



October 25, 2022

**EXEMPT**

Fumari Inc.  
Attention: Rima Khoury, Esquire, General Counsel  
675 Gateway Center Drive, Suite A  
San Diego, CA 92102

**FDA Submission Tracking Number (STN):** EX0002340.PD1

Dear Rima Khoury:

We completed review of your EX REQ<sup>1</sup> and determined that the new tobacco product listed in Appendix A is exempt from the requirements of Substantial Equivalence.<sup>2</sup>

Our finding does not mean we “approved” the new product specified in Appendix A; therefore, you may not promote or in any way represent the new tobacco product specified in Appendix A, or the labeling, as being “approved” by FDA (see Section 301(tt) of the FD&C Act).

**To market the new tobacco product that is the subject of this EX REQ, the following must be met:**

- 1. Submit a report under section 905(j)(1) (Abbreviated Report) that includes the information required in sections 905(j)(1)(A)(ii) and 905(j)(1)(B); and**
- 2. Ninety days have passed since FDA receipt of your Abbreviated Report.**

See Appendix B for FDA’s recommended format for submitting of an Abbreviated Report.

In accordance with 40 CFR 1506.6, we will make your Environmental Assessment (EA) publicly available.

All regulated tobacco products, including the tobacco product specified in Appendix A, are subject to the requirements of the FD&C Act and its implementing regulations. It is your responsibility to ensure the tobacco product specified in Appendix A complies with all applicable statutory and regulatory requirements. FDA will monitor your compliance with all applicable statutes and regulations.

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<sup>1</sup> Request for Exemption from Substantial Equivalence (EX REQ) submitted under section 905(j)(3) of the Federal Food, Drug, and Cosmetic Act (FD&C Act)

<sup>2</sup> See section 910(a)(3)(a) of the FD&C Act

We encourage you to submit all regulatory correspondence electronically via the CTP Portal<sup>3,4</sup> using eSubmitter.<sup>5</sup> Alternatively, submissions may be mailed to:

Food and Drug Administration  
Center for Tobacco Products  
Document Control Center (DCC)  
Building 71, Room G335  
10903 New Hampshire Avenue  
Silver Spring, MD 20993-0002

The CTP Portal and FDA's Electronic Submission Gateway (ESG) are generally available 24 hours a day, seven days a week; if the upload is successful, submissions are considered received by DCC on the day of upload. Submissions delivered to DCC by courier or physical mail will be considered timely if received during delivery hours on or before the due date<sup>6</sup>; if the due date falls on a weekend or holiday, the delivery must be received on or before the preceding business day. We are unable to accept regulatory submissions by e-mail.

If you have any questions, please contact Nala Jackson, Regulatory Health Project Manager, at (240) 402 – 8583 or [Nala.Jackson@fda.hhs.gov](mailto:Nala.Jackson@fda.hhs.gov).

Sincerely,

Todd L. Cecil -S

Digitally signed by Todd L.  
Cecil -S  
Date: 2022.10.25 14:42:25  
-04'00'

Todd L. Cecil, Ph.D.  
Acting Director  
Office of Science  
Center for Tobacco Products

Enclosures:

Appendix A – New and Original Tobacco Products Subject of This Letter  
Appendix B – FDA's Recommended Format for Submitting an Abbreviated Report

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<sup>3</sup> For more information about CTP Portal, see <https://www.fda.gov/tobacco-products/manufacturing/submit-documents-ctp-portal>

<sup>4</sup> FDA's Electronic Submission Gateway (ESG) is still available as an alternative to the CTP Portal.

<sup>5</sup> For more information about eSubmitter, see <http://www.fda.gov/ForIndustry/FDAeSubmitter>

<sup>6</sup> <https://www.fda.gov/tobacco-products/about-center-tobacco-products-ctp/contact-ctp>

**Appendix A<sup>7,8</sup>**  
New and Original Tobacco Products Subject of This Letter

<b>Common Attributes of EXREQ</b>		
Submission date	September 10, 2021	
Receipt date	September 10, 2021	
Applicant	Fumari Inc.	
Product manufacturer	Fumari Inc.	
Product category	Waterpipe Tobacco Products	
Product subcategory	Waterpipe Tobacco Filler	
<b>Attributes</b>	<b>New Tobacco Product</b>	<b>Original Tobacco Product</b>
<b>STN</b>	<b>EX0002340</b>	<b>GF1702437</b>
Product name:	Fumari Watermelon with Mint Hookah Tobacco - 1 Kilo <sup>7</sup>	Fumari Watermelon Hookah Tobacco – 1 Kilo <sup>7</sup>
Eligibility status:	Not Applicable	Grandfathered
Package type:	Pouch	Pouch
Package quantity:	1 Kilogram	1 Kilogram
Characterizing flavor (CF):	Flavored	Flavored
Flavored, as identified:	Watermelon and Mint	Watermelon
Nicotine Source	Tobacco	Tobacco
Tobacco cut size:	(b) (4)	(b) (4)
Tobacco Moisture:	12.50%	12.50%
Product modifications	<p>Addition/Deletion of tobacco additives:</p> <ul style="list-style-type: none"> <li>Addition of complex flavor ingredient "(b) (4)" (b) (4), Target: (b) mg/1g</li> </ul> <p>Increase/Decrease in quantity of existing tobacco additives:</p> <ul style="list-style-type: none"> <li>Decrease in the quantity of complex flavor ingredient (b) (4) (b) (4), Target: (b) mg/1g.</li> </ul>	

<sup>7</sup> Effective April 14, 2022, FDA's authority to regulate tobacco products was extended to include tobacco products containing nicotine from any source. As such, nicotine source is considered a required property for unique identification.

<https://www.congress.gov/bill/117th-congress/house-bill/2471>

<sup>8</sup> Brand/sub-brand or other commercial name used in commercial distribution.

**Appendix B**  
FDA's Recommended Format for Submitting an Abbreviated Report

Mock-up Tobacco Company

April 3, 2015

US Department of Health and Human Services  
Food and Drug Administration  
Center for Tobacco Products  
Document Control Center  
Building 71, Room G335  
10903 New Hampshire Avenue  
Silver Spring, MD 20993-0002

RE: Abbreviated Report

To Whom It May Concern:

Mock-Up Tobacco Company provides this Abbreviated Report at least 90 days prior to the introduction or delivery for introduction into interstate commerce for commercial distribution of the new product, Cigarette Brand A. We submitted an Exemption Request (EX0000XXX) under section 905(j)(3) for the new product on February 1, 2015, and received a found exempt order from FDA on March 20, 2015.

I, John Doe, on behalf of Mock-Up Tobacco Company, certify that Cigarette Brand A is modified within the meaning of section 905(j)(3), the modifications are to a product that is commercially marketed and in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, all the modifications are covered by exemptions granted by the Secretary pursuant to section 905(j)(3), and I have taken actions to comply with the requirements under section 907 that are applicable to the product. I certify that this information is true and correct, and that I am authorized to submit this on the company's behalf. I understand that under section 1001 of title 18 of the United States Code, anyone who knowingly and willfully makes a materially false, fictitious, or fraudulent statement to the Government of the United States is subject to criminal penalties.

Sincerely,  
John Doe **[ink or digital signature]**  
Vice President  
Mock-Up Tobacco Company