



OFFICE OF THE ATTORNEY GENERAL

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Consumer Protection Division

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For Office Use Only

IDAHO PARTICIPATING MANUFACTURER

Certification of Compliance

PART 1: TYPE OF CERTIFICATION AND SALES YEAR

A. Type of Certification:

Initial Annual Supplemental

B. Sales Year:

2019 Other Year: \_\_\_\_\_

PART 2: PARTICIPATING MANUFACTURER (HEREAFTER PM APPLICANT), IDENTIFICATION, AND PERMITS/LICENSES

A. PM Applicant Identification:

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

Physical Address: (street address only; no post office box):

\_\_\_\_\_  
\_\_\_\_\_

Mailing Address (if different from above):

\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

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

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

FEIN: \_\_\_\_\_

Name of Person Completing Certification: \_\_\_\_\_

Title: \_\_\_\_\_

**B. PM Applicant Licenses/Permits:**

1. Attach a copy of the PM Applicant’s current U.S. Treasury, Tobacco Tax Bureau (TTB) permit(s) as a manufacturer and/or as an importer.
2. If the PM Applicant is located in a country other than the United States, provide copies of any manufacturing or importer licenses, certificates, permits or similar documents issued by the country where the manufacturing takes place.
3. If the PM Applicant is located in a country other than the United States and the Cigarettes bear a United States trademark, provide a copy of the trademark holder’s certificate under penalty of perjury that it has not withdrawn consent to import the Cigarettes into the United States as required by 19 U.S.C. §1681a (c)(3)(A), and a copy of the importer’s certificate under penalty of perjury that the trademark owner has not withdrawn consent to import the Cigarettes into the United States as required by 19 U.S.C. §1681a (c)(3)(B).

**PART 3: BRAND FAMILY IDENTIFICATION**

**A. Brand Families PM Applicant Seeks to Certify:**

| 1. Brand Family (Indicate with an asterisk (*) if no longer sold in Idaho) | 2. Name and address of Tobacco Product Manufacturer of Brand Family in 2019 if different from PM Applicant | 3. For Brand Family listed, name of trademark holder, the contact person of the trademark holder, and the contact person’s mailing address and telephone number |
|--|--|---|
| Brand Family:<br>_____<br><br>Check one:<br>Cigarette<br>RYO tobacco       |  |   |
| Brand Family:<br>_____<br><br>Check one:<br>Cigarette<br>RYO tobacco       |  |   |
| Brand Family:<br>_____<br><br>Check one:<br>Cigarette<br>RYO tobacco       |  |   |

| 1. Brand Family (Indicate with an asterisk (*) if no longer sold in Idaho) | 2. Name and address of Tobacco Product Manufacturer of Brand Family in 2019 if different from PM Applicant | 3. For Brand Family listed, name of trademark holder, the contact person of the trademark holder, and the contact person's mailing address and telephone number |
|--|--|---|
| Brand Family:<br>_____<br>Check one:<br>Cigarette<br>RYO tobacco           |  |   |
| Brand Family:<br>_____<br>Check one:<br>Cigarette<br>RYO tobacco           |  |   |
| Brand Family:<br>_____<br>Check one:<br>Cigarette<br>RYO tobacco           |  |   |
| Brand Family:<br>_____<br>Check one:<br>Cigarette<br>RYO tobacco           |  |   |
| Brand Family:<br>_____<br>Check one:<br>Cigarette<br>RYO tobacco           |  |   |

Attach additional sheets as necessary.

**B. Packaging Samples (check one):**

**Initial certification:** Samples of the actual packaging and labeling for each Brand Family (without tobacco) the PM Applicant seeks to certify are attached.

**Annual certification—no new packaging:** Samples of the actual packaging and labeling for each Brand Family the PM Applicant seeks to certify in the current year have been previously provided and continue to be current, in effect, and operative.

**Annual certification—new packaging:** Changes in the packaging or labeling have occurred for one or more of the Brand Families the PM Applicant seeks to certify in the current year and the new packaging and labeling for each such Brand Family (without tobacco) are attached.

**Supplemental certification:** Samples of the actual packaging and labeling for each Brand Family the PM Applicant seeks to certify in the current year (without tobacco) are attached.

**C. Federal Requirements:**

For each Brand Family (cigarettes only) the PM applicant seeks to certify, attached is a copy of the current Centers for Disease Control (CDC) letter approving the brand’s ingredient listing.

Ingredient reporting submitted to CDC by: \_\_\_\_\_

Relationship to Manufacturer: \_\_\_\_\_

For each Brand Family (cigarettes only) the PM applicant seeks to certify, attached is a copy of the current Federal Trade Commission (FTC) health-warning rotation plan approval letter.

Health warning rotation plan submitted to FTC by: \_\_\_\_\_

Relationship to Manufacturer: \_\_\_\_\_

**PART 4: SALES AND DISTRIBUTION INFORMATION**

**A. Sales Information (check as applicable):**

The PM Applicant:

1. Directly, or indirectly through distribution, had Cigarettes sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho in 2019. Yes      No
  
2. Advertised or sold, or intends to advertise or sell, Cigarettes via the Internet or in catalogs and uses the mail or other delivery service to deliver Cigarettes to Idaho consumers. Yes      No
  
3. Seeks to certify a Brand Family for which there has been a change in the manufacturer of the Brand Family in the past two calendar years. Yes      No
  
4. Seeks to certify a Brand Family for which PM Applicant has one or more Brand Families or brand styles manufactured by a different manufacturer. Yes      No
  
5. Directly, or indirectly through distribution, had Cigarettes sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported onto, or through an Idaho Stamping Agent who sells, offers for sale, transports or imports onto, an Indian Reservation located in Idaho. Yes      No

If you answered Yes to any of the inquiries in Part 4.A., set forth on separate sheets of paper explanation(s) of the details relating to your affirmative response.

**B. Distribution Information:**

Identify the name and address of every Idaho Stamping Agent that sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho in 2019, each Brand Family listed in part 3.A. If you had no such activity to report in 2019, identify the name and address of your designated Idaho Stamping Agent(s).

| 1. Brand Family | 2. Idaho Stamping Agent | 3. Street address, mailing address and telephone number of Idaho Stamping Agent |
|-----------------|-------------------------|---|
|                 |                         |   |
|                 |                         |   |
|                 |                         |   |
|                 |                         |   |
|                 |                         |   |
|                 |                         |   |
|                 |                         |   |

Attach additional sheets as necessary.

**C. Importers and Bonded Warehouses:**

Identify the name and address of all of PM Applicant’s Importer(s) and Bonded Warehouse(s) located in the United States for the Brand Families listed in Part 3.A.

| 1. Brand Family | 2. Importer | 3. Street address, mailing address, and telephone number of Importer | 4. Street address, mailing address, telephone number and contact name of Bonded Warehouse(s) |
|-----------------|-------------|--|--|
|                 |             |  |  |
|                 |             |  |  |
|                 |             |  |  |
|                 |             |  |  |
|                 |             |  |  |

Attach additional sheets as necessary.

**PART 5: AUTHORIZED DESIGNEE SIGNATURE AND CERTIFICATIONS**

**The PM Applicant certifies that (initial all):**

- \_\_\_\_\_ **1. Representation.** Under penalty of perjury, PM Applicant’s Authorized Designee certifies and declares that all of the statements and information contained in this Certification, including attachments, if any, are true, correct, accurate and complete in every particular, and that he or she is a person authorized to bind the PM Applicant under either the laws of the State of Idaho or of the jurisdiction where the PM Applicant resides or is organized. Any violation of these requirements or these representations is a basis for removal of the PM Applicant and/or its Brand Families from the Directory.
  
- \_\_\_\_\_ **2. Brand Families.** The PM Applicant certifies that the Brand Families listed herein is a complete list of all of its Brand Families that were sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho at any time during 2019, or that have been or will be sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho in 2019-2020. The PM Applicant further certifies that each Brand Family listed herein is to be deemed its Cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, including any Brand Family(ies) or brand styles contract manufactured for PM Applicant by

another manufacturer, in the volume and share determined pursuant to the Master Settlement Agreement. Nothing in this Certification, however, shall be construed as limiting or otherwise affecting the State of Idaho's right to maintain that a Brand Family constitutes Cigarettes of a different Tobacco Product Manufacturer.

- \_\_\_\_\_ **3. Sales and Shipments to Idaho.** PM Applicant agrees to sell, offer for sale, transport, import or cause to be imported, Cigarettes only to its designated Idaho Stamping Agent(s) for any sales in or shipments into Idaho, including sales onto Native American reservations located in Idaho, and will notify the Idaho Attorney General prior to designating a different or additional Idaho Stamping Agent.
- \_\_\_\_\_ **4. Reporting.** PM Applicant agrees to ensure that all sales, shipments, transports or imports of its Cigarettes into Idaho, including sales, shipments, transports or imports onto Native American reservations located in Idaho, are properly reported as required by all State and Federal laws.
- \_\_\_\_\_ **5. Compliance with the FSC Act.** Pursuant to Idaho Code § 39-8901 et seq. (the "Reduced Cigarette Ignition Propensity and Firefighter Protection Act" or "FSC Act"), the PM Applicant certifies that each Brand Family certified in Part 3.A. above, including all styles within each Brand Family, is in compliance with the requirements of the FSC Act. The PM Applicant has separately certified each Brand Family and style to the Idaho Fire Marshal in accordance with the requirements of the FSC Act.
- \_\_\_\_\_ **6. Document Retention.** Pursuant to Idaho Code § 39-8403(1)(e), the PM Applicant agrees to maintain all invoices, documentation of sales, and any other documentation relied upon in making this Certification for a period of five (5) years from the date the Certification is executed.

Authorized Designee: \_\_\_\_\_ Title: \_\_\_\_\_

Signature of Designee: \_\_\_\_\_ Date: \_\_\_\_\_

Subscribed and sworn to before me on this date: \_\_\_\_\_

Signature of Notary Public: \_\_\_\_\_

City or County of: \_\_\_\_\_

Printed Name of Notary Public: \_\_\_\_\_

My Commission expires: \_\_\_\_\_

Seal:

# INSTRUCTIONS FOR THE IDAHO PARTICIPATING MANUFACTURER CERTIFICATION OF COMPLIANCE

## General Information

### **Who must file an Idaho Participating Manufacturer Certification of Compliance?**

Any Participating Manufacturer (PM Applicant) whose Cigarettes have been or will be sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho in 2019-2020 in the State of Idaho, whether directly or through any distributor, retailer, or similar intermediary, must execute and deliver to the Office of the Attorney General an Idaho Participating Manufacturer Certification of Compliance (Certification).

### **When is the Certification due?**

If a PM Applicant has not previously submitted a Certification to the Idaho Office of the Attorney General, it must submit a Certification to the Attorney General, and the Attorney General must certify its status as a PM Applicant and the Brand Family(ies) it manufactures on the Directory before its Cigarettes can be sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho. Thereafter, a PM Applicant that has been certified and had its Brand Families certified by the Attorney General must annually submit its Certification on or before April 30th of the year following the year in which sales were made. A previously certified PM Applicant must also deliver an executed supplemental Certification to the Office of the Attorney General thirty (30) days before it modifies or adds to the Brand Family(ies) it has listed on the Directory.

### **To whom must the Certification be delivered?**

Mail the original Certification and a complete copy of all supporting documents to:

OFFICE OF THE ATTORNEY GENERAL  
Consumer Protection Division  
954 W. Jefferson, 2nd Floor  
P. O. Box 83720  
Boise, ID 83720-0010  
Attention: Tobacco Enforcement

If convenient, a signed Certification may be scanned and e-mailed to: [tobaccoenforcement@ag.idaho.gov](mailto:tobaccoenforcement@ag.idaho.gov).



## DEFINITIONS<sup>1</sup>

(a) “Brand Family” has the same meaning given the term in Idaho Code § 39-8402(1) and includes all styles of Cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, “menthol,” “kings,” and “100s.”

(b) “Cigarette” has the same meaning given the term in Idaho Code § 39-7802(d), and includes any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) 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; or (3) any 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. The term “cigarette” includes “roll-your-own” tobacco (i.e., 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 definition of “cigarette,” nine one-hundredths (0.09) ounces of “roll-your-own” tobacco shall constitute one (1) individual “cigarette.”

(c) “Directory” means the Idaho Directory of Compliant Tobacco Product Manufacturers and Brand Families as provided for by Idaho Code § 39-8403(2).

(d) “Master Settlement Agreement” has the same meaning given the term in Idaho Code § 39-7802(e) and includes the settlement agreement (and related documents) entered into on November 23, 1998, by Idaho and leading United States tobacco companies.

(e) “Non-Participating Manufacturer” has the same meaning given the term in Idaho Code § 39-8402(5) and includes any Tobacco Product Manufacturer that is not a Participating Manufacturer.

(f) “Participating Manufacturer” has the same meaning given the term in Idaho Code § 39-8402(6) and includes any Tobacco Product Manufacturer that has joined the Master Settlement Agreement.

(g) “Stamping Agent” has the same meaning given the term in Idaho Code § 39-8402(8) and includes a person who:

- (1) is permitted by the Idaho State Tax Commission to wholesale (as that term is defined by Idaho’s cigarette excise tax laws) Cigarettes; or
- (2) is required to affix Idaho state excise tax stamps to packages or other containers of Cigarettes under Title 63, Chapter 25, Idaho Code; or
- (3) pays an Idaho tobacco products tax on roll-your-own tobacco.

(h) “Tobacco Product Manufacturer” has the same meaning given the term in Idaho Code § 39-7802(i) and includes an entity that directly manufactures Cigarettes anywhere that such manufacturer intends to be sold in the United States, including Cigarettes intended to be sold in the United States through an importer

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<sup>1</sup> Defined terms are capitalized throughout these instructions and the Certification.

## Specific Instructions

### **PART 1: TYPE OF CERTIFICATION AND SALES YEAR.**

Indicate the type of Certification being submitted and for what sales year.

### **PART 2: PM APPLICANT'S IDENTIFICATION.**

In section A, identify the PM Applicant's name, physical, mailing, email, and website addresses and telephone and fax numbers. Also identify the name and title of the person completing the Certification who will serve as the contact person for the manufacturer.

In section B, the PM Applicant must provide its current TTB permit as a manufacturer or an importer. If the PM Applicant is located outside the United States, it must provide copies of applicable licenses, permits certificates, or similar documents issued by the country in which the manufacturing takes place. If the Cigarettes bear a United States trademark, the PM Applicant must also provide a copy of the trademark holder's certificate consenting to importation of the brands into the United States, and a copy of the importer's certificate that the trademark holder has not withdrawn consent to import the brands into the United States.

### **PART 3: BRAND FAMILY IDENTIFICATION.**

In section A, identify by Brand Family all of the Cigarettes that the PM Applicant intends to, or have been, sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho, whether directly or through any distributor, retailer, or similar intermediary, and for which it seeks certification and inclusion on the Directory. Brand Family identification must include (i) a list of all of Brand Families that were sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho during the previous sales year (or an otherwise indicated sales year) and/or that have been or will be sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho at any time during the current calendar year (column A); (ii) the complete name and address of any other Tobacco Product Manufacturer that manufactured a Brand Family listed (column B); and (iii) the trademark holder and the trademark holder's contact person for each Brand Family listed (column C). With respect to column A, a PM Applicant must indicate, by asterisk, any Brand Family sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho during the previous sales year that is no longer being sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho as of the date of the Certification.

In section B, depending upon the type of Certification being submitted, provide samples of actual packaging without tobacco. If the Certification being provided is an annual Certification and samples of the actual packaging and labeling for each Brand Family being certified has previously been provided and there have been no changes to the packaging, the appropriate box may be checked and the PM Applicant may proceed to Part 4 without providing anew the packaging samples.

In section C, for each Brand Family the PM Applicant seeks to certify, provide copies of the current Federal Trade Commission (FTC) health-warning rotation plan approval letter and the current Centers for Disease Control (CDC) ingredient listing approval letter.

**Please note the following:** A PM Applicant may not include a Brand Family in its Certification unless the Brand Family is deemed to be its Cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and share determined pursuant to the Master Settlement Agreement. Nothing in this Certification, however, shall be construed as limiting or otherwise affecting the State of Idaho's right to maintain that a Brand Family constitutes Cigarettes of a different Tobacco Product Manufacturer. The PM Applicant shall update the Brand Family list in its Certification thirty (30) days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental Certification to the Office of the Attorney General. Finally, the

posting on the Directory of a Brand Family does not limit or otherwise affect the right of the State of Idaho to maintain that Cigarettes in a Brand Family are those of a different Tobacco Product Manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of applying the escrow requirements of Idaho Code § 39-7803(b).

#### **PART 4: PM APPLICANT SALES AND DISTRIBUTION INFORMATION.**

In section A, PM Applicants need to answer each of the inquiries. If Yes is answered to any of the inquiries of this subpart, then additional explanation is required.

In Section B, the PM Applicant must identify each Idaho Stamping Agent who sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported PM Applicant's Cigarettes to or in Idaho in 2019. If it had no such sales in 2019, the PM Applicant must identify its designated Idaho Stamping Agent.

In Section C, if the PM Applicant is located in a country other than the United States, the PM Applicant must identify all Importers who imported its Cigarettes into the United States and all Bonded Warehouses in which the Cigarettes are stored prior to distribution.

#### **PART 5: AUTHORIZED DESIGNEE SIGNATURE AND CERTIFICATIONS**

The person executing the Certification must be authorized to bind the PM Applicant. The authorized designee's name and title must be printed, and the Certification must be executed in the presence of a Notary Public.

The PM Applicant must also certify that each Brand Family it has listed is to be deemed its Cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, including any Brand Family or brand styles PM Applicant had or has contract manufactured for it by another manufacturer, in the volume and share determined pursuant to the Master Settlement Agreement. Nothing in this Certification, however, shall be construed as limiting or otherwise affecting the State of Idaho's right to maintain that a Brand Family constitutes Cigarettes of a different Tobacco Product Manufacturer.

The PM Applicant must agree that it will only sell, offer for sale, possess for sale, acquire, transport, import or cause to be imported its Cigarettes to the Idaho Stamping Agent(s) named in Part 4.B. and will notify the Idaho Attorney General should it choose an additional or different Idaho Stamping Agent(s).

The PM Applicant must agree that it will ensure all sales in or shipments into Idaho of its Cigarettes will be properly reported pursuant to all Idaho and Federal laws.

The PM Applicant must certify that each Brand Family, and each style within each Brand Family, is in compliance with Idaho Code § 39-8901 et seq. (the "Reduced Cigarette Ignition Propensity and Firefighter Protection Act" or "FSC Act"), and that the PM Applicant has separately certified each Brand Family and style to the Idaho Fire Marshal in accordance with the requirements of the FSC Act.

Finally, the PM Applicant must agree that it shall maintain all invoices, documentation of sales, and any other documentation relied upon in making this Certification for a period of five (5) years from the date the Certification is executed.