U.S. Food & Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993
www.fda.gov

May 19, 2020

NOT SUBSTANTIALLY EQUIVALENT

U.S. Smokeless Tobacco Company LLC
Attention: Rebecca Rivas, Sr. Director, Regulatory Submissions
Altria Client Services LLC
601 East Jackson Street
Richmond, VA 23219

FDA Submission Tracking Numbers (STNs): Multiple STNs**,** see Appendix A

Dear Ms. Rivas:

We completed our review of your SE Reports[1] and determined that the new tobacco products are not substantially equivalent to the corresponding predicate tobacco products listed in Appendix A. Refer to Appendix B for a list of amendments received in support of your applications.

The following deficiencies are the basis for our determination:

1. All of your SE Reports include harmful and potentially harmful constituent (HPHC) testing results but does not specify the number of replicates, standard deviations, or the validation parameters of the procedures. It is also unclear how HPHC measurements identified as BLOQ were considered in your calculations of estimated daily exposure to HPHCs from use of the new and surrogate predicate tobacco products (calculated daily exposure estimates presented in Table 2 of your July 2015 amendment). For example, did you consider daily exposure to HPHCs reported as Below Limit of Quantification (BLOQ) to be zero or was the limit of quantification value used in the absence of a measured value? Without this information, a full evaluation of the HPHC data was not possible.

2. All of your SE Reports includes HPHC testing results, but additional information was needed on the analytical methods in order to fully evaluate the HPHC data. Each of the analytical methods lacks sufficient detail and validation data. For example, you reported data below the limit of quantification but did not provide the limit of quantification. To adequately review your SE Report, the following information for AM-187, SOP-210, AM-052, and AM-189 would be needed:

    a. Complete description of the instrumentation used;
    b. Step-by-step instructions for the sample preparation, standard preparation, and calibration curves solutions;

[1] Substantially Equivalent (SE) Reports submitted under section 905(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act)

c. Instrument settings such as split ratio, carrier gas, injection volume, injection type, injector temperature, temperature gradient, column type and dimensions, and detector settings;
d. Validation information, including precision, accuracy, specificity, limit of quantification, and limit of detection; and
e. Demonstration that the analytical methods are suitable to report the results provided in Table 1 of your July 2015 amendment.

In addition, the following clarifications would be needed for the specified methods:

f. (b) (4) (AM-052) includes a description (b) (4) (b) (4) . In the description, the procedure states that (b) (4) " is (b) (4) The description does not indicate the manner in which the new product was sampled. In addition, the description does not address (b) (4) . It is also unclear which products were tested.

3. While additional details and method validation information is still needed to ensure validity of the HPHC data, an evaluation was completed under the assumption that the data is valid. The submitted data indicate that the following HPHCs are present at higher levels in the new products compared to the surrogate predicate product:

- SE0000487: crotonaldehyde
- SE0000488: crotonaldehyde
- SE0000547: acetaldehyde

Acetaldehyde and crotonaldehyde are carcinogens. Crotonaldehyde is also is a strong skin irritant, and exposures may result in allergic contact dermatitis. Increases in HPHCs yields from the new products may consequently result in increased HPHC exposures for users of the new products compared to users of the predicate product. For these reasons, additional information (data, peer review articles, and/or other scientifically robust sources of information) to demonstrate that the levels of HPHCs present in the new products do not cause the new products to raise different question of public health was needed.

4. All of Your SE Reports states that the (b) (4) (AM-052) analysis was performed by (b) (4) (previously (b) (4)), which is ISO 17025 accredited and is specifically accredited to perform the procedure to measure arsenic and cadmium. However, your SE Reports do not provide the accreditation for the following methods:

a. B[a]P (AM187)
b. Carbonyls (AM189)
c. TSNA (SOP210)

Clarification on the accreditation status for these specific procedures was needed to understand the capability of the laboratory used to measure these HPHCs.

5. All of your SE Reports provided a response to Deficiencies 1 and 14 in your July 2015 amendment which included an appendix in which the analytical procedures used to measure HPHCs in the new products and a surrogate predicate product are briefly described. In the description titled "Smokeless Tobacco TSNA – SOP-210", you state that the (b) (4) (b) (4) The comparisons conducted in SE reviews evaluate differences between specific new and predicate products; they are not evaluations between the new products and other marketed tobacco products that are neither the new product nor the [surrogate] predicate product. In addition, the methodology provided for SOP-210 differs from the methodology provided in your response to Deficiency 4, where you outline two other procedures that you used to measure NNN and NNK. In your Deficiency 4 response, you state that different methods were used for the measurement of TSNAs in the new and predicate products. (b) (4) You state that (b) (4) and that the variance measurements for both procedures were in an acceptable range and thus the methods were comparable. (b) (4) . In order to compare the results of the TSNA studies for the new and predicate products, results of comparisons using the same procedure or the complete method comparison study using common measurements with a predetermined level of variability that is linked to the acceptance criteria for the TSNA measurements was needed. Alternatively, you could have explained why the methods are comparable. In addition, it is unclear if the predicate product or the surrogate predicate product was used for TSNA testing. In your responses to Deficiencies 1 and 14 you indicate the surrogate predicate product is used for TSNA level comparisons with the new products, however, in your response to Deficiency 4 you indicate the predicate product is used. Clarification on whether the predicate product or the surrogate predicate product was used for TSNA testing was needed.

6. All Your SE Reports fail to show that the differences in design characteristics between the new and predicate products (portioned versus non-portioned; ingested versus non-ingested; and (b) (4) versus loose dry snuff, respectively) do not cause the new products to raise different questions of public health in comparison to the predicate product. The information provided about these design differences is insufficient to demonstrate that it is appropriate and valid to perform a comparison of substantial equivalence between these product categories. The new products have the following design parameters:

    a. Tobacco particle size;
    b. Final moisture;
    c. Final portion weight;
    d. (b) (4) length;
    e. (b) (4) width;

f. (b) (4) thickness;
g. (b) (4) weight;
h. (b) (4) weight;
i. (b) (4) length;
j. (b) (4) width and taper; and
k. (b) (4) .

In contrast, the predicate product has the following design parameters:

l. Tobacco particle size; and
m. Final moisture.

You did not provide a scientific discussion and rationale as to why these dissimilarities in the design characteristics of new and corresponding predicate products do not cause the new products to raise different questions of public health. You needed to address each of the design characteristics listed above and provide adequate scientific evidence and rationale to demonstrate that these fundamental design characteristic differences do not cause the new products to raise different questions of public health.

7. SE0000487, SE0000488, SE0000533 and SE0000547 contained information on the consumption rate of the new products compared to the predicate tobacco products. Product consumption rates, combined with substance concentration data are essential aspects of the exposure assessment used to evaluate the potential toxicological impacts from consumer exposures to ingredients and other constituents (e.g., HPHCs) in the products under consideration. For SE0000487, SE0000488, SE0000533 and SE0000547, you assert that (b) (sticks/day (approximately (b) (4) grams tobacco/day) represents "*the 90th percentile consumption*" which indicates that 90% of the users of the new products consume approximately (b) (4) grams tobacco/day, or less; and for the predicate product you provide a mean tobacco consumption rate (b) (4) grams tobacco/day. The data and justification you provided do not support the proposed tobacco consumption rate of approximately (b) (4) grams tobacco/day for users of your new products:

a. The proposed consumption rate was calculated using data from the (b) (4) (b) (4) The proposed consumption rate of (b) sticks/day was calculated based on (b) (4) (b) (4) .

b. You provided the study by Krautter et al. (2015) as supportive evidence for the proposed consumption rate. However, this study does not provide adequate evidence for the following reasons:

i. The study by Krautter et al. (2015) did not allow the study participants to use tobacco sticks *ad libitum*. Due to the restrictions on product use, the

tobacco stick consumption data from this study may have underestimated the true consumption rate in a population of smokeless tobacco users that use the product *ad libitum.*

ii. Even with the restriction placed by Krautter et al. (2015) on the number of tobacco sticks study subjects were allowed to use in a day, the study reported a use rate for the tobacco sticks (mean±SD) of 6.39±4.44 sticks/day, which is higher than the consumption rate of (b) (4) sticks/ day you proposed as the 90th percentile consumption rate. Moreover, the tobacco sticks used by Krautter et al. (2015) contained 486 mg of tobacco per stick, which results in a mean tobacco use rate of approximately 3.1 grams tobacco/day (6.39 sticks/day X 486 mg of tobacco per stick), further suggesting that the proposed consumption rate of (b) sticks/day (approximately (b) (4) grams tobacco/day) significantly underestimates the total amount of tobacco that would be consumed by users of the new products.

iii. Krautter et al. (2015) also showed that total nicotine exposure for the study subjects was consistent across users of all the tobacco products evaluated (i.e., dual use, snus, sticks, strips and orbs). Based on this study, users of the new products would consume the amount of tobacco that would result in nicotine intake levels equivalent to the nicotine intake from the predicate product. The proposed consumption rate o (b) (4) sticks/day (b) (4) grams tobacco/day) would result in exposure to nicotine from use of your new product that is less than the nicotine exposure from the predicate product; you provided a mean consumption rate (b) (4) grams tobacco/day for the predicate product. Thus, the finding of equivalent nicotine intake in the study by Krautter et al. (2015) suggests a significantly higher usage than (b) (4) sticks/day.

c. To support the consumption rate of (b) (sticks/day for your new products, you assume that a consumer uses one tobacco stick in 15 minutes and conclude that "consumption rates higher than those reported in the extended use study are not reasonable given what is currently known about smokeless tobacco topography". Your conclusion is not supported by the information and data you provided:

i. (b) (4)

ii. You also provided the following information and assumptions that are relevant to estimating the number of tobacco sticks that could be consumed per day, based on what is currently known about smokeless tobacco topography:

- The consumption time per stick can be estimated from 1) the cigarette use time of 10 min, and 2) the information from study participants indicating that consumption time per stick is lower than consumption per cigarette. Therefore, the consumption time per

stick is <10 minutes; >6 sticks can therefore be consumed per hour of smokeless tobacco use.

- You estimated a total smokeless tobacco use time of 4.2 hours per day based on the study by Hatsukami et al., (1988). Therefore, the information provided on the characteristics and duration of use for the tobacco sticks, indicates that users of the new products may consume >24 tobacco sticks/day (>6 sticks/hour of tobacco use x 4.2 hours of tobacco use/day).

Taken together, the proposed (90th percentile) consumption rate of [redacted] sticks/day is not supported by the data, published literature and justifications you provided. Notably, the study you cited (b) (4) indicates that (b) (4) Published literature for mean consumption rates of other smokeless tobacco products shows a daily tobacco use range between 5.3 and 20.4 g/day [central published value of 12 g/day], which is equivalent to approximately 23 - 89 sticks of the new products per day [with a central value of 52]). Another study you cited (Hatsukami et al., [1988]) estimates a total smokeless tobacco use time of 4.2 hours per day, and additional information you provided indicates that users of the new products may be able to consume >6 sticks/hour of tobacco use. This indicates that users of the new products may consume >24 tobacco sticks/day. The data and justification you provided did not adequately demonstrate a lower tobacco use rate for the new product as compared to the corresponding predicate product. In the absence of data demonstrating a lower tobacco use rate for the new products as compared to the corresponding predicate products, the toxicological evaluation of differences between the new and predicate products in these SE Reports, the daily tobacco use for the new product is assumed to be the same as that for the corresponding predicate product. The use of a constant consumption rate for comparison of HPHC exposure estimates between users of the new and predicate products allows for determination of whether potential differences in HPHC exposures are due to differences in product characteristics. You needed to provide adequate scientific evidence and rationale to demonstrate consumption rates of the new and predicate products, including published literature for smokeless tobacco sticks.

8. SE0000487 and SE0000533 provide justification regarding the addition of permeation enhancers (b) (4), (b) (4) in SE0000487 and SE0000533; (b) (4) in SE0000533) to the new products, but the submitted information does not demonstrate that the levels of these ingredients would not increase buccal permeability and uptake of HPHCs. (b) (4)

(b) (4) The effect of permeation enhancers such as (b) (4) on the uptake of compounds via the buccal mucosa depends on the concentrations and physicochemical properties of the compounds. Chemical permeation enhancers can increase uptake of compounds via the buccal mucosa by various mechanisms, and within short exposure durations. You needed to provide evidence that this is not a concern and does not cause the new products to raise different questions of public health.

9. SE000547 indicates that (b) (4) (CAS (b) (4) (b) (4) (CAS (b) (4)) and (b) (4) (CAS (b) (4)) are added to the new product but are not present in the predicate product. the information you provided did not adequately address the concerns for these ingredients:

   a. (b) (4) (CAS (b) (4) : You assert that the (b) (4) cut-off value used to classify Structure Category A food additives as Concern Level I (FDA, May 18, 2014) is an appropriate comparator value to evaluate exposures to this ingredient from the new product. The "Concern Level" classifications in this guidance document (Guidance for Industry: Summary Table of Recommended Toxicological Testing for Additives Used in Foods) are used to identify the corresponding recommendations for toxicity testing; these do not provide information on levels of oral exposures below which adverse effects are not likely to occur. For example, for compounds identified as Concern Level I (cut-off values of (b) (4) for Structure Category A additives), the referenced Guidance recommends genetic toxicity tests and short-term toxicity tests with rodents. Since these classification criteria do not provide toxicity-based reference levels protective for human oral exposures, the (b) (4) cut-off limit is not considered an appropriate comparator value to evaluate potential toxicity from human exposures to (b) (4) from tobacco product use. This review considered the individual components that comprise complex ingredient (b) (4) Evaluation of this complex flavor is more appropriately addressed based on its individual components, as data informative to the toxicological evaluation is not available for the complex flavor but is available for its individual components.

   (b) (4) contains (b) (4) (CAS 1(b) (4)). As discussed in detail above regarding your proposed consumption rate, the consumption rate of (b) (4) sticks/day for your new products is not supported by the data and may significantly underestimate exposures from use of the new product. For smokeless tobacco, published literature supports a mean consumption rates of 5.3-20.4 g/day of tobacco (central published value of 12 g/day), which are equivalent to approximately 23 –89 sticks per day (with a central value of 52). The level of (b) (4) in the new product from the (b) (4) may result in exposure levels that exceed the possible average daily intake (PADI) estimated by the Flavor and Extract Manufactures Association (FEMA) for flavors in foods, and the FAO/WHO Expert Committee on Food Additives (JEFCA) human intake threshold of concern for this compound. Even though these values have not been formally adopted by FDA as a standard for tobacco products, a consideration for the scientific basis of these reference values can inform the toxicological evaluation and are informative concerning whether the new products may raise different questions of public health. In addition, (b) (4) is an irritant and sensitizer, which are relevant effects for the oral mucosa given that the new

products are smokeless tobacco products.

b. (b) (4) (CAS (b) (4))-and (b) (4) (CAS (b) (4)): In response to these concerns for these ingredients you provided exposure estimates to these compounds from product use that were calculated using the proposed consumption rate of (b) (4) sticks/day. As discussed in detail above regarding your proposed consumption rate, the proposed consumption is not supported by the data, and may significantly underestimate human exposures associated with use of the new product. Therefore, the information you provided regarding the addition of (b) (4) and (b) (4) to the new product has not demonstrated that use of the new product would not result in exposures that exceed their respective human intake threshold of toxicological concern identified by the FAO/WHO Expert Committee on Food Additives (JEFCA) for these compounds. Even though these values have not been formally adopted by FDA as a standard for tobacco products, a consideration for the scientific basis of these reference values can inform the toxicological evaluation and are informative concerning whether the new products may raise different questions of public health. In addition, both (b) (4) (b) (4) and (b) (4) are irritants, and thus prolonged exposures from use of smokeless tobacco products may contribute to local adverse effects on the buccal mucosa.

Taken together, the data and justification you provided did not adequately demonstrate that the levels of these ingredients added to the new product are not of toxicological concern. The levels of (b) (4) (as a component of (b) (4)), (b) (4) (b) (4) and (b) (4) may result in exposures that exceed their respective levels of toxicological concern identified by JEFCA. In addition, these ingredients are irritants, and thus prolonged exposures from use of smokeless tobacco products may contribute to local adverse effects on the buccal mucosa. You needed to provide adequate scientific evidence (data, peer review articles, and/or other scientifically robust sources of information) to demonstrate that the addition of (b) (4) (as a component of (b) (4)), (b) (4) and (b) (4) does not cause the new product to raise different question of public health.

10. All of your SE Reports provided information in response to the June 9, 2015 Preliminary Finding letter, however, your response to Deficiency #12 did not sufficiently address the flavor and format changes from the predicate product (C.C. Carhart's Choice) to the new products. The data you submitted comparing mint-flavored products to tobacco-flavored products did not include data on trial or initiation among non-users. Introducing the new mint flavor may increase product appeal among consumers compared to the predicate products and thus raise different questions of public health. Research suggests that enjoyment of flavor has been associated with initiation and continued use of smokeless tobacco products, particularly among youth and young adults (e.g., Ambrose et al. 2015; Smith et al., 2016; Villanti et al., 2017). Research also suggests that dissolvable tobacco product format may be appealing due to perceptions of accessibility and convenience, and that dissolvable tobacco products may increase poly-tobacco use or decrease cessation. The data you submitted regarding product format change did not include data on initiation of a product with the same format as the new product (i.e., dissolvable tobacco on a stick) and you did not bridge the data submitted to the new product. The studies you provided (e.g., Wolfson et al., 2014; Oliver et al. 2013) showed that flavor and format changes between the predicate product and the new products may raise different questions of public health. We needed information on products with similar flavor and format changes to those proposed

in your SE Reports in order to compare these products in a meaningful way. You could have provided evidence or information on products that differ in flavor or format from the predicate and new products, but you should have discussed why the information or evidence can be extrapolated to the predicate and new products. Furthermore, you may have submitted information and scientific evidence to demonstrate that the flavor and format changes between the new and predicate products do not cause the new products to raise different questions of public health, specifically addressing questions regarding consumer perceptions, initiation among non-users, and increased use of the product. This information may include, but is not limited to:

- Studies on new product and predicate product trial and initiation among non-tobacco users and former tobacco users;
- Consumer perception studies comparing attitudes, beliefs, and behavioral intentions for the new product to the predicate product;
- Market analyses (e.g., sales and/or market segmentation analyses to identify likely consumers of the products); or
- Other research and analyses conducted to prepare for introduction of the new products into the marketplace.

11. SE0000487 and SE0000533 provide information on the addition of a characterizing flavor to the new products compared to the predicate product, which does not contain a characterizing flavor. You state that you did not conduct research comparing the effects of the flavor differences between the new product and predicate product. You also claim that the literature on nicotine-containing products including moist smokeless tobacco products and nicotine gum does not support the conclusion that the addition of flavors to these products increases their abuse potential. However, the addition of characterizing flavor may cause the new product to raise different questions of public health due to changes in product attractiveness, tobacco addiction, and user behavior. In the absence of data examining the impact of flavorings on the use and abuse liability of the new products, we cannot assume that the new product has an equivalent abuse liability and will be used similarly to the predicate product. The provided scientific literature related to the potential impact of characterizing flavors on dependence does not address potential differences related to use behavior (e.g., amount and frequency of use, deposition time in the mouth, spitting) that may exist between the new and predicate product. For example, Oliver et al., 2013 concluded that flavored smokeless tobacco products may influence initiation and maintenance of use; however, flavored products do not lead to greater product dependence. The generalizability of these findings is limited by its use of convenience sampling of smokeless tobacco users, some of whom were already seeking interventions to reduce or quit tobacco use. The data on the effect(s) of flavors on the use and abuse liability of nicotine gum may not be applicable to the new product and you have not demonstrated that nicotine gum is a suitable surrogate product or relevant to the new product. You needed to provide adequate evidence that that addition of a characterizing flavor to the new products does not cause the new products to raise different questions of public health. Although it is up to the applicant to decide what approach would be appropriate to provide the evidence, some approaches to provide such evidence could have included, for example, a human abuse potential study or taste panel assessment to determine whether the differences in characterizing flavor cause the new products to raise different questions of public health.

12. All of your SE Reports provide dissolution data measuring total nicotine (b) (4) (b) (4) . The dissolution data demonstrate that the new products release nicotine at slower rates than the predicate product. The slower release of nicotine may make the new products less aversive than the predicate product and more appealing to youth and inexperienced smokeless tobacco users. You indicate that you have not conducted studies to assess whether the new products are appealing to inexperienced users as the new products are intended for current adult tobacco product users and provide published literature on the likelihood of use and reported actual use of dissolvable tobacco products among adults. You claim that these survey-based studies (e.g., McMillen et al., 2012; Romito & Saxton, 2014; Wolfson et al., 2014) show the use of dissolvable tobacco products among adults is low, largely confined to users of other tobacco products, and that likelihood of trial by non-users of tobacco products was low. You also indicate that results from the CDC National Youth Tobacco Survey demonstrate that use of dissolvable tobacco products has been consistently low in youth populations, and that these available survey data do not support literature suggesting dissolvable tobacco products may appeal to youth. However, the provided studies examined the use of a wide array of dissolvable tobacco products, and no data was provided on the characteristics of the dissolvable tobacco products in these studies (e.g., Camel Sticks) to explain how that information could be bridged to the new products. Therefore, you did not demonstrate that the characteristics of the products in these studies are comparable to the new products and that these data can be bridged to the new products that are the subject of these SE Reports. You also refer to the Summary TPSAC report on Dissolvable Tobacco Products, indicating the report states "*there is little use of [dissolvable tobacco products] by youth, even though several products have been on the market for about 10 years*." However, the report also states "*the TPSAC concluded that the available evidence, while limited, leads to a qualitative judgment that availability of DTPs could increase the number of users of tobacco products. This judgment was based on experience with other STs, data presented from the State of Indiana showing that some adolescents were already using DTPs, the survey data on youth perceptions of the products from the State of Virginia, and the potential for youth to be drawn to a novel product*." The information you provided did not demonstrate that the slower release of nicotine in the new products compared to the predicate product do not make the new products more appealing to youth and inexperienced smokeless tobacco users, and thus do not cause the new products to raise different questions of public health. You needed to provide sufficient scientific evidence and rationale that the differences in nicotine release do not cause the new products to raise different questions of public health. Such evidence could have included information on use behaviors for the new and predicate products. There may be other ways to satisfy this deficiency, and you are responsible for identifying how to best do this.

Your SE Reports lack sufficient information to support a finding of substantial equivalence; therefore, we are issuing an order finding that these new tobacco products are not substantially equivalent to an appropriate predicate tobacco product. Upon issuance of this order, your tobacco products are misbranded under section 903(a)(6) of the FD&C Act and adulterated under section 902(6)(A) of the FD&C Act. Failure to comply with the FD&C Act may result in FDA taking regulatory action without further notice. These actions may include, but are not limited to, civil money penalties, seizure, and/or injunction.

To provide time for a sell-off of the products that are the subject of these NSE orders, FDA does not intend to take an enforcement action for at least 30 calendar days from the date of this letter. FDA does not intend to post notice of this NSE order on its misbranded and adulterated NSE Tobacco Products

website unless and until it affirms the NSE orders. This compliance policy does not extend to FD&C Act requirements other than the requirement of premarket review. For more information, see https://www.fda.gov/tobacco-products/compliance-enforcement-training/manufacturing.

FDA requests that, **within 15 days** of this letter, you submit a plan detailing the steps you plan to take to ensure that these misbranded and adulterated products are not further distributed, imported, sold, marketed, or promoted in the United States. Your plan should include information sufficient to distinguish these misbranded and adulterated products from legally marketed tobacco products, including, but not limited to lot numbers, manufacturing codes, and manufacturing dates. The plan should also include a list of your direct accounts and associated contact information. Submit your plan to the address below with a cover letter that includes the following text in the subject line:

COMPLIANCE PLAN for SE0000487, SE000488, SE000533, SE0000547

FDA will post product information on its misbranded and adulterated NSE Tobacco Products website, available to the public. For more information, see https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/misbranded-and-adulterated-nse-tobacco-products.

We remind you that you are required to update your listing information in June and December of each year under section 905(i)(3) of the FD&C Act. As part of this listing update, under section 905(i)(3)(B) of the FD&C Act, you must provide information on the date of discontinuance and product identity for any product you discontinue.

We encourage you to submit all regulatory correspondence electronically via the CTP Portal[2,3] using eSubmitter.[4] 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; submissions are considered received by DCC on the day of successful 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[5]; 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.

Your SE Reports lack sufficient information to support a finding of substantial equivalence. Therefore, you cannot distribute, import, sell, market, or promote these products in the United States. Doing so is a prohibited act under section 301(a) of the FD&C Act, the violation of which could result in enforcement action by FDA.

[2] For more information about CTP Portal, see https://www.fda.gov/tobacco-products/manufacturing/submit-documents-ctp-portal
[3] FDA's Electronic Submission Gateway (ESG) is still available as an alternative to the CTP Portal.
[4] For more information about eSubmitter, see https://www.fda.gov/industry/fda-esubmitter
[5] https://www.fda.gov/tobacco-products/about-center-tobacco-products-ctp/contact-ctp

If you have any questions, please contact Antonio Thornton, Regulatory Health Project Manager, at (240) 402 - 3577 or Antonio.Thornton@fda.hhs.gov.

Sincerely,

Digitally signed by Matthew R. Holman -S
Date: 2020.05.19 09:20:04 -04'00'

Matthew R. Holman, Ph.D.
Director
Office of Science
Center for Tobacco Products

Enclosures:

Appendix A – New and Corresponding Predicate Tobacco Products Subject of This Letter
Appendix B – Amendments Received for These Applications

Appendix A

New and Corresponding Predicate Tobacco Products Subject of This Letter

Common Attributes of SE Reports		
Date of Submission:	March 18, 2011	
Date of Receipt:	March 18, 2011	
Product Manufacturer:	U.S. Smokeless Tobacco Company LLC	
Product Category:	Smokeless Tobacco Products	
	New Tobacco Products	Predicate Tobacco Products
	SE0000487: Skoal Smooth Mint Tobacco Stick[6]	GF1200188: C.C. Carhart's Choice[6,7]
Product Sub-Category:	Dissolvable	Loose Dry Snuff
Package Type:	Hard Box	Plastic Can with Plastic Lid
Package Quantity:	3.7 grams	32.6 grams
Characterizing Flavor:	Mint	None
Eligibility Status:	N/A	Grandfathered
Portion Count:	10 Sticks	Not Provided
Portion Mass:	240.7 mg	Not Applicable
Portion Length:	65.0 mm	Not Applicable
Portion Width:	1.47 mm	Not Applicable
Portion Thickness:	1.98 mm	Not Applicable
Tobacco Cut Size:	Not Provided	Not Provided
Additional Property	Stick	Not Applicable
	New Tobacco Product	Predicate Tobacco Product
	SE0000488: Skoal Rich Tobacco Stick[6]	GF1200188: C.C. Carhart's Choice[6,7]
Product Sub-Category	Dissolvable	Loose Dry Snuff
Package Type:	Hard Box	Plastic Can with Plastic Lid
Package Quantity:	3.7 grams	32.6 grams
Characterizing Flavor:	None	None
Eligibility Status:	N/A	Grandfathered
Portion Count:	10 Sticks	Not Provided
Portion Mass:	239.9 mg	Not Applicable
Portion Length:	65.0 mm	Not Applicable
Portion Width:	1.47 mm	Not Applicable
Portion Thickness:	Not Provided	Not Applicable
Tobacco Cut Size:	Not Provided	Not Provided
Additional Property	Stick	Not Applicable

[6] Brand/sub-brand or other commercial name used in commercial distribution.

[7] The predicate tobacco product sub-category is loose dry snuff.

	New Tobacco Product Specific Attributes	Predicate Tobacco Product Specific Attributes
	SE0000533: Skoal Mint Tobacco Stick [6]	**GF1200188: C.C. Carhardt's Choice [6,7]**
Product Sub-Category:	Dissolvable	Loose Dry Snuff
Package Type:	Hard Box	Plastic Can with Plastic Lid
Package Quantity:	3.7 grams	32.6 grams
Characterizing Flavor:	Mint	None
Eligibility Status:	N/A	Grandfathered
Portion Count:	10 Sticks	Not Provided
Portion Mass:	235.7 mg	Not Applicable
Portion Length:	65.0 mm	Not Applicable
Portion Width:	1.47 mm	Not Applicable
Portion Thickness	Not Provided	Not Applicable
Tobacco Cut Size:	Not Provided	Not Provided
Additional Property	Stick	Not Applicable
	SE0000547: Skoal Original Tobacco Stick[6]	**GF1200188: C.C. Carhardt's Choice[6,7]**
Product Sub-Category	Dissolvable	Loose Dry Snuff
Package Type:	Hard Box	Plastic Can with Platic Lid
Package Quantity:	3.7 grams	32.6 grams
Characterizing Flavor:	None	None
Eligibility Status:	N/A	Grandfathered
Portion Count:	10 Sticks	Not Provided
Portion Mass:	237 mg	Not Applicable
Portion Length:	65.0 mm	Not Applicable
Portion Width:	1.47 mm	Not Applicable
Portion Thickness:	Not Provided	Not Applicable
Tobacco Cut Size:	Not Provided	Not Provided
Additional Property:	Stick	Not Applicable

Appendix B
Amendments Received for These Applications

Amendments Received:	
Date of Submission:	November 4, 2011
Date of Receipt:	November 4, 2011
Reviewed:	Yes
SE Report being amended:	SE0000533
Status:	Yes
Brief Description:	Informational update
Date of Submission:	November 4, 2011
Date of Receipt:	November 4, 2011
Reviewed:	Yes
SE Report being amended:	SE0000547
Status:	Active
Brief Description:	Informational update
Date of Submission:	November 4, 2011
Date of Receipt:	November 4, 2011
Reviewed:	Yes
SE Report being amended:	SE0000487
Status:	Active
Brief Description:	Informational update
Date of Submission:	November 4, 2011
Date of Receipt:	November 4, 2011
Reviewed:	Yes
SE Reports being amended:	SE0000488
Status:	Active
Brief Description:	Informational update
Date of Submission:	January 14, 2013
Date of Receipt:	January 14, 2013
Reviewed:	Yes
SE Report being amended:	SE0000487
Status:	Active
Brief Description:	Response to December 17, 2012 FDA Advice/Information Request
Date of Submission:	January 14, 2013
Date of Receipt:	January 14, 2013
Reviewed:	Yes
SE Report being amended:	SE0000488
Status:	Active
Brief Description:	Response to December 17, 2012 FDA Advice/Information Request
Date of Submission:	January 25, 2013
Date of Receipt:	January 25, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000533
Status:	Active
Brief Description:	Response to January 2, 2013 FDA Advice/Information Request

Date of Submission:	January 25, 2013
Date of Receipt:	January 25, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000547
Status:	Active
Brief Description:	Response to January 2, 2013 FDA Advice/Information Request
Date of Submission:	April 5, 2013
Date of Receipt:	April 5, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000487
Status:	Active
Brief Description:	Response to April 2, 2013 FDA Advice/Information Request
Date of Submission:	April 5, 2013
Date of Receipt:	April 5, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000488
Status:	Active
Brief Description:	Response to April 2, 2013 FDA Advice/Information Request
Date of Submission:	April 5, 2013
Date of Receipt:	April 5, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000533
Status:	Active
Brief Description:	Response to April 2, 2013 FDA Advice/Information Request
Date of Submission:	April 5, 2013
Date of Receipt:	April 5, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000547
Status:	Active
Brief Description:	Response to April 2, 2013 FDA Advice/Information Request
Date of Submission:	May 29, 2013
Date of Receipt:	May 30, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000533
Status:	Active
Brief Description:	Environmental Assessment
Date of Submission:	May 29, 2013
Date of Receipt:	May 30, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000547
Status:	Active
Brief Description:	Environmental Assessment
Date of Submission:	May 29, 2013
Date of Receipt:	May 30, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000488
Status:	Active
Brief Description:	Environmental Assessment

Date of Submission:	May 29, 2013
Date of Receipt:	May 30, 2013
Reviewed:	Yes
SE Reports being amended:	SE0000487
Status:	Active
Brief Description:	Environmental Assessment
Date of Submission:	October 27, 2014
Date of Receipt:	October 27, 2014
Reviewed:	Yes
SE Reports being amended:	All[8]
Status:	Active
Brief Description:	Response to August 29, 2014 FDA Advice/Information Request
Date of Submission:	July 7, 2015
Date of Receipt:	July 7, 2015
Reviewed:	Yes
SE Reports being amended:	All[8]
Status:	Active
Brief Description:	Response to June 8, 2015 FDA Advice/Information Request

[8] This amendment applies to all STNs subject to this NSE order letter.