



## State of Arizona NPM Surety Bond Confirmation Form

THIS FORM IS NOT THE BOND

This form contains information and instructions regarding the surety bond that all Non-Participating Tobacco Product Manufacturers (“NPMs”) must procure and maintain pursuant to A.R.S. § 44-7111(3)(d)–(f).

### General Instructions

1. This form must be submitted as an attachment to an initial, annual, or supplemental certification required by A.R.S. § 44-7111 (“Cigarette Directory Certification”). The initial procurement of a surety bond, and any subsequent changes thereto, obligate an NPM to submit to the Office of the Arizona Attorney General, Tobacco Enforcement Unit (“AGO”) an updated Cigarette Directory Certification.
2. When submitting a Cigarette Directory Certification, an NPM shall include this form as an exhibit (except for supplemental Cigarette Directory Certifications, as long as the surety bond information remains unchanged since the NPM’s last accepted certification), and provide one of the following as an attachment to that exhibit:
  - a. A certified copy of the original bond **AND** an original or certified copy of power-of-attorney authorizing execution on the bond (required for all newly-procured bonds); or
  - b. A verification certificate from the Surety Company showing the original bond is still in effect **AND** an original or certified copy of power-of-attorney authorizing execution on the bond.
3. The surety bond itself, and any official document from the Surety Company regarding the bond’s continued effectiveness or changes thereto, must be executed by a properly authorized person at the Surety Company, whose title must be shown. All official documents from the Surety Company shall also be affixed with the Company’s corporate seal.
4. Have the completed form notarized by a licensed notary public.
5. Affix the form and supporting surety bond documents to the appropriate Cigarette Directory Certification and submit the completed Certification to:

Office of the Arizona Attorney General  
Attn: Tobacco Enforcement Unit  
2005 N. Central Ave.  
Phoenix, AZ 85004

### Format and Requirements for This Form

1. The Principal/Insured’s name on the bond and this form must precisely agree with the name on the NPM’s local business license or articles of incorporation.
2. If the Principal/Insured indicated on the bond is an **individual**, this form must be signed by the Principal/Insured.
3. If the Principal/Insured indicated on the bond is a **partnership**, this form must be executed in the name of the partnership and signed by at least one of the partners.
4. If the Principal/Insured indicated on the bond is a **corporation**, this form must be executed in the name of the corporation, signed by its president or vice president, and affixed with an impression of its corporate seal.



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## I. Non-Participating Tobacco Product Manufacturer Information

Manufacturer's Name: \_\_\_\_\_

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

Physical Address (No P.O. Box): \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Federal EIN: \_\_\_\_\_

## II. Bond Information

Bond Number: \_\_\_\_\_ Original Bond Effective Date: \_\_\_\_\_

Bond Amount (greater of):  Fifty-thousand dollars (\$50,000.00); or  
 \_\_\_\_\_ (\$ \_\_\_\_\_)

Type of Documents Attached (check one):  Certified copy of original bond AND Power of Attorney  
Attached to this form as **Attachment** \_\_\_\_\_; or  
 Verification certificate AND Power of Attorney  
Attached to this form as **Attachment** \_\_\_\_\_

## III. Surety Company Information

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

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

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

## IV. Terms and Conditions of the Bond

### 1. **Statutory Authority and Requirements:** A.R.S. § 44-7111(3)(d)–(f) provides:

“(d) Every nonparticipating manufacturer shall post a bond for the exclusive benefit of this State.

(e) The bond shall be posted at least ten days in advance of each calendar quarter as a condition to the nonparticipating manufacturer and its brand families being included in the state directory for that quarter. The amount of the bond shall be the greater of (i) the greatest required escrow amount due from the nonparticipating manufacturer or its predecessor for any of the twelve preceding calendar quarters or (ii) fifty thousand dollars. The bond certifications and materials must be submitted as part of the initial, annual, and supplemental certifications required by this article.

(f) If a nonparticipating manufacturer that posted a bond has failed to make or have made on its behalf deposits equal to the full amount owed for a quarter within fifteen days following the due date of the quarter under section 5, subparagraph (g), the state may execute on the bond in the amount equal to any remaining amount of the escrow due. Amounts that the state collects on a bond shall be deposited into the state treasury and shall reduce the amount of escrow due from that nonparticipating manufacturer in the dollar amount collected. Escrow obligations above the amount collected on the bond remain due from that nonparticipating manufacturer and, as provided in any joint and several provision in A.R.S. § 44-7111, from the importers that sold its cigarettes during that calendar quarter.”



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2. **Compliance:** The condition of the aforementioned statutory obligation is such that, if the NPM named in this form shall faithfully and truly fulfill all of its duties and obligations under A.R.S. §§ 44-7101 and 44-7111, then this obligation shall be void; otherwise, it shall remain in full force and effect.
3. **Bond Effective Date:** The bond shall become operative once accepted and approved by the Office of the Arizona Attorney General; notice to NPM or Surety Company of such approval is not required. The effective date of the bond shall be stated on the bond itself and match the date indicated in Section II of this form. The bond shall continue in effect until Surety Company withdraws the bond by giving 60 days advance written notice, by registered mail, to the Office of the Arizona Attorney General, Tobacco Enforcement Unit, 2005 N. Central Ave., Phoenix, AZ 85004, provided such withdrawal shall not release Surety Company from any liability existing hereunder at the time of the effective date of said withdrawal, and further provided that said 60 days shall begin to run on the day following receipt of notice by the Office of the Arizona Attorney General, Tobacco Enforcement Unit. In addition, all obligations existing on the effective date of Surety Company's withdrawal shall continue to be protected by the bond, even though no cause of action has accrued at the time of withdrawal, until the running of the statute of limitations on actions claiming against the bond.
4. **Application of the Bond:** The bond applies to all tobacco sales into or within Arizona as of July 1, 2014. Specifically:
  - a. For NPMs listed in the Directory before July 1, 2014: Any tobacco sales by the NPM on or after July 1, 2014, while the NPM is listed in the Directory, shall be subject to the bond provisions set forth in A.R.S. § 44-7111;
  - b. For NPMs listed in the Directory on or after July 1, 2014: All tobacco sales that occurred while the NPM was listed in the Directory shall be subject to the bond provisions set forth in A.R.S. § 44-7111.
5. **Liability:** The aggregate accumulated liability of Surety Company under this bond shall in no event exceed the penal sum named herein, for any and all claims which may accrue during the term thereof.
6. **Surety Company's Withdrawal – Effect on Manufacturer:** In the event of Surety Company's withdrawal, the NPM acknowledges and accepts that it may not be listed in the Arizona Cigarette Directory without a new bond in place.

## V. Signatures

We, the Non-Participating Manufacturer and Surety Company, agree to all terms and conditions of the bond as set forth in A.R.S. §§ 44-7101 and 44-7111 and this form, which is signed, sealed, and delivered in the presence of:

### Authorized Representative for Manufacturer

### Authorized Representative for Surety Company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

### Notary Public

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date My Commission Expires

\_\_\_\_\_  
Printed Name