



**OFFICE OF THE ATTORNEY GENERAL**  
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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:**

**2025**      Other Year: \_\_\_\_\_

**PART 2: NON-PARTICIPATING MANUFACTURER IDENTIFICATION, STATUS, AND PERMITS/LICENSES**

**A. Non-Participating Manufacturer (NPM Applicant) Identification:**

**1. NPM Applicant:**

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

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

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

Mailing Address (if different from above):

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

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

Fax: \_\_\_\_\_

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

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

Company Email: \_\_\_\_\_

**2. Person Completing Certification:**

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

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

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

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

**3. 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).

Check Correct Box	<b>President Partner</b> Other: _____	<b>Vice Pres. Partner</b> Other: _____	<b>Secretary Partner</b> Other: _____
<b>Name</b>			
<b>Street Address</b>			
<b>Phone</b>			
<b>Email</b>			

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

**4. 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 or have been provided with prior Certification and no changes have been made.

Yes No

**B. NPM Applicant’s Status:**

NPM Applicant certifies that, as of the date of signing this Certification:

1. NPM Applicant is in full compliance with Idaho Code § 39-7801, et seq., and Idaho Code § 39-8401, et seq., including all quarterly escrow deposits 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, set forth on separate sheets of paper the reason(s) NPM Applicant is not in compliance.

2. NPM Applicant is the manufacturer of the Brand Families listed in this Certification, and 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, set forth on separate sheets of paper the name and address of the manufacturer of the Brand Family(ies) and state fully the basis for seeking to have the Brand Family(ies) certified by NPM Applicant. Include an explanation of how 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 NPM Applicant and the manufacturer.

3. NPM Applicant is the first purchaser anywhere for resale in the United States of Cigarettes that the Cigarette manufacturer did not intend to be sold in the United States. Yes No

If Yes, set forth on separate sheets of paper the name and address of the Cigarette manufacturer. Explain upon what grounds the manufacturer 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 NPM Applicant and the manufacturer.

4. NPM Applicant is the successor of any entity described in Idaho Code § 39-7802(i)(1) or (2). Yes No

If Yes, set forth on separate sheets of paper the name of the entity for which you certify NPM Applicant is the successor, its mailing address, contact person, and phone and fax numbers.

5. NPM Applicant or one of its affiliates, sales entity affiliates, officers, directors, or owners is currently charged with or has been convicted of a felony crime relating to the sale or taxation of cigarettes or other tobacco products. Yes No

If Yes, set forth on separate sheets of paper a detailed explanation including defendant name, charge or conviction date, case number, and court of jurisdiction.

**C. NPM Applicant's Licenses/Permits:**

1. Attach a copy of NPM Applicant's current U.S. Treasury, Tobacco Tax Bureau (TTB) permit(s) as a manufacturer and/or as an importer.
2. If NPM Applicant is located outside 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 NPM Applicant is located outside 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 NPM Applicant Seeks to Certify:**

<b>1. Brand Family</b> Indicate with an asterisk (*) if no longer sold in Idaho and not seeking inclusion on Directory	<b>2. Tobacco Product Manufacturer of Brand Family if different from NPM Applicant</b> Provide contact person, address, phone, and email	<b>3. Trademark holder of Brand Family if different from NPM Applicant</b> Provide contact person, address, phone, and email
Brand Family: _____ Check one: Cigarette      RYO		
Brand Family: _____ Check one: Cigarette      RYO		
Brand Family: _____ Check one: Cigarette      RYO		
Brand Family: _____ Check one: Cigarette      RYO		
Brand Family: _____ Check one: Cigarette      RYO		
Brand Family: _____ Check one: Cigarette      RYO		

Attach additional sheets as necessary.

**B. NPM Applicant’s Manufacturing History:**

1. Provide a complete list of Cigarettes, including roll-your-own tobacco, and other tobacco products (e.g., cigars, pipe tobacco, smokeless tobacco) that 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.
2. Provide a list of States that have certified NPM Applicant and the Brand Families that NPM Applicant seeks to certify in Idaho. Identify any State that has refused to list or has delisted NPM Applicant or a Brand Family of NPM Applicant from that State’s directory, unless such delisting was solely at NPM Applicant’s request.

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

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

**Annual certification—no new packaging:** Samples or digital proofs of the actual packaging and labeling for each Brand Family that NPM 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 that NPM Applicant seeks to certify in the current year, and samples (without tobacco) or digital proofs of the new packaging and labeling for each such Brand Family are attached.

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

**D. Federal Requirements:**

For each Brand Family (cigarettes only) NPM 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) NPM Applicant seeks to certify, attached is a copy of the most recent Federal Trade Commission (FTC) health-warning rotation plan approval letter. NPM Applicant confirms the following:

NPM Applicant will continue to comply with the most recent FTC health-warning rotation plan approval;

NPM Applicant will timely make any required submission to the Federal Drug Administration (FDA) and provide the Office of the Attorney General with proof of the same, as well as a copy of any response or approval from the FDA.

## PART 4: SALES AND DISTRIBUTION INFORMATION

### A. Sales Information:

NPM Applicant:

1. Directly, or indirectly through distribution—including through an Idaho Stamping Agent, had Cigarettes sold, offered for sale, possessed for sale, acquired, transported, imported, or caused to be imported to or in Idaho in 2025 or in 2026 to date. Yes      No
2. Directly, or indirectly through distribution—including through an Idaho Stamping Agent, 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 2025 or in 2026 to date. Yes      No
3. Directly, or indirectly through distribution—including through an Idaho Stamping Agent, had Cigarettes sold, offered for sale, possessed for sale, acquired, transported, imported, or caused to be imported onto a Native American Reservation located in Idaho in 2025 or in 2026 to date. Yes      No
4. 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
5. Is enjoined or banned from selling any Cigarettes pursuant to any court order or any state or federal agency ruling or determination. Yes      No
6. Has had a judgment in any court entered against it, finding that NPM Applicant has engaged in an unfair, false, or deceptive business practice or unfair competition relating to the sale of Cigarettes. Yes      No
7. 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
8. Seeks to certify a Brand Family for which there has been a change in the manufacturer of the Brand Family in the past two (2) calendar years. Yes      No
9. Seeks to certify a Brand Family for which NPM Applicant has one or more brand styles manufactured by a different manufacturer. 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:**

For each Brand Family you listed in part 3.A above, identify the name, address, and phone number of every Idaho Stamping Agent that sold, offered for sale, possessed for sale, acquired, transported, imported, or caused such Brand Family to be imported to or in Idaho, including onto Native American reservations located in Idaho, in 2025 or in 2026 to date. NOTE: If you had no such activity to report, identify your designated Idaho Stamping Agent(s).

1. Brand Family	2. Idaho Stamping Agent	3. Address and phone

Attach additional sheets as necessary.

**C. Importers and Bonded Warehouses:**

If NPM Applicant is located outside the United States, identify the name, address, and phone number of all of NPM Applicant's Importers and Bonded Warehouses located in the United States for the Brand Families listed in Part 3.A.

1. Brand Family	2. Importer	3. Importer's street and mailing addresses, phone, and contact person	4. Bonded Warehouse's street and mailing addresses, phone, and contact person

Attach additional sheets as necessary.

**PART 5: REGISTERED AGENT FOR SERVICE OF PROCESS**

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

Is registered with the Idaho Secretary of State 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: \_\_\_\_\_

Has NPM Applicant previously submitted an Appointment of Registered Agent form? Yes No

If you answered Yes, is the appointment 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 this Certification.

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

**A. Qualified Escrow Fund Certification:**

NPM Applicant certifies that at the time of the execution of this 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 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. A property interest, or security interest as defined by Idaho Code § 28-1-201(35), has been granted in or has attached or is otherwise applicable to any escrow funds held or to be held in NPM Applicant’s Qualified Escrow Fund on behalf of the State of Idaho, or NPM Applicant has transferred an ownership interest in the Qualified Escrow Fund to another entity, without obtaining the prior written consent of the State of Idaho. Yes No

If you answered No to Part 6.A.1, 2, or 3, set forth on separate sheets of paper an explanation for this response. Include with your explanation NPM Applicant’s qualified escrow agreement, in executed form, including all amendments and attachments. If you answered Yes to Part 6.A.4, provide an explanation for this response, including documentation related to the security, property, or ownership interest.

**B. Qualified Escrow Fund and Escrow Agent Identification:**

Name of Qualified Escrow Fund Financial Institution: \_\_\_\_\_

Authorized Escrow Agent Contact Name and Title: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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

Qualified Escrow Fund Account Number: \_\_\_\_\_

Qualified Escrow Fund Idaho Subaccount Number: \_\_\_\_\_

**C. NPM Applicant's Escrow Deposit/Withdrawal History for Idaho Subaccount for 2025 Sales Year**

Date	Deposit	Withdrawal <sup>1</sup>	Balance

Attach additional sheets as necessary

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

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

## PART 7: AUTHORIZED DESIGNEE SIGNATURE AND CERTIFICATIONS

### 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 NPM Applicant under either the laws of the State of Idaho or of the jurisdiction where NPM Applicant resides or is organized. Any violation of these requirements or these representations is a basis for removal of NPM Applicant and/or its Brand Families from the Directory.
- \_\_\_\_\_ 2. **Brand Families.** 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 2025, 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 2026. 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(ies) or brand 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.
- \_\_\_\_\_ 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.** For Cigarettes that NPM Applicant sells, offers for sale, transports, imports, or causes to be imported into Idaho, including onto Native American reservations located in Idaho, NPM Applicant agrees to do so only to its designated Idaho Stamping Agent(s). Further, NPM Applicant agrees to 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, including the PACT Act registration and reporting requirements of 15 U.S.C. §§ 376 and 376a.
- \_\_\_\_\_ 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"), 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. 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. **Document Retention.** Pursuant to Idaho Code § 39-8403(1)(e), 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.

\_\_\_\_\_ **8. Consent to be Sued in Idaho.** Pursuant to Idaho Code § 39-8403(5), 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).

NPM Applicant has attached appropriate documentation consenting to be sued in Idaho District Court or, alternatively, has attached documentation authorizing the Authorized Designee to consent on behalf of NPM Applicant to being sued in Idaho District Court.

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

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

SUBSCRIBED AND SWORN to before me on this date: \_\_\_\_\_

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

State of: \_\_\_\_\_ 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 2025-2026, 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 executed Idaho Model Escrow Agreement for approval. A copy of the Idaho Model Escrow Agreement is located at [www.ag.idaho.gov/consumer-protection/tobacco-settlement](http://www.ag.idaho.gov/consumer-protection/tobacco-settlement).

This 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, including 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 an Initial Certification to the Attorney General, and the Attorney General must first certify NPM Applicant and its Brand Family(ies) on the Directory, before NPM Applicant's 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 submit an Annual 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. Please note that no Brand Family may be sold, offered for sale, or possessed for sale unless and until the Attorney General certifies the Brand Family on its 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

Alternatively, the Certification and supporting documents may be emailed 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) “Qualified Escrow Fund” has the same meaning given the term in Idaho Code § 39-7802(f) and includes an escrow account held at 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 the financial institution hold the escrowed funds' principal for the benefit of releasing parties like the State of Idaho and prohibits the Non-Participating Manufacturer 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 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.

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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. **Note:** for Annual Certifications, the sales year is the calendar year prior to the year in which the Certification is submitted.

### **PART 2: NON-PARTICIPATING MANUFACTURER IDENTIFICATION, STATUS, AND PERMITS/LICENSES**

In Section A, provide:

- 1) NPM Applicant's name; physical, mailing, email, and website addresses; phone and fax numbers; and federal employer identification number.
- 2) The name, title, phone and email address of the person completing the Certification who will serve as the contact person for the manufacturer.
- 3) NPM Applicant's officers and owners (all persons with an equity interest of 10% or more).
- 4) NPM Applicant's relevant corporate or business documents.

In Section B, NPM Applicant must certify its status by answering each of the inquiries set forth in this subpart. Provide additional explanation based on your responses, as indicated.

In Section C, NPM Applicant must provide its current TTB permit as a manufacturer or an importer. If 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, 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.

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

In Section A, identify by Brand Family all Cigarettes of NPM Applicant (i) 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, whether directly or through any distributor, retailer, or similar intermediary; or (ii) for which NPM Applicant seeks certification and inclusion on the Directory. Brand Family identification must include:

- 1) a list of all 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 all Brand Families 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 1);
- 2) the complete name and contact information of any other Tobacco Product Manufacturer that manufactured a Brand Family listed (column 2); and
- 3) the trademark holder's name and contact information for each Brand Family listed (column 3).

With respect to column 1, 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. Brand Families so indicated will be reviewed for removal from the Directory unless already removed.

In Section B, provide a complete historical list of all Cigarettes and other tobacco products that NPM Applicant has manufactured or imported, including dates, places, and time periods of manufacture, a list of prior manufacturers, and the trademark holder(s). NPM Applicant must also provide a list of States that have certified NPM Applicant and the Brand Family(ies) it seeks to certify, as well as a list of any States that have refused to list or have delisted NPM Applicant and its Brand Family(ies), unless such delisting was at the request of NPM Applicant.

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 NPM Applicant may proceed to Part 4 without providing anew the packaging samples.

In Section D, for each Brand Family NPM Applicant seeks to certify, provide a copy of the most recent 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:*

- 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).
- NPM Applicant shall update the Brand Family list in its Certification thirty (30) days prior to any desired addition to or modification of its Brand Families by executing and delivering a Supplemental Certification to the Office of the Attorney General. However, no Brand Family may be sold, offered for sale, or possessed for sale unless and until the Attorney General certifies the Brand Family on its Directory.
- Finally, the listing 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: SALES AND DISTRIBUTION INFORMATION**

In Section A, NPM Applicant needs to answer each of the inquiries. If Yes is answered to any of the inquiries of this subpart, additional explanation is required.

In Section B, 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, including onto Native American reservations located in Idaho, in 2025-2026. If NPM Applicant had no such activity in Idaho in 2025-2026, NPM Applicant must still identify its designated Idaho Stamping Agent(s).

In Section C, if NPM Applicant is located outside the United States, 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 NPM Applicant is registered with the Idaho Secretary of State to do business in Idaho, the appropriate box on the Certification needs to be checked.

NPM Applicants that have not registered with the Idaho Secretary of State to do business in Idaho 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 NPM Applicant has not registered to do business in Idaho, it must provide registered agent information, including the agent's name, address, phone number, proof of appointment, and availability of the agent to the Office of the Attorney General pursuant to Idaho Code § 39-8404(1). If 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/consumer-protection/tobacco-settlement](http://www.ag.idaho.gov/consumer-protection/tobacco-settlement).

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. No less than five (5) days prior to such termination NPM Applicant must provide proof of appointment of a new agent and certify registered agent information, including the agent's name, address, phone 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 the appointed agent identified in Part 5 of the Certification terminates the agency appointment, NPM Applicant must notify the Office of the Attorney General of the termination within five (5) days of termination and must 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, ESCROW AGENT, AND ESCROW DEPOSITS

In Section A, 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. NPM Applicant must also certify that it has not granted a security, property, or ownership interest in any of the escrow funds held for the benefit of Idaho. NPM Applicant must submit a copy of a fully-executed Idaho Model Escrow Agreement to the Office of the Attorney General, which must be reviewed and approved by the Attorney General before NPM Applicant is eligible to be listed on the Directory. A copy of the Idaho Model Escrow Agreement is located at [www.ag.idaho.gov/consumer-protection/tobacco-settlement](http://www.ag.idaho.gov/consumer-protection/tobacco-settlement).

In Section B, NPM Applicant must identify (i) the name, addresses, and phone number of the financial institution where it has established the Qualified Escrow Fund; and (ii) the account number of such Qualified Escrow Fund and the sub-account number for Idaho's separate, segregated account.

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

## PART 7: AUTHORIZED DESIGNEE SIGNATURE AND CERTIFICATIONS

*NOTE: The person executing the Certification must be authorized to bind 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.*

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 or brand styles NPM Applicant has or had 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.

NPM Applicant must acknowledge that it is not entitled to an Allocable Share Release under former Idaho law.

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 an additional or different Idaho Stamping Agent(s).

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.

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 NPM Applicant has separately certified each Brand Family and style to the Idaho Fire Marshal in accordance with the requirements of the FSC Act.

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.

The person executing the Certification must consent, on behalf of NPM Applicant, to NPM Applicant 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 give such consent (e.g., Board of Director Resolution) must also be attached.