



OFFICE OF THE ATTORNEY GENERAL

Lawrence G. Wasden

Consumer Protection Division
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For Office Use Only

IDAHO NON-PARTICIPATING MANUFACTURER

Certification of Compliance

PART 1: TYPE OF CERTIFICATION AND SALES YEAR

A. Type of Certification:

Initial Annual Supplemental

B. Sales Year:

2016 Other Year: _____

PART 2: NON-PARTICIPATING MANUFACTURER (HEREAFTER NPM APPLICANT), IDENTIFICATION, STATUS, AND PERMITS/LICENSES

A. NPM 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: _____

1. NPM Applicant's Officers and Owners:

List NPM Applicant's officers and owners (all persons with an equity interest of 10% or more in the company). If the current year's list of all officers and owners is the same as reported in last year's annual certification and continues to be current, in effect, and operative, check here and proceed to 2.

| Check Correct Box | President Partner Other | Vice Pres. Partner Other | Secretary Partner Other |
|---------------------------------|-------------------------------|--------------------------------|-------------------------------|
| Name | | | |
| Street Address | | | |
| Telephone and Facsimile Numbers | | | |
| E-mail address | | | |

Attach additional sheets of paper as needed to provide a complete response.

2. NPM Applicant's Corporate or Business Documents:

Current copies of articles of incorporation, corporate charters, certificates of corporate existence, operating agreements, and bylaws or extracts of stockholders' meetings, as applicable to corporate status, are attached. Yes No

Current copies of articles of incorporation, corporate charters, certificates of corporate existence, operating agreements, and bylaws or extracts of stockholders' meetings, as applicable to corporate status, were submitted with a prior certification. Those documents continue to be current, in effect, and operative. Yes No

B. NPM Applicant Status:

The NPM Applicant certifies that as of the date of signing this Certification, it is (answer each section):

- In full compliance with Idaho Code § 39-7801 et seq. and Idaho Code § 39-8401 et seq., including all quarterly escrow payments required by Rule 100, 101, and 102 of the Idaho Rules Implementing the Idaho Tobacco Master Settlement Agreement Complementary Act, codified at IDAPA 04.20.01100 – 102. Yes No

If no was initialed, set forth on separate sheets of paper the reason(s) the NPM Applicant is not in compliance.

2. The fabricator of the Brand Families listed in this Certification and that these Brand Families are intended to be sold in the United States, including Cigarettes intended to be sold in the United States through an importer. Yes No

If no was initialed, set forth on separate sheets of paper the name and address of the fabricator of the Brand Family(ies) and state fully the basis for seeking to have the Brand Family(ies) certified by the NPM Applicant. Include an explanation of how the NPM Applicant qualifies as a Tobacco Product Manufacturer of the Cigarettes. Provide documentation to support your claim. Include in such explanation and documentation the location of the transfer of ownership of the Cigarettes and copies of every agreement between the NPM Applicant and the fabricator.

3. The first purchaser anywhere for resale in the United States of Cigarettes that the Cigarette's manufacturer did not intend to be sold in the United States? Yes No

If yes was initialed, set forth on separate sheets of paper the name and address of the Cigarette's fabricator. Explain upon what grounds the fabricator did not intend for its Cigarettes to be sold in the United States. Provide documentation to support your claim. Include in such explanation and documentation the location of the transfer of ownership of the Cigarettes and copies of every agreement between the NPM Applicant and the fabricator.

4. The successor of any entity described in Idaho Code § 39-7802(i)(1) or (2)? Yes No

If yes was initialed, set forth on separate sheets of paper the name of the entity for which you certify the NPM Applicant is the successor, its mailing address, contact person, and telephone and facsimile numbers.

C. NPM Applicant Licenses/Permits:

1. Attach a copy of the NPM Applicant's current U.S. Treasury, Tobacco Tax Bureau (TTB) permit(s) as a manufacturer and/or as an importer. If the NPM Applicant has previously attached its TTB permit, and that permit continues to be current, in effect, and operative, check here . There is no need to attach a new copy of the permit. If the permit has changed or a new or additional permit(s) has issued, attach a copy.
2. If the NPM 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. If the NPM Applicant's manufacturing or importer licenses, certificates, permits or similar documents issued by the country where the manufacturing takes place have previously been provided, and these documents continue to be current, in effect, and operative, check here . There is no need to attach a new copy of the documents. If the documents have changed or new or additional documents have been issued, attach copies.
3. If the NPM 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). If the NPM Applicant has previously provided these documents, and they continue to be current, in effect, and operative, check here .

PART 3: BRAND FAMILY IDENTIFICATION

A. Brand Families NPM 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 2016 if different from NPM applicant | 3. For each 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: _____ Check one: Cigarette 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 2016 if different from NPM applicant | 3. For each 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: _____ Check one: Cigarette RYO tobacco | | |
| Brand Family: _____ Check one: Cigarette RYO tobacco | | |
| Brand Family: _____ Check one: Cigarette RYO tobacco | | |

Attach additional sheets as necessary.

B. NPM Applicant's Manufacturing History:

1. Provide a complete list of Cigarettes and Other Tobacco Products (e.g., cigars, pipe tobacco, smokeless tobacco, etc.) that the NPM Applicant has manufactured or imported, no matter where sold, including:
 - a. Brand Family name;
 - b. The date manufacturing first commenced or is intended to commence for each Brand Family;
 - c. Time periods for manufacture of each Brand Family;
 - d. The place of manufacture of each Brand Family, including name, physical address and factory contact;
 - e. A list of prior manufacturers, if any, of each Brand Family;
 - f. The trademark holder of each Brand Family.

If this information has been previously provided and is current, in effect, and operative, check here _____.

2. Provide a list of States that have certified the NPM Applicant and the Brand Families NPM Applicant seeks to certify. If any State has refused to list or removed the NPM Applicant or a Brand Family of the NPM Applicant from a State's directory, identify the State(s).

C. Packaging Samples (check one):

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

Annual certification—no new packaging: Samples of the actual packaging and labeling for each Brand Family the NPM Applicant seeks to certify in the current year have been previously provided and is 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 NPM 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 NPM Applicant seeks to certify in the current year (without tobacco) are attached.

D. Federal Requirements:

For each Brand Family (cigarettes only) for which certification is sought, 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) for which certification is sought, 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: NPM APPLICANT SALES AND DISTRIBUTION INFORMATION

A. Idaho Sales Information (check as applicable):

The NPM 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 2016. Yes No
- 2. Directly, or indirectly through distribution, had more than 1,600,000 Cigarettes sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported to or in Idaho during any quarter in 2016. Yes No
- 3. 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
- 4. Is enjoined or banned from selling any Cigarettes pursuant to any court order or any state or federal agency ruling or determination. Yes No
- 5. Has had a judgment in any court entered against it, finding that the NPM Applicant has engaged in an unfair, false, or deceptive business practice or unfair competition relating to the sale of Cigarettes. Yes No

- 6. Seeks to certify a Brand Family in Idaho that is enjoined from sale in another State pursuant to a State or federal court order or a state agency ruling or determination. Yes No
- 7. Seeks to certify a Brand Family for which there has been a change in the fabricator of the Brand Family in the past two calendar years. Yes No
- 8. Seeks to certify a Brand Family for which NPM Applicant has one or more brand styles manufactured by a different manufacturer. Yes No
- 9. 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. Idaho 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 2016, each Brand Family listed in part 3.A. If you had no such activity to report in 2016, 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 Stamping Agent |
|-----------------|-------------------------|---|
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Attach additional sheets as necessary.

C. NPM Applicants Located in Foreign Countries:

Identify the name and address of all of NPM 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) |
|-----------------|-------------|--|--|
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Attach additional sheets as necessary.

PART 5: NPM APPLICANT REGISTERED AGENT FOR SERVICE OF PROCESS

Pursuant to Idaho Code § 39-8403(1)(c)(i), the NPM Applicant certifies that it (answer each):

Is registered to do business in the State of Idaho. Yes No

Has appointed and continues to engage a registered agent for service of process in the State of Idaho. Yes No

Registered Agent Name: _____ Date of Appointment: _____

Company: _____

Physical Address: _____

Mailing Address: _____

Phone: _____ FAX: _____

Email Address: _____

Has the NPM Applicant previously submitted an Appointment of Registered Agent form as proof of appointment?
Yes No

If you answered Yes, please confirm that the appointment is still valid. Yes No

If no Appointment of Registered Agent form was previously submitted, or an appointment already submitted is no longer valid, attach a Non-Participating Manufacturer's Appointment of Registered Agent form with the Certification submitted to the Office of the Idaho Attorney General.

PART 6: QUALIFIED ESCROW FUND, ESCROW AGENT, AND ESCROW DEPOSITS

A. Qualified Escrow Fund Certification (answer each):

The NPM Applicant certifies that at the time of the execution of the Certification:

1. It has established, and continues to maintain, a Qualified Escrow Fund, and the Qualified Escrow Fund complies with Idaho Code §§ 39-7802(f) and 39-8403(1)(c). Yes No
2. Any escrow funds held or to be held in its Qualified Escrow Fund will be held in a separate segregated account on behalf of the State of Idaho and are separate and apart from escrow funds held on behalf of any other beneficiary. Yes No
3. A complete copy of the NPM Applicant's qualified escrow agreement, in executed form, including all amendments and attachments, has been provided to the Office of the Attorney General. Yes No
4. There is a security interest, as defined by Idaho Code § 28-1-201(35), that has been granted in or has attached or is otherwise applicable to any escrow funds held or to be held in the NPM Applicant's Qualified Escrow Fund on behalf of the State of Idaho. Yes No

If the NPM Applicant answered No to Part 6.A.1., 2., or 3., or Yes to Part 6.A.4., set forth on separate sheets of paper an explanation for this response. If No was answered for Part 6.A.1., 2., or 3., include in your explanation the NPM Applicant's qualified escrow agreement, in executed form, including all amendments and attachments. If Part 6.A.4. was answered affirmatively, attach documentation related to the security interest.

B. Qualified Escrow Fund Agent Identification:

Name of Qualified Escrow Fund Financial Institution: _____

Authorized Escrow Agent Contact Name and Title: _____

Physical Address: _____

Mailing Address: _____

Phone: _____ FAX: _____

Qualified Escrow Fund Account Number: _____

Qualified Escrow Fund Idaho Subaccount Number: _____

C. NPM Applicant’s Escrow Deposit/Withdrawal History for Idaho

| Date | Deposit | Withdrawal ¹ | Balance |
|------|---------|-------------------------|---------|
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Attach additional sheets as necessary

Attach proof from the Qualified Escrow Fund Agent of the current balance of the Qualified Escrow Fund subaccount for the benefit of the State of Idaho.

PART 7: AUTHORIZED DESIGNEE SIGNATURE AND CERTIFICATIONS

The NPM Applicant certifies that (initial all):

- _____ **1. Representation.** Under penalty of perjury, NPM 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 NPM Applicant under either the laws of the State of Idaho or of the jurisdiction where the NPM Applicant resides or is organized. Any violation of these requirements or these representations is a basis for removal of the NPM Applicant and/or its Brand Families from the Directory.

- _____ **2. Brand Families.** The NPM Applicant certifies that the Brand Families listed herein is a complete list of all of NPM Applicant’s 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 2016, 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 2016-2017. The NPM Applicant further certifies that each Brand Family listed herein is to be deemed its Cigarettes for purposes of Idaho Code § 39-7803(b), including any Brand Family styles contract manufactured for NPM Applicant by another manufacturer. 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.

¹ Withdrawals must comply with Idaho Code § 39-7803(b). Verification of compliance must be provided.

- _____ **3. Allocable Share Amendment.** NPM Applicant understands that Idaho has enacted what is commonly referred to as the Allocable Share Amendment and that NPM Applicant is not entitled to an allocable share release under former Idaho law.
- _____ **4. Sales and Shipments to Idaho.** NPM 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.
- _____ **5. Reporting.** NPM 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.
- _____ **6. 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 NPM 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 NPM Applicant has separately certified each Brand Family and style to the Idaho Fire Marshal in accordance with the requirements of the FSC Act.
- _____ **7. Consent to be Sued in Idaho.** Pursuant to Idaho Code 39-8403(5), the NPM Applicant consents to being sued in Idaho District Court for the purposes of the State of Idaho enforcing any provisions of Idaho Code § 39-7801, et seq. or Idaho Code § 39-8401, et seq. or for the State of Idaho bringing any action regarding a released claim as that term is defined by Idaho Code §39-7802(g). Attached is appropriate documentation authorizing the Authorized Designee to consent on behalf of the NPM Applicant to being sued in Idaho District Court.
- _____ **8. Document Retention.** Pursuant to Idaho Code § 39-8403(1)(e), the NPM 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 NON-PARTICIPATING MANUFACTURER CERTIFICATION OF COMPLIANCE

General Information

Who must file an Idaho Non-Participating Manufacturer Certification of Compliance?

Any Non-Participating Manufacturer (NPM 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 2016-2017, whether directly or through any distributor, retailer, or similar intermediary, must execute and deliver to the Office of the Attorney General an Idaho Non-Participating Manufacturer Certification of Compliance (Certification).

Please note: In addition to filling out the Certification, an NPM Applicant submitting a Certification for the first time must also submit an Amended Idaho Model Escrow Agreement for approval. A copy of the model qualified escrow agreement that complies with Idaho law is located at www.ag.idaho.gov.

The Certification is in addition to Idaho's Annual or Quarterly Certification of Escrow Funding Compliance that NPM Applicants must also submit to the Office of the Attorney General as applicable. The escrow funding certification forms, information about their applicability and when they must be filed, are also located online.

When is the Certification due?

If an NPM 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 an NPM 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, an NPM 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 NPM 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 Report may be scanned and e-mailed to: tobaccoenforcement@ag.idaho.gov.

DEFINITIONS¹

(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,” 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) “Qualified Escrow Fund” has the same meaning given the term in Idaho Code § 39-7802(f) and includes an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any Tobacco Product Manufacturer and having assets of at least one billion dollars (\$1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties like the State of Idaho and prohibits the Tobacco Product Manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with Idaho Code § 39-7803 of the Idaho Tobacco Master Settlement Agreement Act.

(h) “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 cigarette 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.

(i) “Tobacco Product Manufacturer” has the same meaning given the term in Idaho Code § 39-7802(i) and includes

¹ Defined terms are capitalized throughout these instructions and the Certification.

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.

(j) "Units Sold" has the same meaning given that term in Idaho Code § 39-7802(j) and is the number of individual cigarettes sold in the state by the applicable Tobacco Product Manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the state on packs (or "roll-your-own" tobacco containers) bearing the Idaho state excise tax stamp or on unstamped "roll-your-own" tobacco containers, with each nine one-hundredths (0.09) ounces of "roll-your-own" tobacco equaling one (1) Unit Sold.

Specific Instructions

PART 1: TYPE OF CERTIFICATION AND SALES YEAR.

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

PART 2: NPM APPLICANT'S IDENTIFICATION.

In section A, identify the NPM 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.

Concerning identifying the NPM Applicant's officers and owners (persons with an equity interest of 10% or more), if the current year's list is the same as reported in a previous year, the box may be checked and the NPM Applicant may proceed to Part 2.A.2 without identifying anew the existing officers and owners.

Concerning providing the NPM Applicant's relevant corporate or business documents, if the current, valid and operative documents were previously provided, the second paragraph of Part 2.A.2. may be checked and the NPM Applicant may proceed to Part 2.B without providing anew the documents.

In section B, the NPM Applicant must certify its status by answering each of the four inquiries set forth in this subpart. If Yes is answered for any of the four inquiries, additional explanation is required, as indicated.

In section C, the NPM Applicant must provide its current TTB permit as a manufacturer or an importer. If the NPM Applicant has previously attached TTB permit(s) and/or other similar documents, and those permits and documents remain current, valid and operative, the appropriate box may be checked and the NPM Applicant may proceed to Part 3 without providing the documents anew.

If the NPM 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 NPM 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. If these documents have been previously provided and remain current, valid and operative, the appropriate box may be checked and the NPM Applicant may proceed to Part 3 without providing the documents anew.

PART 3: BRAND FAMILY IDENTIFICATION.

In section A, identify by Brand Family all of the Cigarettes that the NPM 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, an NPM 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, provide a complete historical list of all Cigarettes and Other Tobacco Products that the NPM Applicant has manufactured or imported, including dates, places and time periods of manufacture, a list of prior manufacturers and the trademark holder(s). If this information has been previously provided and has not changed, the appropriate box may be checked. The NPM Applicant must also provide a list of States that have certified the NPM Applicant and the Brand Family(ies) it seeks to certify, and a list of any State that has refused to list or delisted the NPM Applicant and its Brand Family(ies).

In section C, 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 NPM Applicant may proceed to Part 4 without providing anew the packaging samples.

In section D, for each Brand Family the NPM 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: An NPM Applicant may not include a Brand Family in its Certification unless the Brand Family is deemed to be its Cigarettes for purposes of Idaho Code § 39-7803(b). The NPM 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: NPM APPLICANT SALES AND DISTRIBUTION INFORMATION.

In section A, NPM 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 NPM Applicant must identify each Idaho Stamping Agent who sold, offered for sale, possessed for sale, acquired, transported, imported or caused to be imported NPM Applicant's Cigarettes to or in Idaho in 2016. If it had no such activity in Idaho in 2016, the NPM Applicant must identify its designated Idaho Stamping Agent.

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

PART 5: REGISTERED AGENT FOR SERVICE OF PROCESS.

If an NPM Applicant has not registered with the Idaho Secretary of State to do business in Idaho, it must appoint and continually engage, without interruption, the services of a registered agent located in Idaho to act as agent for service of process on whom all process may be served in any manner authorized by law. If an NPM Applicant is registered to do business in Idaho, the appropriate box on the Certification needs to be checked. If the NPM Applicant has not registered to do business in Idaho, it must provide registered agent information, including the agent's name, address, telephone number, proof of appointment, and availability of the agent to the Office of the Attorney General pursuant to Idaho Code § 39-8404(1). If an NPM Applicant has not previously submitted a Non-Participating Manufacturer's Appointment of Registered Agent form to the Office of the Attorney General, it must be attached to the Certification. The form for appointment of a registered agent is located at: www.ag.idaho.gov.

NPM Applicants must provide notice to the Office of the Attorney General thirty (30) days prior to the termination of the authority of its appointed agent. Should an NPM Applicant terminate the agent appointment, no less than five (5) days prior to the termination the NPM Applicant must provide proof of appointment of a new agent and certify registered agent information, including the agent's name, address, telephone number, proof of appointment, and availability of the agent, to the Office of the Attorney General pursuant to Idaho Code § 39-8404(2). In the event that the appointed agent identified in Part 5 of the Certification terminates the agency appointment, the NPM Applicant must notify the Office of the Attorney General of the termination within five (5) days of termination and include proof of the appointment of a new agent, together with the information required pursuant to Idaho Code § 39-8404(2).

PART 6: QUALIFIED ESCROW FUND.

In Section A, an NPM Applicant must certify that it has (i) established a Qualified Escrow Fund that complies with Idaho law and (ii) that any escrow funds held or to be held in its Qualified Escrow Fund on behalf of the State of Idaho are or will be held in a separate segregated account, separate and apart from escrow funds held on behalf of any other beneficiary. The NPM Applicant must also certify that it has not granted a security interest in any of the escrow funds held for the benefit of Idaho. An NPM Applicant must submit a copy of a fully executed qualified escrow agreement to the Office of the Attorney General, which must be reviewed and approved by the Attorney General before an NPM Applicant is eligible to be listed on the Directory. A copy of the model qualified escrow agreement that complies with Idaho law is located at www.ag.idaho.gov.

In Section B, the NPM Applicant must identify (i) the name, address and telephone number of the financial institution where it has established the Qualified Escrow Fund; (ii) the account number of such Qualified Escrow Fund and the sub-account number for Idaho's separate, segregated account; and (iii) provide additional information regarding the qualified escrow agreement.

In Section C, an NPM Applicant must identify (i) the amount it placed in its Qualified Escrow Fund for all Units Sold in Idaho during the preceding calendar year, (ii) the date and amount of each such deposit; and (iii) the amount and date of any withdrawal or transfer of funds it made at any time from such fund or from any other Qualified Escrow Fund. Proof of all deposits and withdrawals verified by the Qualified Escrow Fund's escrow agent and that confirm the amounts and dates of deposits and withdrawals must be submitted with the Certification.

PART 7: AUTHORIZED DESIGNEE SIGNATURE AND CERTIFICATIONS.

The person executing the Certification must be authorized to bind the NPM 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 person executing the Certification must consent on behalf of the NPM Applicant to its being sued in Idaho District Court should it become necessary for the State of Idaho to enforce any provisions of Idaho Code § 39-7801,

et seq. or Idaho Code § 39-8401, et seq. or for the State of Idaho to bring any action regarding a released claim as that term is defined by Idaho Code §39-7802(g). Appropriate documentation authorizing the person executing the Certification to consent on behalf of the NPM Applicant to its being sued in Idaho District Court (e.g., Board of Director Resolution) must also be attached.

The NPM Applicant must certify that each Brand Family it has listed is to be deemed its Cigarettes for purposes of Idaho Code § 39-7803(b), including any Brand Family styles NPM Applicant has contract manufactured for it by another manufacturer. Please note: Nothing in the Certification may 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 NPM Applicant must acknowledge that it is not entitled to an Allocable Share Release under former Idaho law.

The NPM 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 additional or different Idaho Stamping Agent(s).

The NPM 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 NPM 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 NPM 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 NPM 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.