

MARCH 21, 2025



IN-PERSON AUDIT PERIOD 3 REPORT - REDACTED

IN-PERSON AUDITS OF PARTICIPATING RETAILER LOCATIONS

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Introduction^{1,2}

Responsibility of the Auditor

Philip Morris USA (“PM USA”), R.J. Reynolds Tobacco Company (“RJRT”), and ITG Brands (“ITG”) (collectively, the “Manufacturers”) retained FTI Consulting (“FTI”) as the independent Auditor pursuant to the Consent Order (the “Order”) entered in the case of the United States v. Phillip Morris *et al.* (99-CV-2496).³ As the independent Auditor, FTI is responsible for assessing Participating Retailer Locations’ compliance with the placement of Court-ordered Corrective-Statement Signs by conducting In-Person Audits, reviewing data submitted to the Photo Database, deploying and maintaining the Tip Line, monitoring audit results, and providing reports to the Working Group, per Section I.D. of the Order.

In-Person Audits Overview

In the third Audit Period (October 5, 2024 through February 15, 2025), FTI completed In-Person Audits and compliance assessments of 9,908 Participating Retailer Locations drawn from the Representative Sample Pool and Suspected Noncompliance Pool (“SNP”). Refer to the In-Person Audit Period 1 Report for details on the In-Person Audit process.

Source Data and Data Validation Procedures

Source Data Overview

To facilitate the In-Person Audits conducted during Audit Period 3, the Manufacturers provided several datasets, including the combined listing of Participating Retailer Locations (“store listing”) required by Section V.3. of the Order. The Manufacturers provided FTI with the store listing on October 4, 2024 which consisted of 221,747 Participating Retailer Locations.⁴

The Manufacturers also provided a list of Participating Retailer Locations on military installations. FTI used this list to research access requirements and conduct applicable outreach to determine necessary steps in advance of the In-Person Audit. See *Appendix A. Documents Reviewed and Relied Upon* for additional key information sources.

Data Validation

FTI performed a data validation exercise on the store listing provided by the Manufacturers and reported the following data observations on October 7, 2024.

- [REDACTED]

¹ Terms discussed throughout the report are defined in *Appendix C. Consent Order and Report Definitions*.

² In tables throughout the report, some of the totals are 99.99% instead of 100.00% due to the rounding of values to two decimals. For illustrative purposes, FTI rounded these totals to 100.00%.

³ Order # 129 - Remand Fourth Superseding Consent Order Implementing The Corrective-Statements Remedy At Point Of Sale; Civil Action No. 99-CV-2496

⁴ “2024.10.04 Audit Period 3 Store List + Additional Store Group Listings.xlsx”

- There were five Census Tracts that contained Participating Retailer Locations with different Spanish Qualified Census Tract indicator values. It was expected that all Participating Retailer Locations in each Census Tract would have the same Spanish language indicator value. The Manufacturers confirmed on October 11, 2024 that the correct designation for all the locations in each tract was “No.”

Representative Sample Pool

Overview of Representative Sample

The Representative Sample consists of 6,000 Participating Retailer Locations selected according to the methodology outlined in Section I.OO. of the Order. The Representative Sample selection methodology required a mapping of each Participating Retailer Location to one of the five defined strata, which are based on the United States Census Regions or presence in a United States Territory. The Census Regions – Midwest, Northeast, South, and West – are the first four strata, with all stores located in a United States Territory forming the fifth strata.⁶

For the Representative Sample selection input population, FTI did not exclude any Participating Retailer Locations from the store listing provided by the Manufacturers. On October 11, 2023, FTI communicated to the Working Group that should a Participating Retailer Location be selected and determined to be closed, the store would be replaced based on the criteria cited in Section V.6.c. of the Order.

Sampling Methodology and Selection

The Audit Period 3 Representative Sample was selected on October 8, 2024. Refer to the In-Person Audit Period 1 Report for details on the Representative Sample selection process.

A Census Region summary of the Representative Sample is as follows:

Table 1. Representative Sample Pool Strata Distribution

Strata	Census Region Name	Number of Selected Retailers	Percent of Selected Sample
Strata 1	Midwest	1,396	23.27%
Strata 2	Northeast	741	12.35%
Strata 3	South	2,879	47.98%
Strata 4	West	984	16.40%
Strata 5	Territory	0	0.00%
Total		6,000	100.00%

Suspected Noncompliance Pool

Overview of Store Population

Section I.XX. of the Order defines the SNP as “an audit pool consisting of Participating Retailer Locations (a) for which no photo showing compliance has been submitted (to be included in this pool in only the first Audit Period and third Audit Period), (b) that have been flagged as suspected of noncompliance by the Tip Line and not previously been audited based on the Tip Line communication that triggered its inclusion in the Suspected

⁶ See https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us_regdiv.pdf for state-Census Region mapping.

Noncompliance Pool, or (c) that were found in Major Noncompliance via In-Person audit in the immediately prior Audit Period.”

Per Section V.6.b. of the Order, up to 4,000 Participating Retailer Locations from the SNP may be audited in an Audit Period; should the SNP exceed 4,000, the Plaintiffs would select the Participating Retailer Locations subject to an In-Person Audit.

Suspected Noncompliance Pool Composition

The final Audit Period 3 SNP consisted of 19,316⁷ Participating Retailer Locations. The pool was composed of the following categories:

Table 2. Final Suspected Noncompliance Pool Summary

SNP Category	Number of Retailers
Tip Line Submissions	47
Stores with Only Invalid Rotation Period Submissions	570
Audit Period 2 Major Noncompliant Stores	962
Stores with No Rotation Period Submission	5,140
Noncompliant Stores After Resubmission	6,001
Noncompliant Stores with No Resubmissions	6,596
Total	19,316

There were several categories of Participating Retailer Locations that were excluded from the SNP, including those subject to Section IV.5.b of the Order which indicates the Manufacturers shall deliver Corrective-Statement Signs to Participating Retailer Locations not visited by a Manufacturer’s representative during the Rotation Period; these Participating Retailer Locations are not required to submit photographs to the Master Photo Database (the “MPD”). Additional exclusions were applied in accordance with Working Group decisions. The Participating Retailer Locations excluded from the SNP were the following:

- Eight Military Locations that did not have Rotation Period submissions and were not visited by the Manufacturers’ representatives.
- 235 Duty-Free Locations that did not have Rotation Period submissions and are not regularly visited by the Manufacturers’ representatives.
- Nine non-Duty-Free Locations that did not have Rotation Period submissions and are not regularly visited by the Manufacturers’ representatives.
- 508 temporarily closed Locations where photos were not submitted or no resubmission was received.

Suspected Noncompliance Pool Selection

A preliminary SNP store listing was created and circulated to the Working Group on October 30, 2024. FTI met with the Plaintiffs to discuss the selection criteria for the 4,000-store sample from the SNP. Once the selection process and criteria were defined, FTI circulated an updated SNP store listing to the Plaintiffs on November 7, 2024; at the time of circulation, the Rotation Period was 99.2% complete. Given the level of completion, the

⁷ This count increased by one (19,315 to 19,316) from the transmittal of the final SNP on November 15, 2024 as a result of the Plaintiffs’ request to add Tip Line Submissions to the pool of alternates for any SNP store requiring replacement. Please refer to the *Participating Retailer Location Replacements* section for more details.

Plaintiffs agreed to select the full 4,000 Participating Retailer Locations from this list. FTI selected the sample the same day, which was approved by the Plaintiffs on November 8, 2024.

On November 8, 2024, FTI discovered an additional folder of Rotation Period store submissions had been received within the submission deadline. The stores included in this folder were removed from the SNP list and adjustments were made to the Plaintiffs' selections accordingly. The final 4,000 stores were added to the Audit Period 3 population on the same day.

Upon completion of the Rotation Period compliance decisions, a final SNP list of 19,315 Participating Retailer Locations was sent to the Working Group on November 15, 2024. Accounting for replacements⁸, the final 4,000 Participating Retailer Locations that were audited as part of the SNP were composed of the following:

Table 3. Final Selected Suspected Noncompliance Pool Summary

SNP Category	Number of Selected Retailers	Percent of Final SNP	Number of Available Retailers	Percent of Available Retailers
Tip Line Submissions	46 ⁹	1.15%	47	97.87%
Stores with Only Invalid Rotation Period Submissions	98	2.45%	570	17.19%
Audit Period 2 Major Noncompliant Stores	846	21.15%	962	87.94%
Stores with No Rotation Period Submission	696	17.40%	5,140	13.54%
Noncompliant Stores After Resubmission	1,138	28.45%	6,001	18.96%
Noncompliant Stores with No Resubmissions	1,176	29.40%	6,596	17.83%
Total	4,000	100.00%	19,316	

Participating Retailer Location Replacements

Overview of Replacement Methodology

Participating Retailer Locations required replacement based on circumstances preventing FTI from conducting an In-Person Audit. The replacement logic differed depending on the pool from which the Participating Retailer Location was selected:

1. For each Participating Retailer Location selected from the Representative Sample Pool which required replacement, FTI identified a different Participating Retailer Location from the population that was present in the same United States Census Region or Territory and shipped a similar volume of Covered Brands of cigarettes in the last 12 months per Section V.6.c of the Order. FTI quantified "a similar volume" as shipping volumes with the lowest absolute difference between the volume of the store to be replaced and that associated with the replacement Participating Retailer Location. This process was the same as that used in Audit Periods 1 and 2.
2. For each Participating Retailer Location selected from the SNP which required replacement, FTI selected a replacement from a pool of alternate retailers, which consisted of the following:

⁸ The selection of replacements is described in the *Participating Retailer Location Replacements* section of this report.

⁹ *Table 2. Final Suspected Noncompliance Pool Summary* indicates there were 47 tips received that were eligible for an In-Person Audit during Audit Period 3. All 47 of these Participating Retailer Locations were audited, however, 1 of the locations was replaced resulting in a final store count of 46.

- a. 500 Participating Retailer Locations from the remaining SNP approved by the Plaintiffs on November 8, 2024. The replacement pool mirrored the Plaintiff's original selection criteria and replacement locations were selected randomly from within each SNP category.
 - b. One Participating Retailer Location which received a Responsive Tip during Audit Period 3 that was not already in the audit population. This tip was moved to the top of the alternate queue to be used first as a replacement.
3. For Participating Retailer Locations which required replacement and were selected from both the Representative Sample Pool and SNP, FTI selected two replacement Participating Retailer Locations – one according to the Representative Sample replacement methodology and the other according to the SNP replacement methodology. There were seven Participating Retailer Locations selected into both pools that were replaced.

Replacement Population

FTI replaced 518 Participating Retailer Locations initially selected as part of the In-Person Audit population. A summary of the replacement reasons, ordered by prevalence, is as follows:

1. The Participating Retailer Location was confirmed to be permanently closed or temporarily closed for an extended period, accounting for 388 or 74.9% of 518 total replacements. Of these stores, 6 or 1.5% of the 388 were flagged as temporarily closed by the Manufacturers.¹⁰ Extended Participating Retailer closures were due to a variety of circumstances, including but not limited to renovations, construction, and stores that appeared to no longer be operational.
2. The Participating Retailer Location did not sell Covered Brands (*i.e.*, not a Participating Retailer Location) accounting for 122 or 23.6% of replacements.
3. The Participating Retailer Location was in a restricted area that FTI was unable to access to complete the In-Person Audit, accounting for four or 0.8% of replacements. This included military installations for which access requirements could not be determined despite multiple attempts to contact the installation.
4. For three or 0.6% of the replacements, FTI was unable to determine the location of the Participating Retailer Location due to issues with address data quality from the store listing, and the location could not be validated through independent research (*e.g.*, attempting to identify a phone number for the store and conduct advance outreach). For example, FTI identified Participating Retailer Locations that appeared to be duplicates of one another within the Audit Period 3 Population.¹¹
5. For one or 0.2% of the replacements, the incorrect store was audited in Audit Period 2 and found as Major Noncompliant. As a result, the store was replaced as it should not have been included in the Audit 3 SNP.

Stores selected from the SNP accounted for 411 or 79.3% of the 518 replaced Participating Retailer Locations. A list of replaced Participating Retailer Locations and replacement reasons may be found in *Exhibit 1. Schedule of Participating Retailer Location Replacements*.

¹⁰ "2024.10.04 Audit Period 3 Store List + Additional Store Group Listings.xlsx" contained a tab listing the temporarily closed stores.

¹¹ Duplicates were located at the same address, but two distinct stores were not present at that location.

Final Participating Retailer Location Population

Overview of Population

Following replacements, the final population of Participating Retailer Locations subject to an In-Person Audit during Audit Period 3 consisted of 5,908 Participating Retailer Locations from the Representative Sample Pool, 3,908 Participating Retailer Locations from the SNP, and 92 Participating Retailer Locations from both pools. A total of 9,908 Participating Retailer Locations were visited and assigned a Final Determination.

Scope of In-Person Audits

The final audit population was split across two Census Tract designations: Not in a Qualifying Census Tract and Qualifying Census Tract. No stores were located in Puerto Rico.

Table 4. Final Audit Population by Census Tract Designation

Designation	Number of Retailers	Percent of Final Population	Percent of Store Listing
Not in a Qualifying Census Tract	8,747	88.28%	88.88%
Qualifying Census Tract	1,161	11.72%	11.11%
Puerto Rico	0	0.00%	0.01%
Total	9,908	100.00%	100.00%

The audit population was distributed across the United States with audits conducted in all 50 states and the District of Columbia. Most of the In-Person Audits occurred in the South (Strata 3), accounting for 47.1% of the audit population. Additionally, there were no Participating Retailer Locations in Strata 5 (U.S. territories).

Table 5. Final Audit Population Strata Summary

Strata	Census Region Name	Number of Retailers	Percent of Final Population	Percent of Store Listing
Strata 1	Midwest	2,449	24.72%	23.25%
Strata 2	Northeast	1,238	12.49%	12.37%
Strata 3	South	4,662	47.05%	47.96%
Strata 4	West	1,559	15.73%	16.41%
Strata 5	Territory	0	0.00%	0.01%
Total		9,908	100.00%	100.00%

The distribution of the final In-Person Audit population generally aligned with the distribution of states in the overall store listing. The five states with the greatest number of Participating Retailer Locations in the audit population accounted for 33.5% of the audit population and 32.2% of all Participating Retailer Locations in the store listing. The bottom five states/territories (containing the fewest number of Participating Retailer Locations) were also consistent with the store listing distribution.

Table 6. Final Audit Population Top Five and Bottom Five States/Territories

State/Territory	Number of Retailers	Percent of Final Population	Percent of Store Listing
Texas	924	9.33%	9.92%
California	826	8.34%	7.40%
Florida	626	6.32%	6.09%
Georgia	494	4.99%	4.44%
Ohio	453	4.57%	4.36%
District of Columbia	13	0.13%	0.06%
Wyoming	10	0.10%	0.19%
Puerto Rico	0	0.00%	0.01%
Guam	0	0.00%	0.00%
Saipan	0	0.00%	0.00%

Facilitation and Execution of In-Person Audits

In-Person Audit Process Overview

The end-to-end In-Person Audit process consisted of the (i) on-site visit to the selected Participating Retailer Location where the Auditor collected critical compliance data and photographs, (ii) submission of audit data to FTI's audit submission platform, the POS Signage Compliance Portal, (iii) transfer of data to the MPD, (iv) compliance assessments by FTI's Photo Review Team within the MPD, and (v) issuing of compliance decisions, including distribution of In-Person Noncompliance Notices (if applicable).

FTI conducted several additional tasks to prepare for and execute the In-Person Audits:

- In-Person Audit Location Validation: Analyzed store names and addresses for all locations in the audit population to ensure auditors could navigate to the correct location.
- Military Installation Outreach: Conducted advanced communication with military bases to understand access requirements necessary to audit stores located on military installations.
- Route Optimization: Clustered stores and utilized routing software to increase efficiency when traveling to audit stores in different regions.
- Data Collection: Captured specific data points from auditors during each store visit to aid the Photo Review Team with assessing compliance.
- Compliance Assessments: Ran a multi-level review of the store photos and data to assess compliance and incorporated data consistency checks to identify potential issues with reviewer coding.

Please refer to the In-Person Audit Period 1 Report for more detailed information on each of these workstreams.

Issued Noncompliance Notifications

FTI developed an In-Person Noncompliance Notice template, which was distributed to the Working Group on September 4, 2024. Edits were made to the notice by the Working Group and the template was approved on September 13, 2024. FTI issued these notices from the *Tobacco_Corrective_Statement_Notification@fticonsulting.com* email address to the Participating Retailer Location found in noncompliance and members of the Working Group. The In-Person Noncompliance Notices were issued within 21 days of the In-Person Audit submission and included the identified Major and/or Minor Noncompliance violation(s) in addition to an overall Major or Minor Noncompliance determination. Each basis

for noncompliance was listed by photograph file name, and the referenced photographs were included as attachments to the In-Person Noncompliance Notices.

The Participating Retailer Location email addresses were sourced from the Manufacturers' store listing. For the Participating Retailer Locations for which no email address was provided or the email failed to deliver, FTI physically mailed the notices via overnight delivery. FTI issued 2,262 In-Person Noncompliance Notices, 223 of which required physical mailing.

Tip Line Configuration and Results

Overview of Tip Line

Pursuant to Section V.5.a. of the Order, FTI developed and deployed a website ("*tobaccosigntipline.com*") and a text line ("877.749.8477") for the general public to report instances of suspected noncompliance with the terms of the Order. These channels are available in English and Spanish for use by the public 24 hours a day, every day of the year. A report describing the set-up of the tip lines and FTI's analysis of received tips was circulated to the Working Group via email on September 28, 2023.

Additionally, per Section V.5.b. of the Order, once the limit of the audit sample set is reached or when there are less than four weeks remaining in the then current Audit Period, whichever occurs first, a Participating Retailer Location identified through the Tip Line shall be added to the list of Participating Retailer Locations eligible to be selected by Plaintiffs for an In-Person Audit from the SNP for the next Audit Period. As the limit of the audit sample set was reached for Audit Period 3, any tip received after November 7, 2024 was added to the Audit Period 4 SNP, if it was not selected as a replacement store.

Tip Line Results and Noticing

Table 7. Summary of Submitted Tips through February 15, 2025

Tip Category	Total	Unable to Map Tip to a Participating Retailer	Responsive	Non-Responsive	Noticed	Previously Noticed
Audit Period 1 – October 1, 2023 through February 17, 2024						
Website	12	0	12	0	10	2
Text Line	3	3	0	0	0	0
Audit Period 2 – February 18, 2024 through June 30, 2024						
Website	102	0	40	62	40	0
Text Line	13	10	3	0	3	0
Rotation Period – July 1, 2024 through October 4, 2024¹²						
Website	22	0	18	4	15	2
Text Line	19	6	12	1	8	4
Audit Period 3 – October 5, 2024 through February 15, 2025						
Website	10	0	9	1	7	2
Text Line	8	5	3	0	3	0

¹²The Rotation Period ended on September 30, 2024 and Audit Period 3 started on October 5, 2024. For purposes of reporting, the Rotation Period is noted as ending October 4, 2024 to avoid a gap in periods.

All Responsive Tips were included in Table 7 even if the tip was for the same Participating Retailer Location. Several Participating Retailer Locations received two or more Responsive Tips as detailed in Table 8 below.

Table 8. Summary of Duplicate Responsive Submitted Tips through February 15, 2025

TD Linx #	Period	Number of Tips Received	Tip Source and Date
2253854	Audit 1	2	Website: 11/15/2023; Website: 11/15/2023
7907670	Audit 1	2	Website: 11/28/2023; Website: 11/28/2023
0688103	Rotation	3	Website: 9/10/2024; Text: 9/26/2024; Text: 9/26/2024
0762470	Rotation	2	Website: 9/20/2024; Text: 9/20/2024
0947049	Rotation	2	Website: 9/12/2024; Text: 9/23/2024
1522011	Rotation	2	Website: 8/8/2024; Website: 9/17/2024
2710621	Rotation	2	Text: 9/16/2024; Website: 9/24/2024
0800857	Rotation and Audit 3	2	Text: 10/2/2024; Website: 10/8/2024
1995265	Audit 3	2	Text: 11/1/2024; Website: 11/6/2024

Of the 42 Responsive Tips received during the Rotation Period and Audit Period 3, 33 resulted in a notification sent to the relevant Participating Retailer Location. The difference is due to the following:

- Eight tips were instances of multiple tips submitted for the same store within the same period, as outlined in Table 8 above.
- One store (TD Linx # 0550895) received a Responsive Tip on August 14, 2024; however, the store had been removed from the store listing on June 25, 2024. The tip was determined to be Responsive, but as the tip was received after the store was removed from the list; it was not noticed.

FTI issued a monthly report to the Working Group detailing the tips received in that month in addition to the cumulative population of tips received.

Tip Line Stores in the Suspected Noncompliance Pool

The 20 stores identified via the Tip Line as suspected of noncompliance during Audit Period 2 which were not audited during that period were added to the Suspected Noncompliance Pool for Audit Period 3 and audited. Please refer to the In-Person Audit Period 2 Report for details on these 20 stores.

Of the 34¹³ stores identified through the Tip Line as suspected of noncompliance during the Rotation Period and Audit Period 3:

- Three stores received tips during the Rotation Period, but were not included in the Audit Period 3 store list, so they were not added to the Audit Period 3 SNP.
- 26 stores were added to the Audit Period 3 SNP and audited.
- One store was identified through the Tip Line during Audit Period 3 after the SNP had reached 4,000 stores. This store was added to the SNP for Audit Period 3 as an alternate and was selected into the In-

¹³ This number represents the distinct number of Participating Retailer Locations which received Responsive Tips; there were 8 duplicate tips for 7 Participating Retailer Locations which results in the 42 total Responsive Tips in Table 7.

Person Audit Period 3 population as a replacement store and was audited. No additional tips were received prior to the last four weeks of the audit period that would qualify as alternates.

- Four stores were identified through the Tip Line during the last four weeks¹⁴ of Audit Period 3. As the final store replacement occurred on January 16, 2025, prior to the receipt of these tips, these stores were not included in Audit Period 3. Warning notices were sent to these stores, and they were added to the SNP for Audit Period 4.

Table 9. Suspected Noncompliance Pool Period for Tip Line Stores as of February 15, 2025

TD Linc #s	Number of Retailers	SNP Period
1537004, 1996718, 0430665, 1495323, 1894244, 2253854, 7907670	7	Audit 1
2381975, 0328506, 3905205, 0860328, 1697814, 0683706, 3946028, 1642869, 7412344, 0790850, 0916597, 1851289, 0967901, 7881809, 0621431, 1530487, 0671499, 0695051, 7458245, 0388483, 7854635, 0638692, 0546537, 7803797, 0920181, 7932006	26	Audit 2
1534392, 0269376, 0324253, 0075767, 0688103, 0632535, 0564362, 0947049, 1613809, 2913828, 7847710, 7913239, 0769963, 3099921, 0968714, 1446850, 1650643, 7854297, 1995265, 2652197, 1424522, 1522011, 1430233, 1534495, 1534512, 0749520, 0762470, 0762712, 7683983, 7685301, 7922244, 0800857, 1620190, 2710621, 0864326, 0864947, 7212708, 0893913, 1530060, 4028749, 0684258, 1767576, 0695873, 1677475, 1624641, 7527891, 7596275	47	Audit 3
0579927, 0549017, 0022230, 0043230	4	Audit 4

Failed Rotation Remedial Submissions

Overview of Failed Rotation Remedial Submission Process

Per Section I.7. of Exhibit B – Examples of Major/Minor Noncompliance, a Participating Retailer Location will be found as Major Noncompliant if they fail to rotate required signs, unless they provide a photo demonstrating compliance with the rotation requirement within 30 days of the finding of noncompliance. As confirmed with the Working Group on October 8, 2024, this 30-day window would begin on the date the initial In-Person Noncompliance Notice was issued for the location.

FTI and the Manufacturers set up a process in which the Manufacturers and their vendors could submit remedial photos for stores that failed the rotation requirement. Valid submissions were then ingested into the MPD where they were reviewed in conjunction with the In-Person Audit photos to assess whether the failed rotation violation(s) had been resolved. As confirmed with the Working Group on October 8, 2024, FTI only assessed the

¹⁴ Per Section V.5.b. of the Order, when there are less than four weeks remaining in the current Audit Period a Participating Retailer Location identified through the Tip Line shall be added to the list of Participating Retailer Locations eligible to be selected by Plaintiffs for an In-Person Audit from the SNP for the next Audit Period. FTI determined the last day to accept tips for inclusion in the Audit 3 SNP and In-Person Audits was January 18, 2024.

failed rotation aspect of compliance; any noncompliance issues from the initial audit or noncompliance issues present in the remedial submission were not assessed and did not impact the Audit 3 compliance status for the location. Following review of the remedial photos, FTI issued notices informing the Participating Retailer Location and the Working Group if the remedial photos demonstrated the failed rotation violation(s) had been resolved.

Results of Failed Rotation Remedial Submissions

FTI initially found 654¹⁵ Participating Retailer Locations as Major Noncompliant due to failure to rotate one or more signs posted at the location. There were 560 valid remedial submissions received for these locations.

Table 10. Failed Rotation Remedial Submission Summary

Failed Rotation Remedial Submission Status	Number of Retailers	Percent of Retailers
Remedial submission demonstrated compliance with the rotation requirement	544	97.14%
Remedial submission did not demonstrate compliance with the rotation requirement	16	2.86%
Total Valid Submissions	560	100.00%
No remedial submission submitted	70	100.00%
Remedial submission received past deadline	0	0.00%
Invalid remedial submission received	0	0.00%
Total Invalid Submission Attempts	70	100.00%

In-Person Noncompliance Notice Appeals

Overview of Appeals Process

Please refer to the In-Person Audit Period 1 Report for details on the general appeals process. Beginning in Audit Period 3 the appeals process and failed rotation remedial submission process were considered when assessing a store's compliance status. The submission of remedial photos in conjunction with appeal decisions provided to FTI by the Working Group and the Adjudicator informed the Final Determination status for a store.

Results of Appeals

The Working Group received 205¹⁶ appeals for 195 distinct Participating Retailer Locations related to the 2,262 In-Person Noncompliance Notices sent by FTI.¹⁷ Per Section V.7.g. of the Order, the Adjudicator's decision on a Noncompliance Appeal of a Major Noncompliance determination is appealable to the Court by the Participating Retailer Location or a member of the Working Group; none were appealed to the Court during Audit Period 3. As mentioned in the section above, there was a separate remedial submission process for resolving instances of failed rotation, but stores with additional noncompliance violations could be appealed independent of this remedial submission process. A new appeal decision type labeled "Failure to Rotate Response" was added in

¹⁵ Included in this total were 24 locations which were later replaced in the population as they were not under contract at the time of the audit.

¹⁶ 209 appeal decisions were received from the Working Group; however, 4 appeals were retracted due to Working Group appeal decision clarifications.

¹⁷ For some Participating Retailer Locations, multiple appeals were submitted.

Audit Period 3 to account for situations where an appeal was submitted but, the store did not have any additional noncompliance violations other than a failure to rotate one or more signs. These responses were treated the same as the Non-Appeal Responses.

Table 11. Working Group Appeal Decisions Summary

Working Group Appeal Decision	Number of Retailers without a Failed Rotation Violation	Number of Retailers with a Failed Rotation Violation	Total Number of Retailers	Percent of Retailers
Auditor's Determination Overturned	6	0	6	7.79%
Auditor's Determination Overturned (V.7.j.) ¹⁸	5	0	5	6.49%
Auditor's Determination Affirmed Final	22	0	22	28.57%
Auditor's Determination Affirmed Appealable to Adjudicator	32	1	33	42.86%
Auditor's Determination Modified	11	0	11	14.29%
Valid Appeals Subtotal	76	1	77	100.00%
Non-Appeal Response	70	30	100	78.13%
Appeal Submitted Past Deadline	4	1	5	3.91%
Failure to Rotate Response	0	23	23	17.97%
Invalid Appeals Subtotal	74	54	128	100.00%
Total	150	55	205	

Table 12 below summarizes the appeal determination status for Participating Retailer Locations that had a Valid Appeal reviewed, inclusive of Adjudicator decisions. This status is to demonstrate the impact of the appeal decision on the determination status and does not consider the potential existence of a failed rotation violation for the location. For example, a location with an Auditor determination of Major Noncompliant due to a non-failed rotation violation that was modified to Compliant via appeal would have an appeal determination status of Compliant even if the location also has a separate failed rotation violation. In this situation, if the failed rotation violation were not resolved through the remedial submission process, the Final Determination for this location would still be Major Noncompliant. The detailed schedule of final compliance decisions for each Participating Retailer Location incorporating the outcomes from both the appeal and the failed rotation remedial submission processes may be found in *Exhibit 2. Schedule of Compliance Decisions for Participating Retailer Locations*.

¹⁸ FTI's compliance determination was overturned pursuant to Section V.7.j. of the Order. Typically, this indicates that FTI did not make an error in assessing compliance, but rather the Participating Retailer Location did not receive Corrective-Statement Sign(s) from a Manufacturer at all, received an insufficient number of signs to fulfill the requirements of the Order, or that the Corrective-Statement Sign(s) received did not comply with the Order. According to this section, as applicable, the finding of Major Noncompliance counts "as noncompliant for purposes of calculating the Representative Sample Noncompliance Rate" since the noncompliance was discovered during an In-Person Audit.

Table 12. Summary of Appeal Determinations

Auditor Determination Status	Appeal Determination Status	Number of Retailers without a Failed Rotation Violation	Number of Retailers with a Failed Rotation Violation	Total Number of Retailers	Percent of Retailers
Major Noncompliance	Compliant	7	0	7	9.09%
Major Noncompliance	Minor Noncompliance	11	1	12	15.58%
Major Noncompliance	Major Noncompliance	32	0	32	41.56%
Minor Noncompliance	Compliant	4	0	4	5.19%
Minor Noncompliance	Minor Noncompliance	22	0	22	28.57%
Total Valid Appeals		76	1	77	100.00%

Periodically the Working Group requested the re-audit of a store due to the Auditor visiting the incorrect location or the submission contained incomplete photos. FTI reviewed these requests and revisited the correct location, if necessary, to remediate the issue. These requests were not tracked as appeals in tables 11 and 12 above.

Table 13. Summary of Revisits Requested by the Working Group

TD Linx #	Initial Auditor Determination Status	Revisit / Final Determination Status
0108536	Major Noncompliance	Compliant
0274892	Major Noncompliance	Compliant
0495178	Major Noncompliance	Compliant
0508542	Major Noncompliance	Compliant
0581296	Major Noncompliance	Compliant
0713631	Major Noncompliance	Compliant
0889082	Major Noncompliance	Compliant
0983291	Major Noncompliance	Store Replaced ¹⁹
1442014	Major Noncompliance	Compliant
1521932	Major Noncompliance	Compliant
1534614	Major Noncompliance	Compliant
1617901	Major Noncompliance	Compliant
1756624	Major Noncompliance	Compliant
2031328	Major Noncompliance	Compliant

FTI reviewed all overturned and modified appeal decisions by the Working Group to identify errors made by the Photo Review Team and/or the In-Person Auditors. FTI disseminated guidance to the Photo Review Team and/or In-Person Auditors based on the information gleaned through this process to limit similar issues going forward.

FTI held training sessions with the Photo Review Team and implemented additional validations based on observed thematic decisions by the Working Group. For example, on December 11, 2024, the Working Group

¹⁹ The initial audit was conducted at the wrong location. Per the Working Group's revisit request, FTI attempted to audit the correct location which was permanently closed. The store was then replaced in the audit population consistent with the appropriate replacement methodology.

informed FTI that Participating Retailer Locations in a Qualifying Census Tract with greater than nine feet of Merchandising Set devoted to Covered Brands would be compliant for the signage language requirements if they had posted two large English Corrective-Statement Signs and one small Spanish Corrective-Statement Sign, even if the small Spanish sign was not required. FTI updated guidance, disseminated it to the team, and developed validations to ensure these circumstances would not be flagged as Minor Noncompliant going forward.

Result of In-Person Audits

Overview of Compliance Findings

As discussed in the *Final Participating Retailer Location Population* section, 9,908 stores were subject to In-Person Audits. After accounting for appeal modifications or overturns of the Auditor’s initial compliance determinations and failed rotation remedial photo submissions, FTI determined that 8,166 or 82.4% of Participating Retailer Locations met the compliance requirements set forth in the Order for Audit Period 3. The remaining 1,742 or 17.6% of Participating Retailer Locations received a Final Determination of Noncompliance for Audit Period 3 (the “Noncompliant Retailers”). Of the Noncompliant Retailers, 959 or 55.1% were determined to have at least one instance of Major Noncompliance during Audit Period 3.

Table 14. Final Compliance Determinations by Retailer Sample Pool Type

Pool Type	Compliant	Major Noncompliant	Minor Noncompliant	Total
Representative Sample Pool	5,087	494	327	5,908
Suspected Noncompliance Pool	3,012	451	445	3,908
Both Pools	67	14	11	92
Total	8,166	959²⁰	783	9,908

Penalty Sign Requirements

Based on the Final Determinations, 781²¹ Participating Retailer Locations received a Final Determination of Major Noncompliance for the first time in Audit Period 3 and, therefore, must place an additional 144 square inch Corrective-Statement Sign (“penalty sign”) for the remainder of the Implementation Period, or until June 30, 2025, pursuant to Section VI.2.a. of the Order. Under Section VI.2.a. of the Order, Participating Retailer Locations not visited by the Manufacturers’ representatives since the beginning of the Posting Period do not need to post a penalty sign when an instance of Major Noncompliance has been identified, and therefore, should not be included in the total number of required penalty signs. This exception did not apply to any Participating Retailer Locations in Audit Period 3.

As of March 7, 2025, FTI received photographs of penalty signs for 764 or 97.8% of the Participating Retailer Locations which received a Final Determination of Major Noncompliance for the first time in Audit Period 3 and

²⁰ The 508 Major Noncompliant stores in the Representative Sample Pool excludes the 3 stores where Section V.7.j. of the Order was applied – a total of 511 stores were determined to be Major Noncompliant in Audit Period 3 for purposes of the Representative Sample Noncompliance Rate calculation.

²¹ Table 15 summarizes the factors impacting the number of stores subject to this penalty requirement. Additionally, 10 stores had a Final Determination of Major Noncompliance in Audit Period 1 and/or Audit Period 2, however, there was a change in ownership between the audit periods, so the Major Noncompliance in Audit Period 3 was treated as the first instance for the new owners.

were not exempted from placement. While FTI ingested the penalty sign data into the MPD and tracked receipt of these submissions, the photographs were not reviewed for compliance. The penalty sign placement for the applicable Participating Retailer Locations will be assessed for compliance in Audit Period 4 to the extent the store is selected for an In-Person Audit. The Order does not require the Auditor to send notices for failure to submit proof of the penalty signs or to enforce the Manufacturers' responsibility to provide proof of the additional signage; accordingly, FTI did not send notices related to penalty sign submissions. The detailed schedule of final compliance decisions and penalty sign requirements for each Participating Retailer Location may be found in *Exhibit 2. Schedule of Compliance Decisions for Participating Retailer Locations*.

Pursuant to Section VI.1.c of the Order, Participating Retailer Locations receiving a Final Determination of Minor Noncompliance for the third time in Audit Period 3 must place an additional 144 square inch Corrective-Statement Sign ("penalty sign") for 120 days. No Participating Retailer Locations were subject to this in Audit Period 3.

Penalty Payment Requirements

Based on the Final Determinations, 113²² Participating Retailer Locations received a Final Determination of Major Noncompliance for the second time and must either make payments to or have payments withheld from each Manufacturer with which it is contracted totaling any Price Promotion for Covered Brands for a period of four weeks, pursuant to Section VI.2.b. of the Order.

Based on the Final Determinations, 26²³ Participating Retailer Locations received a Final Determination of Major Noncompliance for the third time and must either make payments to or have payments withheld from each Manufacturer with which it is contracted totaling any Price Promotion for Covered Brands for a period of 13 weeks, pursuant to Section VI.2.c. of the Order.

As of March 7, 2025, FTI received proof of penalty payment for 123 or 88.5% of the Participating Retailer Locations subject to the above requirements.²⁴ While FTI ingested the penalty payment data and tracked receipt of these submissions, the payment deadlines were not reviewed for compliance. The Order does not require the Auditor to send notices for failure to submit proof of penalty payments or to enforce the Manufacturers' responsibility to provide proof of the payments; accordingly, FTI did not send notices related to penalty payment submissions. The detailed schedule of final compliance decisions and penalty payments for each Participating Retailer Location may be found in *Exhibit 2. Schedule of Compliance Decisions for Participating Retailer Locations*.

Some Participating Retailer Locations which were found as Major Noncompliant during Audit Period 3, are excluded from the penalty requirements. A summary of these factors is found in Table 15 below.

²² Table 15 summarizes the factors impacting the number of stores subject to this penalty requirement. One store (TD Linx # 7603000) had a Final Determination of Major Noncompliance in both Audit Period 1 and Audit Period 2, however, there was a change in ownership between the audit periods, so the Major Noncompliance in Audit Period 3 was treated as the second instance for the new owners.

²³ Table 15 summarizes the factors impacting the number of stores subject to this penalty requirement.

²⁴ A payment is counted as received if the payment is demonstrated for at least one of the contracted Manufacturers for a location.

Representative Sample Noncompliance Rate Calculation

FTI calculated the Representative Sample Noncompliance Rate in accordance with the formula defined in Section I.PP. of the Order, resulting in a Representative Sample Noncompliance Rate for Audit Period 3 of 7.77%. The formula described in the Order is as follows:

$$\frac{\sum_{i=1}^{Total\ Sampled\ retailers} RetailerNC_i \times RetailerSales_i}{\sum_{i=1}^{Total\ Sampled\ retailers} RetailerSales_i}$$

The Representative Sample Noncompliance Rate is determined by summing sales (*i.e.*, volume of Covered Brands of cigarettes shipped to the Participating Retailer Location in the last 12 months) for all Participating Retailer Locations in the Representative Sample that had a Final Determination of Major Noncompliance or met the criteria cited in Section V.7.j. of the Order (“Retailer_NC_{*i*} X Retailer_sales_{*i*}”). The result is then divided by the sum of sales for all Participating Retailer Locations sampled as part of the Representative Sample (“Retailer_sales_{*i*}”). The values for the variables used to calculate the Representative Sample Noncompliance Rate are cited below.

Table 17. Summary of Representative Sample Noncompliance Rate Calculation

Sales Volume Input	Retailer_NC _{<i>i</i>} X Retailer_sales _{<i>i</i>}	Retailer_sales _{<i>i</i>}	Representative Sample Noncompliance Rate
Original Sales Volume			7.82%
Final Revised Sales Volume			7.77%

In-Person Audit compliance determinations for Participating Retailer Locations selected only from the SNP are not factored into the Representative Sample Noncompliance Rate. The detailed schedule of the Participating Retailer Locations included or excluded in the Representative Sample Noncompliance Rate is in *Exhibit 3. Schedule of Representative Sample Noncompliance Rate Classifications*.

Representative Sample Noncompliance Rate Implication

Pursuant to Section VI.4. of the Order, should the Representative Sample Noncompliance Rate exceed 15% in any of the first through third Audit Periods, the Manufacturers are obligated to pay the U.S. Treasury a civil penalty. As detailed above, FTI calculated the Representative Sample Noncompliance Rate to be less than 15% for Audit Period 3, and therefore, concluded that the Manufacturers are not subject to the civil penalty discussed in Section VI.4. of the Order as a result of this audit period.

Attestation

I, Michelle Herman, hereby state that to the best of my knowledge, information, and belief as project director, FTI conducted the In-Person Audits in accordance with the Order and accurately reported the audit results.

My findings are based upon information available to me as of the date of this report. Should additional information become available, I reserve the right to modify or supplement my analysis.

A handwritten signature in blue ink that reads "Michelle Herman". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Michelle Herman

Senior Managing Director, FTI Consulting, Inc.

Appendix A. Documents Reviewed and Relied Upon

Date Provided	Document Name	Document Description
4/11/2023	Order# 129 - Remand Fourth Superseding Consent Order Implementing the Corrective-Statements Remedy at Point of Sale	Consent Order (Document 6522, filed on 12/06/2022) entered into the case <i>United States v. Phillip Morris et al.</i> (99-CV-2496) (the "Order").
4/11/2023	Exhibit A–Revised Style Guide for Corrective-Statement Signs (including Spanish language)	Attachment to the Order.
4/11/2023	Exhibit B–Examples of Major/Minor Noncompliance	Attachment to the Order.
3/15/2024	FTI Audit Period 1 Report - CONFIDENTIAL – 20240315.pdf	The report drafted by FTI detailing the findings and outcomes from In-Person Audit Period 1. This version had sales data included and was shared with the Manufacturers and DOJ.
3/19/2024	FTI Audit Period 1 Report - 20240319 [REDACTED].pdf	The report drafted by FTI detailing the findings and outcomes from In-Person Audit Period 1. This version had the sales data redacted and was shared with the Public Health Intervenors and Retailer Groups.
10/04/2024	2024.10.04 Audit Period 3 Store List + Additional Store Group Listings.xlsx	<p>The combined listing of Participating Retailer Locations pursuant to Section V.3. of the Order (the "store listing") for Audit Period 3. Additional tabs in the workbook include:</p> <p>A listing of 744 Participating Retailer Locations the Manufacturers flagged as potentially temporarily closed.</p> <p>A listing of 759 Participating Retailer Locations flagged as located on military installations.</p> <p>A listing of 237 Participating Retailer Locations flagged as Duty-Free stores.</p> <p>A listing of 10 Participating Retailer Locations flagged as non-Duty-Free stores that were not visited during the Rotation Period and shipped the necessary signage.</p> <p>A listing of 4,137 Participating Retailer Locations that were on the Rotation Period store list but are no longer contracted with a Manufacturer.</p>
10/04/2024	2024.10.04 Audit Period 3 Store List - PM, AG, RJRT, ITG-CONFIDENTIAL SUBJECT TO P.O. IN US V PM, ET AL, 99CV2496.xlsx	The combined listing of Participating Retailer Locations pursuant to Section V.3. of the Order (the "store listing") for Audit Period 3 with sales volume data.

Appendix B. Additional Assumptions, Considerations, and Critical Decisions

Throughout the course of Audit Period 1, several assumptions, considerations, and critical decisions were made regarding the sample pool selection, In-Person Audit population and procedures, noncompliance notices, Final Determinations, store location validation, and the Tip Line. These same assumptions, considerations, and critical decisions applied to the execution of Audit Period 3. For more detail on these specific items, please refer to Appendix B of the In-Person Audit Period 1 Report.

Appendix C. Consent Order and Report Definitions

Consent Order Definitions

Acquired Brands: means the Winston, Salem, Kool, and Maverick brands.

Adjudicator: means a third-party engaged to expeditiously hear appeals from (i) Working Group decisions on Noncompliance Appeals in the circumstances provided in Section V.7. of the Order; and (ii) tie breaking decisions of the Mediator. The Adjudicator's costs and fees shall be paid for by Manufacturers.

Audit Period: means a nineteen-week period during which In-Person Audits take place.

Auditor: means one or more firms unaffiliated with and independent of any Manufacturer and acceptable to Plaintiffs that are retained by a Manufacturer or the Manufacturers to conduct In-Person Audits, review the Photo Database, administer the Tip Line, address and monitor audit results, and report on the same to the Working Group as required by this Order, either itself or through one or more subcontracts.

Corrective-Statement Signs: means signs to be displayed in Participating Retailer Locations as provided in this Order and designed in accordance with the Style Guide attached hereto as Exhibit A, with the image files used for printing signs provided by the Government.

Court-Ordered Corrective Statements: means the messages prescribed by Order #72-Remand.

Covered Brand: means any brand of cigarette marketed by a Defendant and any Acquired Brand.

Defendant: means each of the following: Altria Group, Inc., R.J. Reynolds Tobacco Company, Lorillard Tobacco Company, and Philip Morris USA Inc. To the extent any obligations under this Order pertaining to Lorillard Tobacco Company have been transferred to R.J. Reynolds Tobacco Company, as contemplated by the Notice of Transaction Involving Defendants R.J. Reynolds Tobacco Company and Lorillard Tobacco Company (Dkt. No. 6141; filed Apr. 7, 2015), such obligations shall apply to R.J. Reynolds Tobacco Company.

Effective Date: means the date on which this Order is entered.

Final Determination of Noncompliance: means a determination that a Participating Retailer Location is out of compliance with the Participating Retailer's contractual obligations to Manufacturers under this Order after (i) the timelines for contesting an In-Person Noncompliance Notice have expired without the filing of a timely Noncompliance Appeal (ii) if a Noncompliance Appeal is timely filed, the Working Group has affirmed the Auditor's findings of noncompliance and no appeal is permitted, or the timelines for contesting that determination have expired, or (iii) the Adjudicator affirmed the Auditor's findings of noncompliance and no appeal is permitted, or the timelines for contesting that determination have expired.

Implementation Period: means the twenty-one month period beginning on the first day of the first month following the Posting Period.

In-person Audit: means a visit to a Participating Retailer Location by the Auditor during which the Auditor shall photograph (i) the main cigarette Merchandising Set, (ii) any displayed Corrective-Statement Signs, and (iii) an example of Off-Set Promotional Signage for Covered Brands displayed by the Participating Retailer Location, if any, in as many images as are sufficient to show compliance with this Order or to adequately document noncompliance with this Order.

In-person Noncompliance Notice: means a letter issued by the Auditor notifying the Participating Retailer Location and the Working Group that the Auditor conducted an In-person Audit of the Participating Retailer Location and found the Participating Retailer Location not compliant with the terms of this Order, and specifically identifying the basis for the Auditor's finding of noncompliance, as well as whether the Auditor deemed the Participating Retailer Location to be in Major Noncompliance or Minor Noncompliance. The In-person Noncompliance Notice shall be sent to the Participating Retailer Location at the email address provided for notice in the Participating Retailer Contract and shall also be sent to each member of the Working Group by email. If no email address is available and/or the sender receives a bounce-back or failed delivery message, the In-person Noncompliance Notice shall be sent via overnight delivery.

Kiosk Store: means (1) a Store that does not allow customers to enter and that has a selling window in front of one or more selling counters between the customer and Store personnel, or (2) a Store that is no more than 325 square feet in area, not including restrooms, regardless of whether customers are allowed to enter the Store.

Major Noncompliance: means a failure to post a required Corrective-Statement Sign, or an obstruction of a Corrective-Statement Sign in a manner that results in the Preamble, message, or icon not being visible from the customer's vantage point, including, but not limited to, the examples given in Exhibit B.

Major Noncompliance Notice: means an In-person Noncompliance Notice that identifies the noncompliance with the terms of this Order to be Major Noncompliance.

Manufacturer: means a Defendant or ITG Brands, LLC.

Mediator: means a third-party engaged to assist in expeditiously resolving disputes of the Working Group and to cast a tie breaking vote in the event of a tie of the Working Group. The Mediator's costs and fees shall be paid for by Manufacturers.

Merchandising Set: means any rack, shelving, display, or fixture at a Store, including any canopy or header, used in whole or in part to merchandise one or more Covered Brands of cigarettes that are visible to customers.

Minor Noncompliance: means noncompliance with this Order's provisions for the Corrective-Statement Sign other than Major Noncompliance, and is defined to include, but is not limited to, the examples given in Exhibit B.

Minor Noncompliance Notice: means an In-person Noncompliance Notice that identifies the noncompliance with the terms of this Order to be Minor Noncompliance.

Noncompliance Appeal: means a written appeal by a Participating Retailer Location or Working Group member to the Working Group, submitted by email within 14 days after the In-Person Noncompliance Notice is sent by the Auditor, setting forth the basis for challenging the Auditor's finding. A Noncompliance Appeal may accept the finding of noncompliance, but challenge whether the noncompliance constitutes Major Noncompliance. A Noncompliance Appeal may include supporting evidence, which may include photos.

Non-Kiosk Store: means a Store other than a Kiosk Store.

Off-Set Corrective-Statement Sign: means a Corrective-Statement Sign required because of Off-Set Promotional Signage.

Off-Set Promotional Signage: means Promotional Signage that is not placed within the four corners of the Merchandising Set, which for the avoidance of doubt, includes any canopy or header.

Participating Retailer: means a retailer that is a party to a Participating Retailer Contract.

Participating Retailer Contract: means a contract with a retailer that permits the Manufacturer (i) to choose the placement of Covered Brands of cigarettes in or on a Merchandising Set related to Covered Brands or (ii) to approve, place, remove, or require the placement or removal of advertising, marketing, promotional or other informational material that advertises, markets, or promotes its Covered Brands in a Store.

Participating Retailer Location: means a Store with respect to which a Manufacturer has a Participating Retailer Contract.

Plaintiffs: means the United States and the Public Health Intervenor.

Photo Database: means the database maintained and reviewed by the Auditor to which Manufacturer representatives will and Participating Retailers can submit photos of Corrective-Statement Signs as posted in a Participating Retailer Location.

Photo Noncompliance Notice: means a written letter issued by the Auditor notifying the Participating Retailer Location that the photo submitted of its Participating Retailer Location suggests noncompliance with the terms of this Order.

POS Corrective Statements: means a modified version of the Court Ordered Corrective Statements using the POS Preamble and dividing the Court Ordered Corrective Statements among 17 distinct messages as reprinted in attached Exhibit A at pg. 9.

POS Preamble: means a modified version of the sourcing language from the Court-Ordered Corrective Statements. In approximately one-half of the Corrective-Statement Signs the shortened preamble text will read "A FEDERAL COURT HAS ORDERED R.J. REYNOLDS TOBACCO & PHILIP MORRIS USA TO STATE:" and in approximately one-half of the Corrective-Statement Signs the shortened preamble text will read "A FEDERAL COURT HAS ORDERED PHILIP MORRIS USA & R.J. REYNOLDS TOBACCO TO STATE:".

Posting Period: means the three-month period beginning on the first day of the first month following the Ramp-Up Period.

Price Promotion: means any Manufacturer-provided discount on the price of cigarettes that the Participating Retailer must apply to reduce the retail price of cigarettes (e.g., a Manufacturer pays a Participating Retailer an amount equal to \$0.50 per pack of cigarettes to reduce the price of specific Covered Brands of cigarettes by \$0.50 per pack of cigarettes).

Promotional Signage: means material displayed at a Participating Retailer Location that advertises, markets, or promotes one or more Covered Brands, but does not include the products themselves or signage that solely identifies brand and price (without using an advertising slogan, tagline, or imagery other than a brand logo or image of a branded cigarette package).

Public Health Intervenor: means the Tobacco-Free Kids Action Fund, American Cancer Society, American Heart Association, American Lung Association, Americans for Nonsmokers' Rights, and the National African American Tobacco Prevention Network.

Qualifying Census Tract: means a U.S. Census tract where (a) twenty percent (20%) or more of the total population of the U.S. Census tract is of Hispanic origin, and (b) twenty percent (20%) or more of the population of Hispanic origin in that U.S. Census tract speaks a language other than English at home and speaks English less

than "very well." U.S. Census tracts shall be determined using the most recent available five-year estimates from the American Community Survey that have been released by the United States Census Bureau as of the Effective Date.

Ramp-Up Period: means the six-month period beginning on the first day of the first month following the Effective Date.

Remedies Party: means each of the following: ITG Brands, LLC, Commonwealth Brands, Inc., and Commonwealth-Altadis, Inc.

Representative Sample: means a sample of Participating Retailer Locations selected using the following method:

1. Sort a list of all Participating Retailer Locations according to the following strata:
 - a. According to the Participating Retailer Location's presence in one of the four United States Census Regions or its presence in any United States Territory taken as a fifth group;
 - b. Then within each of those strata, by the volume of Covered Brands of cigarettes shipped to the Participating Retailer Location in the previous 12 months, from most to least.
2. Then draw a sample of 6,000 from the sorted list of Participating Retailer Locations in 19 distinct replicates, as follows:
 - a. Calculate a sampling interval (SI) using the formula $SI = (19 \times N') / 6,000$ (rounding SI if necessary down to the next integer), where N' is the total number of Participating Retailer Locations in the sorted list;
 - b. Draw 19 unique random numbers from the interval inclusive of 1 to SI;
 - c. Create 19 sets of numbers (seeded sets) by using each of the 19 unique random numbers as a seed (S), as follows: $\{ S, S + SI, S + 2 \times SI, S + 3 \times SI, \dots S + i \times SI \}$, where i is 315 $[(6,000/19) - 1]$; and
 - d. Create 19 distinct replicates by using the 19 seeded sets to draw from the sorted list the Participating Retailer Locations at the positions corresponding to the numbers in the set.

Representative Sample Noncompliance Rate: means the noncompliance rate of the Representative Sample calculated as follows:

$$\frac{\sum_{i=1}^{Total \text{ Sampled retailers}} Retailer_NC_i \times Retailer_sales_i}{\sum_{i=1}^{Total \text{ Sampled retailers}} Retailer_sales_i}$$

This calculation uses the below definitions:

- "Sales" means volume of Covered Brands of cigarettes shipped to the Participating Retailer Location in last 12 months.
- "i" shall be used to denote 1 to the total number of sampled Participating Retailer Location.
- "Retailer_sales_i" equals sales for each sampled Participating Retailer Location "i"

- "Retailer_NCi" equals (i) 1 if the Participating Retailer Location is found to have one of more incidences of Major Noncompliance or (ii) 0 if Participating Retailer Location is found to have no incidences of Major Noncompliance.

Representative Sample Pool: means an audit pool that includes all Participating Retailer Locations nationwide, including those in the Suspected Noncompliance Pool

Retailer Groups: means the National Association of Convenience Stores ("NACS") and the National Association of Tobacco Outlets ("NATO").

Rotation Period: means the three-month window comprising months 10, 11, and 12 of the 21-month Implementation Period, after the first two Audit Periods and before the final two Audit Periods.

Semi-Permanent Display: means an advertising, marketing, or promotional display that requires specialized labor or more expense to install or remove than does a standard Promotional Signage.

Set-Adjacent Corrective-Statement Sign: means a Corrective-Statement Sign posted because of the presence of a Merchandising Set at a Participating Retailer Location.

Spanish Version: means the text of the Corrective-Statement Signs translated into Spanish, as set forth in the Style Guide attached to this Order as Exhibit A.

Store: means a premises where cigarettes are offered for sale to consumers.

Suspected Noncompliance Pool: means an audit pool consisting of Participating Retailer Locations (a) for which no photo showing compliance has been submitted (to be included in this pool in only the first Audit Period and third Audit Period), (b) that have been flagged as suspected of noncompliance by the Tip Line and not previously been audited based on the Tip Line communication that triggered its inclusion in the Suspected Noncompliance Pool, or (c) that were found in Major Noncompliance via In-Person Audit in the immediately prior Audit Period.

Tip Line: means a system designed to accept telephonic and online submissions from members of the public concerning incidences of suspected noncompliance with this Order for review by the Auditor.

Working Group: means a group consisting of ten individuals: three individuals appointed by the Department of Justice, two individuals appointed by the Public Health Intervenor, one individual appointed by each of (i) Altria Group, Inc., or Philip Morris USA Inc. (ii) R.J. Reynolds Tobacco Company and (iii) ITG Brands, LLC, and one individual appointed by each of the two Retailer Groups.

Report Definitions

Alternates: means randomly selected Participating Retailer Locations from the Suspected Noncompliance Pool that were not initially selected for In-Person Audits. Alternates were used to replace stores selected from the Suspected Noncompliance Pool that required replacement.

Appeal Submitted Past Deadline: means the noncompliance determination by FTI was upheld through the appeals process as the appeal was received after the established deadline for accepting appeals. One of the Working Group appeal decision categories.

Audit Period 2 Major Noncompliant Stores: means a Participating Retailer Location with a Final Determination of Major Noncompliant as a result of an In-Person Audit during Audit Period 2. One of the Suspected Noncompliance Pool categories qualifying a Participating Retailer Location for inclusion in the Suspected Noncompliance Pool.

Auditor's Determination Affirmed Appealable to Adjudicator: means the Working Group upheld FTI's noncompliance determination, but the decision could be further appealed to the Adjudicator as 1) it was a Major Noncompliance determination or 2) it was a Minor Noncompliance determination where there was a tie vote by the Working Group. One of the Working Group appeal decision categories.

Auditor's Determination Affirmed Final: means the noncompliance determination by FTI was upheld through the appeals process. One of the Working Group appeal decision categories.

Auditor's Determination Modified: means the noncompliance determination by FTI was modified through the appeals process. Examples of modifications could include downgrading the noncompliance from Major to Minor or removing one of multiple noncompliance violations. One of the Working Group appeal decision categories.

Auditor's Determination Overturned: means the compliance determination made by FTI was overturned via an appeal. One of the Working Group appeal decision categories.

Auditor's Determination Overturned (V.7.j.): means FTI's compliance determination was overturned pursuant to Section V.7.j. of the Order. Typically, this indicated that FTI did not make an error in assessing compliance; rather, the Participating Retailer Location did not receive Corrective-Statement Sign(s) from a Manufacturer at all, or in insufficient number to fulfill the requirements of the Order, or that the Corrective-Statement Sign(s) received did not comply with the Order. According to this section, as applicable, the finding of Major Noncompliance counts "as noncompliant for purposes of calculating the Representative Sample Noncompliance Rate" since the noncompliance was discovered during an In-Person Audit. One of the Working Group appeal decision categories.

Compliance Assessment/Determination: means the process of reviewing submitted photos and data for a Participating Retailer Location and determining whether the Location's posted signs, or lack thereof, are posted correctly based on the requirements outlined in the Order and Exhibits A (Revised Style Guide for Corrective-Statement Signs) and B (Examples of Major/Minor Noncompliance). A compliance determination will include identification of the specific bases for noncompliance, if applicable.

Duty-Free: means a Participating Retailer Location selling duty-free products. Locations were typically in airports or near border crossings.

Failure to Rotate Response: means an appeal submitted by a retailer related to a Failed Rotation violation which had a separate remedial submission process. One of the Working Group appeal decision categories.

In-Person Audit Population: means the population of Participating Retailer Locations subject to an In-Person Audit during the Audit Period. The Representative Sample and selections from the Suspected Noncompliance Pool combine to create the In-Person Audit population (a maximum of 10,000 Participating Retailer Locations, excluding replacement stores).

Manufacturers' Representatives: means the individuals conducting store visits on behalf of the Manufacturers who are responsible for Corrective-Statement sign placement, rotation, compliance remediation, and/or gathering of data and photos. While this term is included in the Order, it is not explicitly defined.

Master Photo Database (“MPD”): means the Relativity database where photos and data collected in the field are housed for multi-level photo analysis by FTI’s Photo Review Team and viewing by the Working Group.

Military Installation: means a Participating Retailer Location on a military base. Access to the store was typically restricted, with varying levels of access requirements depending on the base.

Non-Appeal Response: means a response to a noncompliance notice was made by a retailer but did not rise to the level of an appeal. One of the Working Group appeal decision categories.

Noncompliant Retailers: means the group of retailers that had a Final Determination of Noncompliance as a result of an In-Person Audit during Audit Period 3.

Noncompliant Stores After Resubmission: means a Participating Retailer Location with an initial submission in the Rotation Period deemed noncompliant, and a subsequent resubmission made within 30 days of the noncompliance notice which was also deemed noncompliant. One of the Suspected Noncompliance Pool categories qualifying a Participating Retailer Location for inclusion in the Suspected Noncompliance Pool.

Noncompliant Stores with No Resubmissions: means a Participating Retailer Location with an initial submission in the Rotation Period deemed noncompliant and no subsequent valid resubmission made within 30 days of the noncompliance notice to demonstrate remediation of the compliance violation. One of the Suspected Noncompliance Pool categories qualifying a Participating Retailer Location for inclusion in the Suspected Noncompliance Pool.

Penalty Sign: means an additional 144 square inch Corrective-Statement Sign (or a 20 x 22 standing frame sign in Duty-Free stores) that Participating Retailers found in Major Noncompliance during an In-Person Audit must post for the remainder of the Implementation Period, or until June 30, 2025, pursuant to Section VI.2.a. of the Order.

Photo Review Team: means the FTI team responsible for viewing submitted photos and determining the compliance status of the Corrective-Statement signage for each Participating Retailer Location.

POS Signage Compliance Portal (“Portal”): means the FTI developed audit submission site where In-Person Auditors submit their photos and data collected during their audits.

Representative Sample Replacement Methodology: means the process by which Participating Retailer Locations from the Representative Sample were replaced with a store following the criteria described in Section V.6.c. of the Order.

Responsive Tip: means a tip which indicates the associated Participating Retailer Location is not Compliant with the terms of the Order.

Stores with No Rotation Period Submission: means a Participating Retailer Location with no submission in the Rotation Period, excluding Participating Retailer Locations in which a Rotation Period submission was not required per the Order. One of the Suspected Noncompliance Pool categories qualifying a Participating Retailer Location for inclusion in the Suspected Noncompliance Pool.

Stores with Only Invalid Rotation Period Submissions: means a Participating Retailer Location with only invalid submissions in the Rotation Period that could not be sent to the Photo Review Team for a compliance determination, excluding Participating Retailer Locations in which a Rotation Period submission was not

required per the Order. One of the Suspected Noncompliance Pool categories qualifying a Participating Retailer Location for inclusion in the Suspected Noncompliance Pool.

TD Linx #: means a unique 7-digit identifier assigned to each Participating Retailer Location.

Tip Line Submissions: means a tip which was received via the Tip Line. One of the Suspected Noncompliance Pool categories qualifying a Participating Retailer Location for inclusion in the Suspected Noncompliance Pool.