

JUNE 23, 2025



IN-PERSON AUDIT PERIOD 4 REPORT

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 fourth Audit Period (February 16, 2025 through June 30, 2025), FTI completed In-Person Audits and compliance assessments of 6,883 Participating Retailer Locations drawn from the Representative Sample Pool (“RSP”) 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 4, 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 an initial store listing on February 14, 2025 and a final store listing on February 19, 2025 which consisted of 214,741 Participating Retailer Locations.^{4,5} The Manufacturers also provided a list of Participating Retailer Locations on military installations which FTI utilized 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 February 16 and February 17, 2025.

- There were two Participating Retailer Locations that were previously QuikTrips but no longer appeared to be based on their provided store information. The Manufacturers confirmed on February 18, 2025

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 “2025.02.19 Audit Period 4 Store List- PM, AG, RJRT, ITG-CONFIDENTIAL SUBJECT TO P.O. IN US V PM, ET AL, 99CV2496 .xlsx”

⁵ On April 11, 2025, the Manufacturers informed FTI that one of the audited locations, TD Linx # 7380694, had changed ownership and had been sold to the national chain Casey’s. Due to this change to the store information and ownership, the store was treated as a new location and a new TD Linx # (fti6702) was assigned. The original TD Linx # (7380694) was subsequently changed to inactive as the associated store no longer existed. These changes did not impact the overall number of Participating Retailer Locations in the store listing nor the sales volume.

that one location was still a QuikTrip and should have its information updated and the other location was a change in ownership and required a new temporary ID.

- There were 17 Participating Retailer Locations with a TD Linx # in the February 14, 2025 store list that matched to an existing store based on account number, store name, and/or store address. The Manufacturers confirmed on February 18, 2025 that these were duplicates and that the 17 Participating Retailer Locations should be consolidated with the existing TD Linx #.
- There were 16 Participating Retailer Locations which were listed as “new” store additions, but they already existed in the previous store list(s). The existing records for these locations were treated as active and the duplicative “new” records were not added to the store list.
- There were 76 Participating Retailer Locations whose state changed between the Audit Period 3 and Audit Period 4 store list. The Manufacturers confirmed this was an error in the Audit Period 4 store list and provided an updated version on February 19, 2025. They also confirmed that the revised store list provided on February 19, 2025 contained the correct Spanish Qualified Census Tract indicator values based on the corrected state values.

Average Sales Volume

On February 21, 2025, the Department of Justice expressed concern with the number of stores with “No Data,” “Shared Site,” and zero sales volume values in the Audit Period 4 store listing. After further discussion within the Working Group, the parties agreed on March 5, 2025 to apply average volumes⁶ to the “No Data” and “Shared Site” locations for use in the Audit Period 4 Representative Sample selection methodology and the Representative Sample Noncompliance Rate calculation:

- For any stores characterized on the Audit Period 4 store list as part of a “Shared Site” arrangement, but for which a store-specific volume was not available, the total volume of all stores that were part of a particular “Shared Site” arrangement⁷ was divided equally across each of the constituent stores rather than attributing the entire volume to one store and no volume to each of the remaining stores; and
- For any store with zero volume or “No Data,” the store’s volume was assumed to equal the average per-store volume for all stores with available volume data. For Audit Period 4, the average was calculated as [REDACTED]

Within the Audit Period 4 store listing, the following stores had averages used consistent with the above approach:

- 151 Participating Retailer Locations were listed with “Shared Site” and had an associated grouping provided by the Manufacturers. The average across the grouping was applied to each location.
- Three Participating Retailer Locations were listed with “Shared Site” but did not have an associated grouping provided by the Manufacturers. The overall store listing average of [REDACTED] was used for these locations.
- 3,306 Participating Retailer Locations with zero volume or “No Data.” The overall store listing average of [REDACTED] was used for these locations.

⁶ Refer to the “Audit Period 4 Store List – Confidential” email chain from February 21, 2025 through March 6, 2025 for details on the averaging process.

⁷ The stores within each “Shared Site” arrangement were provided by the Manufacturers. FTI did not confirm the validity of the “Shared Site” groupings.

For more specific detail on the volumes used for stores in the Representative Sample Population, refer to the *Result of In-Person Audits* section.

Table 1. Summary of Average Sales Volume Impacts to the Store Listing

Sales Volume Impact	Store Count		Percent of Store Listing (Count)
No Change	211,131		98.32%
No Data	3,290		1.53%
Zero Volume	16		0.01%
Shared Site - Volume Provided	150		0.07%
Shared Site - Grouping Provided	151		0.07%
Shared Site - No Grouping Provided	3		0.00%
Total	214,741		100.00%

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.⁸

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 4 Representative Sample was selected on March 6, 2025. 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 2. Representative Sample Pool Strata Distribution

Strata	Census Region Name	Number of Selected Retailers	Percent of Selected Sample
Strata 1	Midwest	1,406	23.43%
Strata 2	Northeast	740	12.33%
Strata 3	South	2,893	48.22%
Strata 4	West	961	16.02%
Strata 5	Territory	0	0.00%
Total		6,000	100.00%

⁸ See https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us_regdiv.pdf for state-Census Region mapping.

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 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 Suspected Noncompliance Pool store listing was created and circulated to the Working Group on February 20, 2025:

Table 3. Initial Suspected Noncompliance Pool Summary

SNP Category	Number of Retailers
Tip Line Submissions	4
Audit Period 3 Major Noncompliant Stores ⁹	924
Total	928

After this date, the Suspected Noncompliance Pool composition changed due to the following:

- One retailer (TD Linx # 0215035) was added to the final Audit Period 4 population as a responsive tip was submitted for a Participating Retailer Location not already included in the audit pool.¹⁰
- One retailer (TD Linx # 1690349) was excluded as the store addressed its failed rotation violation on February 24, 2025 and was ultimately compliant.
- 12 Participating Retailer Locations were excluded as discussed in the *Participating Retailer Location Replacements* section below.

Factoring in the above, the final 916 Participating Retailer Locations that were audited as part of the Suspected Noncompliance Pool were composed of the following:

⁹ There were 36 stores found to be Major Noncompliant in Audit Period 3 not included in the store listing for Audit Period 4. As such, these stores were not added to the Suspected Noncompliance Pool and were not audited.

¹⁰ There was a second tip received for a Participating Retailer Location (TD Linx # 1908833) already in the audit population which had been audited prior to receipt of the tip. As such, this location was not added to the Suspected Noncompliance Pool.

Table 4. Final Selected Suspected Noncompliance Pool Summary

SNP Category	Number of Retailers	Percent of Final SNP
Tip Line Submissions	5	0.55%
Audit Period 3 Major Noncompliant Stores	911	99.45%
Total	916	100.00%

Suspected Noncompliance Pool Selection

For Audit Period 4, the total number of qualifying Participating Retailer Locations in the Suspected Noncompliance Pool was less than 4,000, and the volume of tips received during the period also did not cause this threshold to be met. Therefore, the Plaintiffs did not need to select the Participating Retailer Locations subject to an In-Person Audit as all stores in the Suspected Noncompliance Pool were included.

Participating Retailer Location Replacements

Overview of Replacement Methodology

FTI replaced 172 Participating Retailer Locations initially selected as part of the Representative Sample population. Refer to the In-Person Audit Period 1 Report for details on the replacement methodology for Representative Sample Pool selections.¹¹

As the Suspected Noncompliance Pool had fewer than 4,000 Participating Retailer Locations and no alternates were available, no replacements would be selected for this population.¹² If a Participating Retailer Location from the Suspected Noncompliance Pool met one or more of the replacement criteria, the store was excluded from the final In-Person Audit Period 4 population with no replacement store added.

Replacement Population

A number of Participating Retailer Locations in the Representative Sample population required replacement based on circumstances preventing FTI from conducting an In-Person Audit. 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 108 or 62.8% of the 172 total replacements. Of these stores, 17 or 15.7% of the 108 were flagged as temporarily closed by the Manufacturers.¹³ 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.

¹¹ Early in Audit Period 4 FTI observed that Rite Aid locations appeared to have stopped selling cigarette products this year. There were then several instances in which the replacement options available for a store with the same or closest sales volume was only a Rite Aid. When this occurred, FTI contacted the store(s), confirmed they no longer sold cigarettes, and then selected the replacement store from the pool of locations with the next closest sales volume, consistent with the replacement methodology.

¹² The Working Group agreed on March 8, 2024 that no replacements would be selected for the Suspected Noncompliance Pool population in Audit Period 2 given the SNP was less than 4,000 Participating Retailer Locations. This methodology was applied to Audit Period 4 as well as the SNP was also less than 4,000 Participating Retailer Locations.

¹³ "2025.02.14 Audit Period 4 Store List- PM, AG, RJRT, ITG-CONFIDENTIAL SUBJECT TO P.O. IN US V PM, ET AL, 99CV2496s.xlsx" contained a tab listing the temporarily closed stores.

2. The Participating Retailer Location did not sell Covered Brands (*i.e.*, not a Participating Retailer Location) accounting for 52 or 30.2% 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 8 or 4.7% of replacements. This included military installations for which access requirements could not be determined despite multiple attempts to contact the installation.
4. For 3 or 1.7% 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 4 Population.¹⁴
5. Upon arriving at one Participating Retailer Location, the In-Person Auditor determined it was not safe to conduct the audit based on their on-site observations. This constituted 0.6% of the replacements.

Additionally, a number of Participating Retailer Locations selected from the Suspected Noncompliance Pool were excluded from the final In-Person Audit Period 4 population based on circumstances preventing FTI from conducting an In-Person Audit. A summary of the exclusion 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 7 or 58.3% of 12 total exclusions. Of these stores, 1 or 14.3% of the 7 were flagged as temporarily closed by the Manufacturers.¹⁵ Extended Participating Retailer closures were due to a variety of circumstances, including but not limited to renovations, construction, and stores that no longer appeared to be operational.
2. The Participating Retailer Location did not sell Covered Brands (*i.e.*, not a Participating Retailer Location) accounting for 4 or 33.3% of exclusions.
3. Upon arriving at one Participating Retailer Location, the In-Person Auditor determined it was not safe to conduct the audit based on their on-site observations. This constituted 8.3% of the exclusions.

A list of replaced and excluded Participating Retailer Locations and reasons may be found in *Exhibit 1. Schedule of Participating Retailer Location Replacements and Exclusions*.

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 4 consisted of 5,967 Participating Retailer Locations from the Representative Sample Pool, 883 Participating Retailer Locations from the SNP, and 33 Participating Retailer Locations from both pools. A total of 6,883 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.

¹⁴ Duplicates were located at the same address, but two distinct stores were not present at that location.

¹⁵ "2025.02.14 Audit Period 4 Store List- PM, AG, RJRT, ITG-CONFIDENTIAL SUBJECT TO P.O. IN US V PM, ET AL, 99CV2496s.xlsx" contained a tab listing the temporarily closed stores.

Table 5. 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	6,110	88.77%	89.21%
In a Qualifying Census Tract	773	11.23%	10.79%
Puerto Rico	0	0.00%	0.01%
Total	6,883	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 48.9% of the audit population. Additionally, there were no Participating Retailer Locations in Strata 5 (U.S. territories).

Table 6. Final Audit Population Strata Summary

Strata	Census Region Name	Number of Retailers	Percent of Final Population	Percent of Store Listing
Strata 1	Midwest	1,569	22.80%	23.43%
Strata 2	Northeast	856	12.44%	12.32%
Strata 3	South	3,363	48.86%	48.21%
Strata 4	West	1,095	15.91%	16.03%
Strata 5	Territory	0	0.00%	0.01%
Total		6,883	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 31.8% of the audit population and 32.0% 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 7. Final Audit Population Top Five and Bottom Five States/Territories

State/Territory	Number of Retailers	Percent of Final Population	Percent of Store Listing
Texas	657	9.55%	9.89%
California	487	7.08%	7.06%
Florida	418	6.07%	6.04%
Georgia	320	4.65%	4.47%
North Carolina	308	4.47%	4.55%
Alaska	10	0.15%	0.14%
District of Columbia	6	0.09%	0.06%
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 Master Photo Database ("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 December 12, 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 1,393 In-Person Noncompliance Notices, 122 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 were 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 Audit Period 4 is the last defined in-person audit period, any tip received after June 2, 2025 would not result in an audit. Given this, the Working Group agreed on January 21, 2025 that the website and text message tip line could be shut down after June 2, 2025.

Tip Line Results and Noticing

Table 8. Summary of Submitted Tips through June 2, 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, 2024¹⁶						
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
Audit Period 4 – February 16, 2025 through June 2, 2025¹⁷						
Website	2	0	2	0	1	0
Text Line	1	1	0	0	0	0

All Responsive Tips were included in Table 8 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 9 below.

¹⁶The Rotation Period ended on September 30, 2024 and Audit Period 3 began on October 5, 2024. For purposes of reporting, the Rotation Period is noted as ending October 4, 2024 to avoid a gap in periods.

¹⁷ While Audit Period 4 runs through June 30, 2025, the tip line was shut down after June 2, 2025 as no tips received during the last four weeks of the audit period would result in an audit.

Table 9. Summary of Duplicate Responsive Submitted Tips through June 2, 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

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. The final monthly Tip Line report was sent to the Working Group on June 6, 2025.

Tip Line Stores in the Suspected Noncompliance Pool

The four stores identified via the Tip Line as suspected of noncompliance during Audit Period 3 which were not audited during that period were added to the Suspected Noncompliance Pool for Audit Period 4 and audited. Please refer to the In-Person Audit Period 3 Report for details on these four stores.

Of the two stores identified through the Tip Line as suspected of noncompliance during Audit Period 4:

- One store (TD Linx # 0215035) was added to the Audit Period 4 SNP and audited.
- One store (TD Linx # 1908833) was identified through the Tip Line during Audit Period 4 that had already had an In-Person Audit conducted during the period prior to receipt of the tip. Since no further action would occur as a result of the responsive tip, the Working Group agreed on April 3, 2025 that it was not necessary to send a notification to this retailer.

Table 10. Suspected Noncompliance Pool Period for Tip Line Stores as of June 2, 2025

TD Linx #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,	47	Audit 3

TD Linx #s	Number of Retailers	SNP Period
0749520, 0762470, 0762712, 7683983, 7685301, 7922244, 0800857, 1620190, 2710621, 0864326, 0864947, 7212708, 0893913, 1530060, 4028749, 0684258, 1767576, 0695873, 1677475, 1624641, 7527891, 7596275		
0579927, 0215035, 0549017, 0022230, 0043230	5	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. Please refer to the In-Person Audit Period 3 Report for more detailed information on the failed rotation remedial submission process.

Results of Failed Rotation Remedial Submissions

FTI initially found 280¹⁸ Participating Retailer Locations as Major Noncompliant due to failure to rotate one or more signs posted at the location. There were 247 valid remedial submissions received for these locations.

Table 11. Failed Rotation Remedial Submission Summary

Failed Rotation Remedial Submission Status	Number of Retailers	Percent of Retailers
Remedial submission demonstrated compliance with the rotation requirement	231	93.52%
Remedial submission did not demonstrate compliance with the rotation requirement	16	6.48%
Total Valid Submissions	247	100.00%
No remedial submission submitted	30	100.00%
Remedial submission received past deadline	0	0.00%
Invalid remedial submission received	0	0.00%
Total Invalid or No Submission Attempts	30	100.00%

¹⁸ Included in this total are two locations which were later replaced as they were not under contract at the time of the audit and one (TD Linx # 7380694), discussed previously, which had the change in ownership and a new TD Linx # fti6702 created. The resulting new store, fti6702, was not found as failing rotation since any prior Corrective Statements were associated with the original store.

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

As of June 11, 2025, the Working Group received 101 appeals for 96 distinct Participating Retailer Locations related to the 1,393 In-Person Noncompliance Notices sent by FTI.¹⁹ 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 4. 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 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 12. Working Group Appeal Decisions Summary as of June 11, 2025

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	0	0	0	0.00%
Auditor's Determination Overturned (V.7.j.) ²⁰	5	0	5	13.51%
Auditor's Determination Affirmed Final	13	0	13	35.14%
Auditor's Determination Affirmed Appealable to Adjudicator	16	2	18	48.65%
Auditor's Determination Modified	1	0	1	2.70%
Valid Appeals Subtotal	35	2	37	100.00%
Non-Appeal Response	41	16	57	89.06%
Appeal Submitted Past Deadline	2	0	2	3.13%
Failure to Rotate Response	0	5	5	7.81%
Invalid Appeals Subtotal	43	21	64	100.00%
Total	78	23	101	

¹⁹ Multiple appeals were submitted for some Participating Retailer Locations.

²⁰ 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 13 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*.

Table 13. Summary of Appeal Determinations as of June 11, 2025

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	Major Noncompliance	16	2	18	48.65%
Major Noncompliance	Minor Noncompliance	1	0	1	2.70%
Major Noncompliance	Compliant	5	0	5	13.51%
Minor Noncompliance	Minor Noncompliance	13	0	13	35.14%
Total Valid Appeals		35	2	37	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 12 and 13 above.

Table 14. Summary of Revisits Requested by the Working Group

TD Linx #	Initial Auditor Determination Status	Revisit / Final Determination Status
0017344	Minor Noncompliance	Compliant
0149185	Minor Noncompliance	Compliant
0209658	Major Noncompliance	Major Noncompliance
0651457	Major Noncompliance	Compliant
0746633	Major Noncompliance	Compliant
1583283	Major Noncompliance	Compliant
3700830	Major Noncompliance	Minor Noncompliance
3985760	Major Noncompliance	Compliant
7198766	Major Noncompliance	Major Noncompliance

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.

Result of In-Person Audits

Overview of Compliance Findings

As discussed in the *Final Participating Retailer Location Population* section, 6,883 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 5,688 or 82.6% of Participating Retailer Locations met the compliance requirements set forth in the Order for Audit Period 4. The remaining 1,195 or 17.4% of Participating Retailer Locations received a Final Determination of Noncompliance for Audit Period 4 (the “Noncompliant Retailers”). Of the Noncompliant Retailers, 693 or 58.0% were determined to have at least one instance of Major Noncompliance during Audit Period 4.

Table 15. Final Compliance Determinations by Retailer Sample Pool Type

Pool Type	Compliant	Major Noncompliant	Minor Noncompliant	Total
Representative Sample Pool	5,021	538	408	5,967
Suspected Noncompliance Pool	640	152	91	883
Both Pools	27	3	3	33
Total	5,688	693²¹	502	6,883

Penalty Sign Requirements

Based on the Final Determinations, 536²² Participating Retailer Locations received a Final Determination of Major Noncompliance for the first time in Audit Period 4 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 4.

As of June 13, 2025, FTI received photographs of penalty signs for 530 or 98.9% of the Participating Retailer Locations which received a Final Determination of Major Noncompliance for the first time in Audit Period 4 and 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 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

²¹ The 541 Major Noncompliant stores in the Representative Sample Pool excludes the 5 stores where Section V.7.j. of the Order was applied – a total of 546 stores were determined to be Major Noncompliant in Audit Period 4 for purposes of the Representative Sample Noncompliance Rate calculation.

²² Table 16 summarizes the factors impacting the number of stores subject to this penalty requirement. Additionally, two stores had a Final Determination of Major Noncompliance in Audit Period 4 and one prior period; however, there was a change in ownership between the audit periods, so the Major Noncompliance in Audit Period 4 was treated as the first instance of noncompliance for the new owners.

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 4 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 4.

Penalty Payment Requirements

Based on the Final Determinations, 120²³ 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, 28²⁴ 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 June 13, 2025, FTI received proof of penalty payment for 141 or 95.3% of the Participating Retailer Locations subject to the above requirements.²⁵ 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*.

Penalty Suspension Requirements

Based on the Final Determinations, 6²⁶ Participating Retailer Locations received a Final Determination of Major Noncompliance for the fourth time and shall be suspended for 17 weeks from the Participating Retailer Contracts of each Manufacturer with which it is contracted, pursuant to Section VI.2.d. of the Order.

As of June 13, 2025, FTI received proof of penalty suspensions for all six of the Participating Retailer Locations subject to the above requirements. While FTI ingested the penalty suspension data and tracked receipt of these submissions, the suspension deadlines were not reviewed for compliance. The Order does not require the

²³ Table 16 summarizes the factors impacting the number of stores subject to this penalty requirement. Three stores had a Final Determination of Major Noncompliance in Audit Period 4 in two or more prior periods; however, there was a change in ownership between the audit periods, so the Major Noncompliance in Audit Period 4 was treated as the second instance for the new owners.

²⁴ Table 16 summarizes the factors impacting the number of stores subject to this penalty requirement. One store had a Final Determination of Major Noncompliance in Audit Period 4 and all prior periods; however, there was a change in ownership between the audit periods, so the Major Noncompliance in Audit Period 4 was treated as the third instance for the new owners.

²⁵ A payment is counted as received if the payment is demonstrated for at least one of the contracted Manufacturers for a location.

²⁶ Table 16 summarizes the factors impacting the number of stores subject to this penalty requirement.

Auditor to send notices for failure to submit proof of penalty suspensions or to enforce the Manufacturers' responsibility to provide proof of the suspensions; accordingly, FTI did not send notices related to penalty suspension submissions. The detailed schedule of final compliance decisions and penalty suspensions 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 to be Major Noncompliant during Audit Period 4, are excluded from the penalty requirements. A summary of these factors is found in Table 16 below.

Table 16. Summary of Exclusions to Penalty Requirements

Cumulative Status	Initial Store Count	Closed/No Longer Under Contract	Stores Subject to the Associated Penalty
1st Major Noncompliance	538	2	536
2nd Major Noncompliance	121	1	120
3rd Major Noncompliance	28	0	28
4th Major Noncompliance	6	0	6

Representative Sample Noncompliance Rate Input Observations

FTI leveraged sales data sourced from the Manufacturers' combined listing of Audit Period 4 Participating Retailer Locations for calculating the Representative Sample Noncompliance Rate. FTI did not conduct validations on the data.

As discussed in the Source Data and Data Validation Procedures section, for stores where the originally provided volumes listed "No Data," "Shared Site," or zero sales volume values, averages were used for purposes of the Representative Sample Selection process and the Representative Sample Noncompliance rate calculation.

While the averages were applied to the entire store listing, the stores within the final 6,000 store Representative Sample which were part of a "Shared Site" had the volumes used below.

Table 17. Summary of "Shared Site" Sales Volume Averages in the Representative Sample²⁷

Participating Retailer in the RSP	Associated Store(s)	
1833006	0522108	
7977838	0859735	
fti2728	fti2727	
fti3162	fti3161	
fti4757	fti3136	
fti5082	8028260	
fti6323	fti4416	

²⁷ TD Linx # 7977838 was part of the Representative Sample Population but was replaced, so it does not impact the Representative Sample Noncompliance Rate.

Participating Retailer Locations included in the Representative Sample Noncompliance Rate which had the applicable averages used were composed of the following:

- 93 Participating Retailer Locations included in the “Retailer_sales_i” population were listed with “No Data,” 12 of which are represented in the “Retailer_NC_iX Retailer_sales_i” population.
- Two Participating Retailer Locations included in the “Retailer_sales_i” population were listed with zero sales volume values, none of which are represented in the “Retailer_NC_iX Retailer_sales_i” population.
- Six Participating Retailer Locations included in the “Retailer_sales_i” population were listed with “Shared Site,” one of which is represented in the “Retailer_NC_iX Retailer_sales_i” population.

Additionally, precise sales data was not available for Duty-Free Participating Retailer Locations as described by the Manufacturers in the transmittal of the Audit Period 1 store listing on October 7, 2023. As such, the sales data provided for Duty-Free Participating Retailer Locations was the Covered Brands shipment volume to wholesalers equally apportioned to the number of Participating Retailer Locations receiving Covered Brands from the wholesaler.²⁸ A total of four Duty-Free Participating Retailer Locations are included in the “Retailer_sales_i” population, one of which is represented in the “Retailer_NC_iX Retailer_sales_i” population.

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 4 of 8.09%. 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_iX 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 18. Summary of Representative Sample Noncompliance Rate Calculation

Sales Volume Input		Representative Sample Noncompliance Rate
Original Sales Volume		8.02%
Final Revised Sales Volume		8.09%

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

²⁸ Shipping volume is only inclusive of PM USA and RJRT Covered Brands; there are no Duty-Free Participating Retailer Locations contracted with ITG.

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 the fourth Audit Period, 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 4, 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 written in a cursive, flowing style.

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.
3/21/2025	FTI Audit Period 3 Report - CONFIDENTIAL - 20250321.pdf	The report drafted by FTI detailing the findings and outcomes from In-Person Audit Period 3. This version had sales data included and was shared with the Manufacturers and DOJ.
3/25/2025	FTI Audit Period 3 Report - REDACTED - 20250321.pdf	The report drafted by FTI detailing the findings and outcomes from In-Person Audit Period 3. This version had the sales data redacted and was shared with the Public Health Intervenors and Retailer Groups.
2/14/2025	2025.02.14 Audit Period 4 Store List- PM, AG, RJRT, ITG- CONFIDENTIAL SUBJECT TO P.O. IN US V PM, ET AL, 99CV2496.xlsx	<p>The combined listing of Participating Retailer Locations pursuant to Section V.3. of the Order (the "store listing") for Audit Period 4. Additional tabs in the workbook include:</p> <p>A listing of 687 Participating Retailer Locations the Manufacturers flagged as potentially temporarily closed.</p> <p>A listing of 751 Participating Retailer Locations flagged as located on military installations.</p> <p>A listing of 226 Participating Retailer Locations flagged as Duty-Free stores.</p> <p>A listing of 1,858 Participating Retailer Locations that were new additions to the Audit Period 4 store listing.</p>
2/19/2025	2025.02.19 Audit Period 4 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 4 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 4. 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 + 2xSI, S + 3xSI, ... S + ixSI}, where i is 315 [(i.e., (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 Intervenors, 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 3 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 3. 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 4.

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.

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

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.