



Certification Year:
2016

**STATE OF LOUISIANA
NON-PARTICIPATING MANUFACTURER BOND
PURSUANT TO LA. R.S. 13:5078**

Effective August 1, 2013, Louisiana Revised Statute 13:5078 mandates that all nonparticipating manufacturers (NPMs) either post a bond by corporate surety located within the United States or its cash equivalent in an account approved by the Louisiana Attorney General. **Nonparticipating manufacturers must provide evidence to the Attorney General at least 10 days in advance of each calendar quarter as a condition to the NPM and its brand families being included on the directory for that quarter.**

The amount of the bond to be posted shall be determined as follows:

- (1) Unless paragraph (3) below is applicable, for a nonparticipating manufacturer that has been listed on Louisiana's state directory for at least a period of three (3) years, the amount of the bond required shall be \$50,000 or the highest amount owed for any quarter over the past three (3) years, whichever is greater.
- (2) Unless paragraph (3) below is applicable, for a nonparticipating manufacturer that has not been listed on Louisiana's state directory for at least three (3) years, the amount of the bond required shall be determined by the Attorney General based on any prior history in any state, as well as any other considerations the Attorney General deems relevant, but shall not be less than \$100,000 in any event.
- (3) For a nonparticipating manufacturer that has failed, in the past three (3) years, to make a full and timely escrow deposit due under R.S. 13:5063—unless the failure was not knowing or intentional and was promptly cured upon notice—or for any nonparticipating manufacturer that was involuntarily removed from any state's directory—unless the removal was subsequently determined to be erroneous—the amount of the bond required shall be the greater of \$100,000 or the greatest amount of escrow owed by the nonparticipating manufacturer or its predecessor in any calendar year in any state within the preceding five (5) calendar years.

If the nonparticipating manufacturer, or an entity on its behalf, has failed to make escrow deposits equal to the full amount owed for a quarter within 15 days following the due date for the quarter pursuant to La. R.S. 13:5063, the state may execute upon the bond—first to recover delinquent escrow, which amount shall be deposited into a qualified escrow account, and then to recover civil penalties and costs, including attorney fees. Any escrow obligations above the amount collected on the bond remain due from the nonparticipating manufacturer and from the importer(s) that sold its cigarettes during that calendar quarter.

Please return this completed form along with the executed Certification, and attach documentation establishing proof of the bond. Please contact the Tobacco Settlement Enforcement Unit of the Louisiana Department of Justice via telephone at (225) 326-6423 or via email at TobaccoDOJ@ag.louisiana.gov with any questions regarding the company's bond.

Nonparticipating Manufacturer Information:

Company: _____

Address: _____

Address: _____

Phone: _____

FAX: _____

Contact: _____

Title: _____

E-mail: _____

Bonding Company Information:

Company: _____

Address: _____

Address: _____

Phone: _____

FAX: _____

Contact: _____

Title: _____

E-mail: _____

Bond Assurances:

WHEREAS, pursuant to La. R.S. 13:5078, in order to be listed on Louisiana’s Tobacco Brand Directory of cigarettes and roll-your-own products approved for sale in Louisiana, Nonparticipating Manufacturers shall either post a bond in favor of the State of Louisiana, or its cash equivalent for the benefit of the state. A bond so posted shall be conditioned on the performance of the Nonparticipating Manufacturer of all its duties and obligations pursuant to La. R.S. 13:5061 et seq. and R.S. 13:5071 et seq., as amended by Act 221 of the 2013 Regular Session. **Such bond shall be posted and evidence of such posting shall be provided to the Louisiana Attorney General at least ten (10) days in advance of each calendar quarter as a condition to the Nonparticipating Manufacturer and its brand families being included in the directory for that quarter.**

WHEREAS, that _____, a corporation organized
(Name of Nonparticipating Manufacturer)
under the laws of _____, as principal, having its principal office at the location
(state/country)
of _____, and _____, as
(Physical Address of Nonparticipating Manufacturer) (Name of Bonding Company)
surety, a corporation organized under the laws of _____, having its principal
(state/country)
office at the location of _____, and licensed and authorized
(Physical Address of Bonding Company)
to transact a surety business in the State of Louisiana, are held and firmly bound unto the State
of Louisiana in the full and just sum of \$ _____ as identified by Bond
(Amount of Bond)

Number _____, to be paid to the State of Louisiana or its legal representatives, successors, or assigns, for which, by the execution of this document, we hereby bind ourselves, our heirs, administrators, executors, successors, and assigns, firmly to the payment of the bond amount as outlined herein.

NOW THEREFORE, the condition of this obligation is such that the above-named Nonparticipating Manufacturer, as principal, shall faithfully and truly fulfill all of its duties and obligations under La. R.S. 13:5061 et seq. and La. R.S. 13:5071 et seq., as amended by Act 221 of 2013, and, if such condition is met then the bond obligation shall be satisfied, although such document shall remain in full force and effect. However, in the event that the above-named Nonparticipating Manufacturer fails to faithfully and truly fulfill all of its duties and obligations under La. R.S. 13:5061 et seq. and La. R.S. 13:5071 et seq., the State of Louisiana may execute upon this bond, first to recover delinquent escrow, which amount shall be deposited into a qualified escrow account under R.S. 13:5063, and then to recover civil penalties, costs and attorney's fees. This bond shall become effective on the _____ day of _____, 201____, and continues in effect until the Surety withdraws from this bond by giving 30 days advance written notice of its intent to withdraw from the bond. The advanced written notice shall be by registered mail to the principal and to the State of Louisiana, through the Department of Justice, Tobacco Settlement Enforcement Unit. The 30 day time period shall begin to run on the day following receipt of notice by the Tobacco Settlement Enforcement Unit. The withdrawal shall not release the Surety for any liability for obligations existing hereunder at the time of the effective date of the withdrawal and all obligations existing on the effective date of the Surety's withdrawal, including but not limited to any escrow obligations,

penalties, costs and attorney's fees, shall continue to be protected by this bond, even though no cause of action has accrued at the time of the withdrawal.

Nonparticipating Manufacturer:

Signature of Authorized Agent:

Name of Authorized Agent:

Title:

Notary:

Signature of Notary Public:

Parish or County of:

Sworn and Subscribed before me on
this date:

My Commission Expires:

Bonding Company:

Signature of Authorized Agent:

Name of Authorized Agent:

Title:

Affix Notary

Seal Here

MAIL THIS COMPLETED FORM TO:

**ATTORNEY GENERAL JEFF LANDRY
LOUISIANA DEPARTMENT OF JUSTICE
TOBACCO SETTLEMENT ENFORCEMENT UNIT
POST OFFICE BOX 94005
BATON ROUGE, LOUISIANA 70804-9005**