

MSA TOBACCO PAYMENTS AND THE NON-PARTICIPATING MANUFACTURER (NPM) SETTLEMENT

(CONSENSUS FORECASTING GROUP)

J. MICHAEL JONES, PHD

DECEMBER 17, 2019

Office of State Budget Director

What is the NPM Adjustment?

2

- Tobacco companies that don't join the MSA are "Non-Participating Manufacturers" (NPMs) and are free from MSA's marketing restrictions and the settlement payment obligations
- To prevent the NPMs from having a significant advantage in the marketplace, the Settling States each passed a "Qualifying Statute" requiring NPMs to make escrow payments for the cigarettes sold in each State
- The states are required to "diligently enforce" the provisions of the MSA, though "diligent enforcement" is not defined
- The reduction in payments is punitive – payments are reduced by triple the net market share loss above 2%

NPM Adjustment Settlement

3

- The Commonwealth entered into a settlement agreement with the OPMs and the SPMs in June, 2014
- Settled the issue of the 2003-2012 NPM Adjustments and 2014-2017 have been settled subsequently
- Thirty-eight States and Territories have entered into settlements of the NPM Adjustment issue
- Settlement creates a Data Clearinghouse to aggregate state data to calculate and determine application of the NPM Adjustment
- Data Clearinghouse preliminary report has been issued at aggregate level
- Delays in individual, state-level determinations of NPM Adjustment amounts
- At this time, dispute resolution timeline is uncertain

December 2019 – Revenue Estimates

4

Preliminary Estimates

Fiscal Year 2020	\$110.9 Million
Fiscal Year 2021	\$106.3 Million
Fiscal Year 2022	\$103.0 Million