or 2B, provide a copy of the current complete warning rotation plan submitted to the Federal Trade Commission ("FTC") pursuant to 15 U.S.C. § 1333 and a copy of the current approval letter from the FTC for each brand family.

## Part 3: Business and Ownership Information of the Tobacco Product Manufacturer

### A. Fabrication of Brand Families

Does the tobacco product manufacturer identified in Part 1 itself fabricate the brand families identified in Part 2A or 2B?

Yes  No

If no, please explain the basis for the tobacco product manufacturer's submission of this Certification.

### B. Manufacturing Facility Identification:

Address of Manufacturing Plants
Name of Factory Managers
Phone Number of Factory Managers
Fax Number of Factory Managers

### C. Access to Manufacturing Facility

Do other companies have access to or utilize any of the manufacturing facilities identified in Part 3B? Yes  No

If yes, please explain:

### D. Criminal Activity

Has the tobacco product manufacturer identified in Part 1 or any of its affiliates, sales entity affiliates, officers, or directors been convicted of a felony crime relating to the sale or taxation of cigarettes or tobacco products?

Yes  No

If yes, please explain:

### E. Jenkins Act Compliance

Does the tobacco product manufacturer identified in Part 1 affirmatively certify that it is in full compliance with all of the registration and reporting requirements of 15 U.S.C. §§ 376 and 376a, commonly referred to as the Pact Act?

Yes  No

If no, please explain:

### F. Directory Status

Have either the tobacco product manufacturer identified in Part 1 or any of its brand families ever been involuntarily removed from the approved-for-sale tobacco products directory of any state?

Yes  No

If yes, please explain:

## Part 4: Nonparticipating Manufacturer

### A. Identification of Directors, Members, Officers, and Owners of the Company:

Interested Party	Nature of Interest	Address	Phone and Fax Numbers

### B. Association With Other Tobacco Product Manufacturers

Are any of the individuals or entities identified in Part 4A also directors, members, officers, or owners of any other tobacco product manufacturers?

Yes  No

If yes, please explain:

### C. Federal Excise Tax Paid

The nonparticipating manufacturer identified in Part 1, must provide the following information:

- Total nationwide sales on which federal excise tax was paid in the preceding calendar year \_\_\_\_\_.

Note: If the manufacturer identified in Part 1 is a domestic tobacco product manufacturer, a copy of the Tobacco Tax Bureau Form 5210.5 supporting the total sales number must be attached to this Certification.

If the manufacturer identified in Part 1 is a foreign tobacco product manufacturer, a copy of Tobacco Tax Bureau Form 5220.6 supporting the total sales number must be attached to this Certification.

- Total nationwide sales reported pursuant to 15 U.S.C. § 376 during the preceding calendar year \_\_\_\_\_.

Note: Copies of all reports made pursuant to 15 U.S.C. § 376, including reports to states other than Nebraska, shall be made available to the Nebraska Department of Revenue or Nebraska Attorney General's Office upon request.

## Part 5: Nonparticipating Manufacturer Stamping Agent

Provide the following information for all stamping agents to whom cigarettes and/or roll-your-own tobacco were sold by, or on behalf of, the nonparticipating manufacturer identified in Part 1 for distribution in Nebraska in the current or preceding year (attach additional sheets if necessary).

Name of Stamping Agent	Address	Phone Number	Brand

Note: Stamping Agent is defined in § 69-2706(20) as a person authorized to affix stamps to packages of cigarettes or a person required to pay the tobacco products tax imposed on roll-your-own tobacco. The nonparticipating manufacturer shall update this information if it changes during the calendar year.

## Part 6: Nonparticipating Manufacturer Liability; Joint and Several Liability

### A. Nonparticipating Manufacturer Registered Agent. Please Certify as Follows:

- The nonparticipating manufacturer identified in Part 1 is domiciled in the State of Nebraska.
- The nonparticipating manufacturer identified in Part 1 is a nonresident or foreign nonparticipating manufacturer that has registered to do business in the State of Nebraska as a foreign corporation or business entity.
- The nonparticipating manufacturer identified in Part 1 has appointed and continues to engage the following agent located in Nebraska for service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of Neb. Rev. Stat. §§ 69-2702 through 69-2711 may be served in any manner authorized by law:

Agent Name		
Company		
Address		
Phone Number	Fax Number	Email Address

**Attach a current letter from the registered agent accepting the appointment.**

Note: Prior notice must be provided to the Nebraska Attorney General and the Tax Commissioner of any change in the registered agent set forth in Neb. Rev. Stat. § 69-2707.

### B. Consent to be Sued

Provide a properly executed copy of the Consent to be Sued form prepared by the Office of the Nebraska Attorney General.

### C. Acceptance of Joint and Several Liability by Importers

In the case of a nonparticipating manufacturer located outside of the United States, provide a properly executed copy of the Importer Acceptance of Joint and Several Liability form prepared by the Office of the Attorney General with all additional documents required to be submitted with said form, including: a copy of the current Importer Permit issued under 26 U.S.C § 5713; a copy of the Contract, if any, regarding importation of cigarettes; a copy of the Statement by Importer's Registered Agent accepting appointment; and three "Proofs of Authority" documents as described therein.

### D. Importer's Registered Agent for Service of Process:

Company Name		
Address		
City	State	Zip Code
Phone	Fax	Email

Note: A statement from the registered agent accepting appointment in this capacity must be submitted with this Certification. Pursuant to Nebraska Law, this registered agent must reside in the State of Nebraska.



## Part 7: Nonparticipating Manufacturer Qualified Escrow Account

### A. Qualified Escrow Fund Information

The nonparticipating manufacturer identified in Part 1 has established and continues to maintain the following qualified escrow fund under Neb. Rev. Stat. § 69-2702(10).

Name of Financial Institution			
Address			
Representative Name and Title			Phone Number
Escrow Account Number		Nebraska Sub-Account Number	
Has the Escrow Agreement been approved by the Attorney General? <input type="checkbox"/> YES <input type="checkbox"/> NO			Approval Date

If the escrow agreement has not been approved by the Attorney General, please attach a copy. If the escrow agreement has been approved by the Attorney General, the tobacco product manufacturer identified in Part 1 hereby swears said agreement is still in full force and effect without modification, or alternatively, a copy of any amendments to said agreement made subsequent to Attorney General's approval must be attached.

### B. Escrow Deposit/Withdrawal History for Nebraska (attach additional sheets if necessary):

Date	Deposit	Withdrawal	Balance
	<b>Total:</b>	<b>Total:</b>	<b>Total:</b>

Note: A nonparticipating manufacturer must also file a Nonparticipating Manufacturer Quarterly Escrow Certification with the Attorney General's Office pursuant to Neb. Rev. Stat. § 69-2703(2)(c) setting forth the escrow calculation and deposit for each quarter of a year's sales for eligibility to be listed on the Directory. A copy of the certificate may be obtained at [www.ago.nebraska.gov](http://www.ago.nebraska.gov).

## Part 8: Bond or Cash Equivalent for Nonparticipating Manufacturer

Does the nonparticipating manufacturer identified in Part 1 certify that it has a bond in place which meets the requirements of Neb. Rev. Stat. § 69-2701.01?

Yes  No

If yes, submit a copy of the bond with this Certification.

Does the nonparticipating manufacturer identified in Part 1 certify that it has the cash equivalent of a bond in place which meets the requirements of Neb. Rev. Stat. § 69-2707.01?

Yes  No

If yes, provide written proof of the cash equivalence from a financial institution.

Has the nonparticipating manufacturer identified in Part 1 submitted a Certification of Nonparticipating Manufacturer Bond or Cash Equivalent form or a Quarterly Affirmance of Nonparticipating Manufacturer Bond or Cash Equivalent form to the Nebraska Attorney General's Office, and to the Nebraska Department of Revenue, for each calendar quarter since the preceding year's Form 55B submission?

Yes  No

If no, please explain.



## Part 9: Affidavit of Tobacco Product Manufacturer

An authorized officer of the tobacco product manufacturer must sign this form and check one box below. This form must be notarized.

**Participating Manufacturer:** Under penalty of perjury, I state that the tobacco product manufacturer identified in Part 1, as of the date of this Certification, is a participating manufacturer in full compliance with Neb. Rev. Stat. § 69-2703(1) (Cum. Supp. 2016).

I am the authorized designee for the participating manufacturer, as established in the MSA or MSA Amendment by which the participating manufacturer joined the MSA, and I am signing as such.

I understand that the Nebraska Attorney General's Office or the Tax Commissioner may require additional information and/or documentation to determine if applicant qualifies for listing on the Nebraska Directory.

I have examined this Certification, including attachments and supporting documents and, to the best of my knowledge and belief, this certification, including attachments and supporting documents, is true, correct, and complete.

**Nonparticipating Manufacturer:** Under penalty of perjury, I state that the tobacco product manufacturer identified in Part 1, as of the date of this Certification, is a nonparticipating manufacturer in full compliance with all provisions of Neb. Rev. Stat. § 69-2703(2) (Cum. Supp. 2016), and any regulations promulgated pursuant thereto.

This certification must be signed by a qualified company officer authorized to bind the applicant company. My position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements.

I understand that the Nebraska Attorney General's Office or the Tax Commissioner may require additional information and/or documentation to determine if applicant qualifies for listing on the Nebraska Directory.

I have examined this Certification, including attachments and supporting documents and, to the best of my knowledge and belief, this Certification, including attachments and supporting documents, is true, correct, and complete.

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By signing this affidavit on behalf of the tobacco product manufacturer, I understand that the tobacco product manufacturer is required to comply with all state and federal laws concerning the sale of cigarettes as defined in Neb. Rev. Stat. § 69-2702(4).

**sign  
here** ▶

\_\_\_\_\_  
Name of Officer of Tobacco Product Manufacturer (Print Name)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

Subscribed and sworn to this date: \_\_\_\_\_ City or County of \_\_\_\_\_

Signature of Notary Public: \_\_\_\_\_ Notary Commission expires: \_\_\_\_\_

Note: Notary Seal must be included.

## Checklist and Mailing

Prior to mailing, please check that the following has been provided:

- A current listing of all UPC codes of cigarettes and RYO products that are manufactured by your company;
- Brand Family Packaging or Labeling (if required);
- Compliance Document Regarding Ingredient list;
- Approval Letter Regarding Rotation Plan;
- Manufacturer's Permit Under 26 U.S.C. § 5713;
- Signature; and
- Notary.

In the case of a nonparticipating manufacturer, please check that the following have also been provided:

- Statement from Registered Agent of Manufacturer;
- Consent to be Sued with Attachments;
- Acceptance of Joint and Several Liability with Attachments (foreign manufacturer only);
- Tobacco Tax Bureau Form 5210.5 or 5220.6;
- NPM Bond Documentation;
- Bond Continuation Certificate;
- New Model Escrow Agreement and Amendments if required; and
- Account Statement with Complete History.

### Mail the original completed Certification (with all attachments) to:

Office of the Nebraska Attorney General  
Attn: Consumer Protection Division  
2115 State Capitol  
PO Box 98920  
Lincoln, NE 68509-8920

### Mail or email a copy of the Certification to:

Cliff Thomas, Tax Specialist Sr.  
Nebraska Department of Revenue  
PO Box 94818  
Lincoln, NE 68509-4818  
[cliff.thomas@nebraska.gov](mailto:cliff.thomas@nebraska.gov)

**Note: Incomplete and/or illegible Certification forms and any attachments will be returned.**