



(Rev. 03/05)

Instructions For Form TPM-2

General Instructions for Form TPM-2

Form TPM-2, Certification for Listing on the Connecticut Directory, and all required forms must be completed in English. For all attachments to Form TPM-2, if the original document is in a language other than English, a true and correct translation into English must be attached as well.

Each attachment to Form TPM-2 must indicate the question to which it corresponds.

If any section of Form TPM-2 is not applicable to the applicant, the not applicable box must be checked.

The answers provided on Form TPM-2, when completed, must be reviewed and signed by an officer with the authority to bind the applicant (Applicant). Any officer who makes an assertion on Form TPM-2 that he or she knows is fraudulent or false in any material matter is guilty of a felony punishable by imprisonment not to exceed five years or a fine not to exceed \$5,000, or both.

Who must file Form TPM-2? Tobacco product manufacturers, whether participating manufacturers (PM) or nonparticipating manufacturers (NPM), whose cigarettes are sold to consumers within Connecticut, whether directly or through any distributor, dealer, or similar intermediary or intermediaries, must complete and file Form TPM-2. NPMs are also required to complete and file **Form TPM-1, Certification of Compliance and Affidavit by Nonparticipating Manufacturers**, and **Form TPM-3, 2004 Brand Families Unit Sales Schedule**.

When is Form TPM-2 due? Form TPM-2 is due no later than April 30 each year. After July 1, 2005, and on or after July 1 of each succeeding year, a tobacco product manufacturer and its cigarette brand families will not be listed on the Connecticut Directory unless Form TPM-2 has been filed on or before the preceding April 30. Mail the original Form TPM-2 and a complete copy of all required forms, documents, and attachments to:

Department of Revenue Services
State of Connecticut
Attn.: Tax Division Chief, Audit Division
Excise/Public Services Subdivision
25 Sigourney Street
Hartford CT 06106

Mail a copy of Form TPM-2 with a complete copy of all required forms, documents, and attachments to:

Office of the Attorney General
State of Connecticut
PO Box 120
55 Elm Street
Hartford CT 06141-0120

Supplemental Certifications: If there is any change in the identity of any manufacturer (meaning fabricator) of a brand family or if there is to be any addition to or modification of the applicant's brand families, the applicant must complete a supplemental Form TPM-2. Check the Supplemental box at the top of Page 1 of the form and enter only new or changed information on the form, and then sign and date the form. The supplemental certification must be filed no later than 30 days prior to the change. In any circumstance in which information provided on the certification becomes inaccurate, a supplemental Form TPM-2 must be filed no later than 30 days after the information becomes inaccurate.

Definitions: For purposes of Form TPM-2:

- *Affiliate* means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person, as defined in Conn. Gen. Stat. §4-28h(2).
- *Brand family* means all styles of cigarettes sold under the same trademark and differentiated from one another by means of kings, lights, or 100s, additional modifiers, including, but not limited to menthol, 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.
- *Cigarette* has the same meaning as in Conn. Gen. Stat. §4-28h(4). Roll-your-own (RYO) tobacco is included in that definition.
- *Connecticut Directory* means the listing of all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of Conn. Gen. Stat. §4-28l and all brand families listed in the certifications.
- *Distributor* has the same meaning as in Conn. Gen. Stat. §12-285.
- *Dealer* has the same meaning as in Conn. Gen. Stat. §12-285.
- *MSA* means the Master Settlement Agreement, as defined in Conn. Gen. Stat. §4-28h(5).
- *Nonparticipating manufacturer or NPM* means any tobacco product manufacturer that is not a participating manufacturer.
- *Participating manufacturer or PM* has the same meaning as in Section II(j) of the MSA.
- *Person* means any individual, firm, fiduciary, partnership, corporation, limited liability company, trust, or association however formed.
- *Qualified escrow fund* has the same meaning as in Conn. Gen. Stat. §4-28h(6).
- *Tobacco product manufacturer* has the same meaning as in Conn. Gen. Stat. §4-28h(9).
- *Units sold* has the same meaning as in Conn. Gen. Stat. §4-28h(10).

Specific Instructions for Form TPM-2

Part I. General Business and Ownership Information

Questions 3-6: Conn. Gen. Stat. §4-28h(9) sets forth three circumstances under which an entity is a tobacco product manufacturer. Those circumstances are individually set out in Questions 3, 4, and 5. If the applicant answered No to Question 3, 4, and 5, the applicant must provide an explanation for its assertion that it is a tobacco product manufacturer in its response to Question 6.

Part II. Brand Family Identification

Question 1. Brand Family Identification

Brand families sought to be included in the Connecticut Directory: Identify by brand family all of the cigarettes the applicant intends to sell to consumers within Connecticut, whether directly or through any distributor, dealer, or similar intermediary or intermediaries, and seeks to have included in the Connecticut Directory. Only the brands identified may be included in the Directory.

PM applicants list all of their brand families in Column A. By listing a brand family, a PM affirms that the brand family is deemed to be its cigarettes for the purpose of calculating its payments under the MSA for the relevant year.

NPM applicants provide in Column B, the number of units sold to consumers within Connecticut, whether directly or through any distributor, dealer, or similar intermediary or intermediaries, during calendar year 2004, and in Column C, the complete name and address of every tobacco product manufacturer that manufactured the brand family. By listing a brand family, a NPM affirms that the brand family is deemed to be its cigarettes for calculating its required escrow deposits under Conn. Gen. Stat. §4-28i.

Each applicant must attach samples of the actual packaging and labeling for each brand of cigarettes the applicant seeks to have included in the Connecticut Directory.

Each applicant must update the list at least 30 days prior to any addition to or modification of its brand families by executing and delivering a supplemental Form TPM-2 to both the Attorney General and DRS.

Brand families not sought to be included in the Connecticut Directory: Each applicant must identify brand families sold to consumers within Connecticut, whether directly or through any distributor, dealer, or similar intermediary or intermediaries, during calendar year 2004, but are not sought to be included in the Connecticut Directory. These brand families should be listed last and should be indicated with an asterisk in the column to the left of Column A.

Part III. Additional Business Information (NPM Applicants Only)

Question 1. Organizational Documents to Be Attached: If the applicant is a:

Partnership: Attach current copy of partnership agreement, if any, or the certificate required to be filed with any state, county, or municipality.

Corporation: Attach current copy of the corporate charter or certificate of corporate existence or incorporation. This copy must be certified by the appropriate state officer for the jurisdiction in which incorporated. Attach extracts of stockholders' meetings, bylaws, directors' meetings, or other documents that list the officers authorized to sign documents or otherwise act on behalf of the corporation. The accuracy of the copy must be certified by an appropriate officer of the corporation.

Limited liability company or other business organization: Attach a current copy of the business document(s) filed with a state, county, or municipality when the filing is required. The copy must show it was filed with the appropriate government agency. A limited liability company must provide an accurate copy of its operating agreement.

Question 3. Affiliates. Identify any affiliate that also manufactures, imports, distributes, or sells cigarettes or other tobacco products to consumers within Connecticut, whether directly or through a dealer, distributor, or similar intermediary or intermediaries, by completing the table on the application. An owner is any person with an equity interest of 10% or more in the applicant. List the brand family, the affiliate name, and the type of business. For type of business, enter M for manufacturer; I for Importer; D for distributor; or W for wholesaler.

Part IV. Marketing And Distribution Information (NPM Applicants Only)

Question 3. Agreements with Participating Manufacturers (PM). Identify every agreement between the applicant and any PM, or affiliate of a PM, which relates to the making, importing, distribution, transportation, or sale of a brand family. List the brand family and the name, address, and telephone number of the PM (or affiliate of a PM) involved in any agreement. For each brand family, describe the agreement with any PM, or affiliate of a PM, in the making, importing, distribution, transportation, or sale of the brand family and provide the name and address of the PM(s), subsidiary(ies), affiliate(s), or partner(s). A list of PMs is available on the NAAG web site at <http://www.naag.org>. Attach a copy of each agreement.

Question 4. Agreements Regarding Compliance With the MSA. List every brand family that is the subject of an agreement regarding compliance with the MSA and the name, address, and telephone number of the PM involved in the agreement(s). Attach a copy of each written agreement.

Question 5. Agreements Regarding Compliance With Conn. Gen. Stat. §4-28i. List every brand family that is the subject of an agreement regarding compliance with Conn. Gen. Stat. §4-28i and the name, address, and telephone number of the person or entity with whom the applicant has an agreement. Attach a copy of each agreement.

Part V. Manufacturing and Compliance Information (NPM Applicants Only)

Question 5. Internet or Mail Order Sales. If the applicant intends to sell any cigarettes (including RYO tobacco) by mail order or via the internet, list and describe: (a) any web site advertising the cigarettes; (b) the address from where the cigarettes will be shipped; **and** (c) the total sales to consumers within Connecticut during calendar year 2004. Attach copies of the Jenkins Act reports (under 15 U.S.C. §376) previously filed with DRS relating to sales to consumers within Connecticut during calendar years 2000, 2001, 2002, 2003, or 2004.

Part VIII. NPM Applicant Certification (NPM applicants Only)

Question 1. Agent For Service of Process

Certify whether the NPM is: (1) domiciled in the State of Connecticut; (2) a nonresident or foreign NPM registered to do business in Connecticut as a foreign corporation or business entity; **or** (3) a NPM that has appointed a resident agent for service of process under Conn. Gen. Stat. §4-28n on whom all process, and any action against it concerning or arising out of the enforcement of Conn. Gen. Stat. §§4-28h to 4-28r inclusive, and implementing regulations, may be served in any manner authorized by law.