

10/15/02

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|--|---|--|
| Regulatory Analysis Form | | This space for use by IRRC |
| (1) Agency Revenue | | RECEIVED 12/11/2013 REVENUE COMMISSION IRRC Number: 2198 |
| (2) I.D. Number (Governor's Office Use) 15-416 | | |
| (3) Short Title Master Settlement Agreement | | |
| (4) PA Code Cite 61 Pa. Code §§ 71.9, 71.31, 71.32 and 85.1 | (5) Agency Contacts & Telephone Numbers Primary Contact: Anita M. Doucette (717) 787-1382 Secondary Contact: Douglas A. Berguson (717) 787-1382 | |
| (6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted | | (7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor |
| (8) Briefly explain the regulation in clear and nontechnical language. This regulation provides guidance to cigarette stamping agents with regard to Act 54-2000, the Tobacco Settlement Agreement Act (35 P.S. §§ 5671 - 5675). With the adoption of regulatory sections 71.31 and 71.32, the Department is deleting the pronouncement set forth at § 85.2. | | |
| (9) State the statutory authority for the regulation and any relevant state or federal court decisions. Statutory authority for the regulation is contained in 35 P.S. § 5673 in the definition of the term "units sold" and section 6 of the Fiscal Code (72 P.S. § 6). | | |

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by federal or state law, court order or federal regulation.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulation provides necessary guidance to cigarette stamping agents with regard to Act 54-2000, the Tobacco Settlement Agreement Act (35 P.S. §§ 5671 - 5675).

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Cigarette stamping agents will benefit from having specific guidelines regarding the Tobacco Settlement Agreement Act set forth in a regulation.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No parties should be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All cigarette stamping agents will be required to comply with the regulation. As of September, 2002, there are 144 licensed cigarette stamping agents in the Commonwealth that will be required to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The regulation was published in the Pennsylvania Bulletin and the public was invited to comment. The Department received comments from the Independent Regulatory Review Commission. The Department considered the comments in preparing the final form regulation. In addition, a copy of the regulation was forwarded to the Pennsylvania Bar Association, the Pennsylvania Institute of Certified Public Accountants, the Pennsylvania Society of Public Accountants, the Pennsylvania Chamber of Business and Industry, the Office of Attorney General, the Federation of Tax Administrators, the Pennsylvania Distributors Association and all parties who commented on the proposal. The regulation was listed in the Department's Agenda of Regulations published at 31 Pa.B. 3601 (July 7, 2001) and forwarded to interested parties upon request.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

There is no specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

This regulation does not increase costs or savings to local governments. No legal, accounting or consultant procedures are required by the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The purpose of this regulation is predominately to update regulatory provisions relating to cigarette tax and the Tobacco Settlement Agreement Act. Since these changes will reflect present policy and procedure of the Department, there will not be additional costs or savings to state government.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|------------------------|--------------------|---------------|---------------|---------------|---------------|---------------|
| SAVINGS: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Savings | N/A | | | | | |
| COSTS: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | \$70,252 | \$73,252 | \$76,252 | \$79,252 | \$82,252 | \$85,252 |
| Total Costs | | | | | | |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | N/A | | | | | |

(20a) Explain how the cost estimates listed above were derived.

Costs to implement the requirements of Act 54-2000 will include one or two clerical positions as well as related equipment and supplies totaling \$70,252 for fiscal year 2001-2002 and adjusted thereafter for normal salary increases and/or changes in the cost of benefits.

| Regulatory Analysis Form | | | | |
|--|--------------------------|--------------------------|--------------------------|--|
| (20b) Provide the past three year expenditure history for programs affected by the regulation. | | | | |
| Program | FY -3 1998-99 | FY -2 1999-00 | FY -1 2000-01 | |
| | | | | |
| | | | | |
| | | | | |
| General Government Operations | \$119.089 million | \$131.267 million | \$136.161 million | |
| (21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs. | | | | |
| N/A | | | | |
| (22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal. | | | | |
| There are no nonregulatory alternatives associated with the regulation. | | | | |
| (23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal. | | | | |
| There are no alternative regulatory schemes associated with the regulation. | | | | |

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulation will not put Pennsylvania at a competitive disadvantage with other states. Delaware, Maryland, Virginia, West Virginia, Ohio, New York and New Jersey are part of the Master Settlement Agreement and have enacted legislation similar to Act 54-2000.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation does not affect any other existing or proposed regulations of the Department or any other state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department has not scheduled any public hearings or informational meetings to discuss the regulation.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The additional paperwork and record keeping requirements are the result of the provisions of Act 54-2000.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special groups are affected by the regulation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

This regulation will be effective upon final publication in the Pennsylvania Bulletin. Compliance with the regulation is required upon publication. There are no permits, licenses or other approvals required by this regulation.

(31) Provide the schedule for continual review of the regulation.

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**
(Pursuant to Commonwealth Documents Law)

RECEIVED 12 17 2002
REVIEW COMMISSION

#2198

DO NOT WRITE IN THIS SPACE

10/15/02
Copy below is hereby approved as to
form and legality. Attorney General

By: _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

☐ Check if applicable
Copy not approved. Objections
attached.

Copy below is hereby certified to be true and correct copy
of a document issued, prescribed or promulgated by:

PA Department of Revenue

(Agency)

Document/Fiscal Note No. 15-416

Date of Adoption: _____

By: Larry R. Williams
Larry R. Williams
Secretary of Revenue

Title: _____
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to
form and legality. Executive or Independent
Agencies.

By: John V. Turner

10/17/02

Date of Approval

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

☐ Check if applicable. No Attorney
General approval or objection
within 30 days after submission

NOTICE OF FINAL RULEMAKING

DEPARTMENT OF REVENUE

Cigarette Tax

61 Pa. Code §§ 71.9, 71.31, 71.32 and 85.2

Master Settlement Agreement

PREAMBLE

The Department of Revenue (Department), under the authority contained in section 3 of the Tobacco Settlement Agreement Act (35 P.S. § 5673), in the definition of the term "units sold" and in section 6 of the Fiscal Code (72 P.S. § 6), by this order amends 61 Pa. Code, Chapter 71. General Provisions, sections 71.9, 71.31 and 71.32 (relating to cigarette stamping agent report requirements; definitions; and additional cigarette stamping agent responsibilities) and Chapter 85. Cigarette Tax Pronouncements - Statements of Policy, section 85.2 (relating to master settlement agreement) to read as set forth in Annex A.

Purpose of Regulation

This regulation provides guidance to cigarette stamping agents with regard to the Tobacco Settlement Agreement Act (35 P.S. §§ 5671 - 5675) (act).

Explanation of Regulatory Requirements

Section 71.31 defines several terms for use in the section and § 71.32. Section 71.32 sets forth cigarette stamping agent report requirements as necessitated by the act.

With the adoption of §§ 71.31 and 71.32, the Department is deleting the pronouncement set forth in § 85.2.

Affected Parties

Cigarette stamping agents will be affected by the regulations.

Comment and Response Summary

Notice of proposed rulemaking was published at 31 Pa. B. 2582 (May 19, 2001). The proposal is being adopted with changes as set forth in Annex A.

No comments were received from the public during the public comment period. No comments were received from the House and Senate Finance Committees. The Department did receive comments from the Independent Regulatory Review Commission (IRRC).

Amendments to the proposed rulemaking in response to comments are as follows:

(1) In its comments, IRRC noted that the term "person" is used in the regulations but not defined in § 71.31. For clarity, IRRC's comment suggests that the term be added with a reference to the act. The Department agrees that the term should be added and has done so in the final form; however, the Department has chosen to set forth the applicable statutory definition instead of simply referencing the act. The rationale for this approach will be discussed under a separate paragraph relating to comments for which no revision was made.

(2) With regard to § 71.32, IRRC raises two concerns. First, a cross-reference in § 71.9 (relating to cigarette stamping agent report requirements) to § 71.32(a) should be made to alert stamping agents of the additional reporting requirement. The Department agrees with the comment and has amended § 71.9(a) accordingly.

IRRC's second concern relates to the wording in § 71.32(a)(2) requiring a listing of "suppliers, other than nonparticipating tobacco product manufacturers ...". Read in conjunction with the proposed definition of "nonparticipating tobacco product manufacturers," the stamping agent could interpret § 71.32(a)(2) to require them to report on both participating and nonparticipating tobacco product manufacturers. IRRC suggests the provision be clarified to clearly state who must be included in a report. In response to this concern, the Department reviewed § 71.32(a)(2) and deleted wording that may have caused confusion.

(3) With regard to § 71.33, IRRC raised a number of concerns including the Department's statutory authority to promulgate a section which outlines functions of the Attorney General and the reiteration of existing statutory language. The inclusion of the section in the proposed rulemaking allowed the Department to provide a comprehensive regulatory package regarding the various elements of the Master Settlement Agreement Act including the responsibilities of the tobacco product manufacturers. After reviewing the concerns raised by IRRC, the Department deleted the section from the final form.

In conjunction with the deletion of § 71.33, the Department also deleted the definitions of "qualified escrow fund" and "units sold" from § 71.31 in the final form because the definitions were for use in § 71.33.

An amendment initiated during the Department's internal review of the regulation is as follows:

In subsection (c) of § 71.32 (relating to additional cigarette stamping agent responsibilities) the proposal stated that the books, records, other papers and documents that are required to be kept shall be made available in the English language. This provision would enable an inspector to conduct an on-the-spot inspection without enlisting the aid of an interpreter. However, the provision could be interpreted to require even the agent's internal records to be kept in English. For the foreign-born license holders, this provision could pose a problem. The Department has therefore deleted the English language requirement from the subsection.

A comment that did not result in an amendment to the regulation is as follows:

As referenced above, IIRC's comment with regard to the definitions set forth in § 71.31 noted that because the definitions repeat or modify the statutory definitions set forth in the act, the text of each definition should be deleted and replaced with a reference to the definition in the act. Although the Department recognizes IIRC's concern regarding the reiteration of statutory definitions in a regulation, such reiteration in this case is appropriate to provide adequate information to the users of the regulation. In addition, the act is codified in Title 10. Charities and Welfare, not Title 72. Taxation and Fiscal Affairs, which is the title referenced for other matters regarding cigarette stamping agents.

Fiscal Impact

The Department has determined that the amendments will have no significant fiscal impact on the Commonwealth. Costs to the Department to implement the requirements of the act will include one or two clerical positions, as well as related equipment and supplies totaling \$70,252 for fiscal year 2001-2002 and adjusted thereafter for normal salary increases and/or changes in the cost of benefits.

Paperwork

The amendments will not require significant additional paperwork for the public or the Commonwealth. Any additional paperwork and recordkeeping requirements are the result of the provisions of the act.

Effectiveness/Sunset Date

The amendments will become effective upon final publication in the Pennsylvania Bulletin. The regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the amendments is Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, Pennsylvania 17128-1061.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on May 4, 2001, the Department submitted a copy of the notice of proposed rulemaking, published at 31 Pa.B. 2582 (May 19, 2001), to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were (deemed) approved by the Committees on _____ and were (deemed) approved by IRRC on _____, in accordance with section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

Findings

The Department finds that:

(1) Public notice of intention to amend the regulations has been duly given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code, are amended by amending Chapter 71. General Provisions, sections 71.9, 71.31 and 71.32 and Chapter 85. Cigarette Tax Pronouncements - Statements of Policy, section 85.2 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the Pennsylvania Bulletin.

LARRY P. WILLIAMS
SECRETARY OF REVENUE

08/28/02

CONTINUATION SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part I. Department of Revenue, Subpart B.
General Fund Revenues, Article III. Cigarette and Beverage
Taxes, Chapter 71. General Provisions.

GENERAL

§ 71.5. * * * * *

§ 71.6. * * * * *

§ 71.7. * * * * *

§ 71.8. * * * * *

§ 71.9. Cigarette stamping agent report requirements.

(a) Report due date. Every licensed cigarette stamping agent shall establish a fiscal or calendar monthly reporting period. The cigarette stamping agent shall file with the Department on or before the 20th day following the end of each fiscal or calendar month a cigarette tax report covering the preceding month on a form prescribed by the Department (SEE ALSO § 71.32(A) (RELATING TO ADDITIONAL CIGARETTE STAMPING AGENT RESPONSIBILITIES) REGARDING ADDITIONAL REPORTING REQUIREMENTS).

* * *

§ 71.10. * * * * *

§ 71.11. * * * * *

MASTER SETTLEMENT AGREEMENT

(Editor's Note: The Department is adding §§ 71.31 - 71.32, to ease readability, the text is not underscored.)

§ 71.31. Definitions.

The following words and terms, when used in this section and §§ 71.32 ~~and 71.33~~ (relating to additional cigarette stamping agent responsibilities, ~~and tobacco product manufacturer responsibilities~~), have the following meanings, unless the context clearly indicates otherwise:

Affiliate - A person who, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10% or more.

Cigarette - A product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any of the following:

(i) A roll of tobacco wrapped in paper or in any substance not containing tobacco.

(ii) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

(iii) A roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (i).

(iv) A roll-your-own, which means any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this subparagraph, 0.09 ounces of roll-your-own tobacco shall constitute one individual cigarette.

Nonparticipating tobacco product manufacturer - A tobacco product manufacturer who does not participate in the Master Settlement Agreement (published at 30 Pa.B. 5619 (October 28, 2000)) entered into on November 23, 1998, by the Commonwealth and leading United States tobacco product manufacturers in the action entitled Commonwealth v. Philip Morris Inc., et al., Philadelphia County, April term, No. 97-2443, January 13, 1999, 40 Pa. D. & C.4th 225 (1999).

PERSON - ANY INDIVIDUAL, UNINCORPORATED ASSOCIATION, COMPANY, CORPORATION, LIMITED LIABILITY CORPORATION, JOINT STOCK COMPANY, GROUP COMMITTEE, AGENCY, SYNDICATE, TRUST OR TRUSTEE, RECEIVER, FIDUCIARY, PARTNERSHIP OR CONSERVATOR. WHENEVER USED IN THIS SECTION OR § 71.32 TO ESTABLISH OR IMPOSE PENALTIES, THE WORD "PERSON" WHEN APPLIED TO A PARTNERSHIP, UNINCORPORATED

ASSOCIATION OR OTHER JOINT VENTURE MEANS THE PARTNERS OR MEMBERS THEREOF AND WHEN APPLIED TO A CORPORATION MEANS ALL OFFICERS AND DIRECTORS THEREOF.

~~Qualified escrow fund - An escrow arrangement with a Federally chartered or State chartered financial institution that has no affiliation with any tobacco product manufacturer and has assets of at least \$1 billion in which the escrow arrangement:~~

~~(i) Requires that the financial institution hold the principal of the escrowed funds for the benefit of releasing parties.~~

~~(ii) Prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the principal of the funds except as consistent with section 4 of the Tobacco Settlement Agreement Act (35 P.S. § 5674).~~

Tobacco product manufacturer -

(i) A person that after June 22, 2000, directly and not exclusively through any affiliate does one of the following:

(A) Manufactures cigarettes anywhere that the manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where the importer is an original participating manufacturer, as that term is defined in the Master Settlement Agreement, that will be responsible for the payments under the Master Settlement Agreement with respect to the cigarettes as a result of the provisions of subsection II(mm) of the Master

Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of the cigarettes does not market or advertise the cigarettes in the United States).

(B) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States.

(C) Becomes a successor of a person described in clause (A) or (B).

(ii) The term does not include an affiliate of a tobacco product manufacturer unless the affiliate itself falls under subparagraph (i)(A), (B) or (C).

~~Units sold -- The number of individual cigarettes sold in this Commonwealth by the applicable tobacco product manufacturer during the year in question, as measured by taxes collected by the Commonwealth on packs, or roll-your-own tobacco containers, bearing the tax stamp of the Commonwealth required under section 1215 of the TRC (72 P.S. § 8215).~~

§ 71.32. Additional cigarette stamping agent responsibilities.

(a) The Tobacco Settlement Agreement Act (35 P.S. §§ 5671 - 5675), requires that the Department collect and maintain data relating to the number of Pennsylvania State Cigarette Excise Tax stamps affixed to packages of cigarettes. As part of the monthly cigarette tax report required by § 71.9(a) (relating to cigarette stamping agent report requirements), every licensed cigarette

stamping agent shall complete and attach to the report a schedule, in the form as is prescribed by the Department, to account for and reconcile the number of Pennsylvania Cigarette Excise Tax stamps affixed to packages of cigarettes by the agent during the monthly period covered by the associated cigarette tax report. The schedule shall contain the following information:

(1) A listing of the name and address of each nonparticipating tobacco product manufacturer from which the cigarette stamping agent made direct purchases of packages of cigarettes that were actually manufactured by the manufacturer, and the number of Pennsylvania Cigarette Excise Tax stamps affixed to the packages of cigarettes purchased from each manufacturer.

(2) A listing of the name and address of all suppliers, ~~other than nonparticipating tobacco product manufacturers,~~ from which the cigarette stamping agent made purchases of cigarettes, including cigarettes purchased from one tobacco product manufacturer that were actually manufactured by another manufacturer. This listing shall include all purchases of cigarettes made by the cigarette stamping agent during the month, other than directly from the actual manufacturer of the cigarettes.

(3) For each individual supplier listed under paragraphs (1) and (2), a listing of all brands of cigarettes purchased from the supplier and the number of Pennsylvania

Cigarette Excise Tax stamps affixed to cigarette packages by the cigarette stamping agent with respect to each brand.

(4) For each brand of cigarettes listed for each supplier under paragraph (3), the following additional information, if known:

(i) The name and address of the tobacco product manufacturer of the cigarettes.

(ii) The name and address of the person or entity first responsible for the cigarettes being designated or identified for sale in the United States.

(b) Every cigarette stamping agent shall keep complete and accurate records of cigarettes sold and shall preserve and keep for 4 years all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a report is required and other pertinent papers and documents relating to the manufacture, purchase, sale or disposition of cigarettes.

(c) The books, records, other papers and documents that are required to be kept ~~shall be made available in the English language, and~~ shall, at all times during the usual business hours of the day, be subject to inspection by the authorized agents and employees of the Office of Attorney General or the Department of Revenue.

(d) A monthly report that is not accompanied by the schedule prescribed by this section shall be considered

incomplete. Extensions of time for filing purposes may be granted at the discretion of the Department.

(e) The failure of a licensed cigarette stamping agent to comply with this section by not furnishing the schedule required by subsection (a), or by not furnishing complete and accurate information as required by the schedule, shall be deemed a violation of section 1276(a) of the TRC (72 P.S. § 8276(a)) and the agent's license shall be subject to suspension or revocation under section 1276(b) of the TRC.

~~§ 71.33. Tobacco product manufacturer responsibilities.~~

~~(a) A tobacco product manufacturer engaged in the activity of selling cigarettes into this Commonwealth (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) after June 22, 2000, shall do one of the following:~~

~~(1) Become a participating manufacturer and adhere to the terms and provisions of the Master Settlement Agreement.~~

~~(2) Establish and contribute to a qualified escrow fund. If this provision is selected, the manufacturer shall:~~

~~(i) Certify to the Office of Attorney General, by April 15, 2001 or April 15 following the calendar year of activity, that a qualified escrow fund was established and provide the Office of Attorney General with a copy of the escrow agreement signed by the tobacco product manufacturer and financial institution.~~

~~(ii) Make a payment to the qualified escrow fund by April 15th of the year following the year in question according to the following base amounts which shall be adjusted for inflation each year under the formula in Exhibit C of the Master Settlement Agreement:~~

~~(A) June 22, 2000 through December 31, 2000: \$0.0104712 per unit sold.~~

~~(B) 2001 and 2002: \$0.0136125 per unit sold.~~

~~(C) 2003 through 2006: \$0.0167539 per unit sold.~~

~~(D) 2007 and each year thereafter: \$0.0188482 per unit sold.~~

~~(E) The Office of Attorney General will provide the adjusted figures to known nonparticipating tobacco product manufacturers by March of each year.~~

~~(iii) Certify to the Office of Attorney General by April 15th of each year the applicable number of units sold in this Commonwealth during the prior calendar year and the amount deposited in the qualified escrow fund. Verification of the deposit must be evidenced by a statement from the financial institution.~~

~~(b) Every nonparticipating tobacco product manufacturer shall keep complete and accurate records of cigarettes sold and shall preserve and keep for 4 years all invoices, bills of~~

~~loading, sales records, copies of bills of sale, inventory at the close of each period for which a report is required and other pertinent papers and documents relating to the manufacture, purchase, sale or disposition of cigarettes.~~

~~(c) The books, records, other papers and documents that are required to be kept shall be made available in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the authorized agents and employees of the Office of Attorney General or the Department of Revenue.~~

Chapter 85. Cigarette Tax Pronouncements - Statements of Policy.

§ 85.2. Reserved.

08/28/02

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

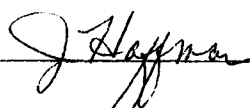
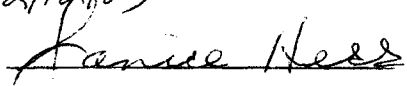
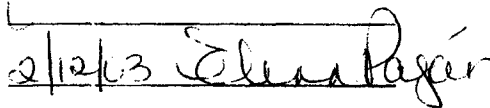
I.D. NUMBER: 15-416
SUBJECT: Cigarette Tax - Master Settlement Agreement
AGENCY: DEPARTMENT OF REVENUE

TYPE OF REGULATION

- Proposed Regulation
- ☒ Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
- a. With Revisions b. Without Revisions

RECEIVED
FEB 12 10 09 AM
LEGISLATIVE COMMISSION

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|---------|---|--|
| 2/12/03 |  | HOUSE COMMITTEE ON FINANCE |
| 2/12/03 |  | SENATE COMMITTEE ON FINANCE |
| 2/12/03 |  | INDEPENDENT REGULATORY REVIEW COMMISSION |
| _____ | _____ | ATTORNEY GENERAL |
| _____ | _____ | LEGISLATIVE REFERENCE BUREAU |

February 11, 2003