

Environmental Assessment for TS3 Mild Cavendish 1.5 oz Pipe Tobacco

Please note that the attached contains confidential commercial and non-public information. All such confidential commercial information is exempt from public disclosure under § 301(j) and § 906(c) of the F.D.C.A, 5 U.S.C. § 552(b)(4), 18 U.S.C. § 1905 and 21 C.F.R. § 20.61. Sutliff requests that FDA maintain the confidentiality of this information.

This environmental assessment (EA) is for marketing authorization orders for TS3 Mild Cavendish 1.5 oz Pipe Tobacco listed below in Table 1. This EA has been prepared in accordance with 21 CFR 25.40 in support of the marketing authorization orders under section 910(a)(2) and 905(j) of the Federal Food, Drug and Cosmetic Act (FD&C Act).

1. Applicant and Manufacturer Information

Applicant Name	Sutliff Tobacco Company (“Sutliff”)
Applicant Address	600 Perdue Ave. Richmond, VA 23224
Manufacturer Name	Sutliff Tobacco Company
Manufacturer Address	600 Perdue Ave. Richmond, VA 23224

2. Product InformationNew Product Name and Predicate Product Name

STN	New Product Name	Predicate Product Name
SE0016499	TS3 Mild Cavendish 1.5 oz	15 Base

Product Identification

	New Tobacco Product	Predicate Tobacco Product
Product Category	Pipe Tobacco	Pipe Tobacco
Product Subcategory	Pipe Tobacco Filler	Pipe Tobacco Filler
Product Number per Retail Unit	1	1
Product Package	Plastic Pouch	Plastic Bag

3. Description of Proposed Action

The proposed action is for FDA to issue a marketing authorization order under sections 910(a) and 905(j) of the FD&C Act for the introduction of the new tobacco product listed above in Section 2 into interstate commercial distribution in the U.S. The authorization is based on the finding that the new product is substantially equivalent to the predicate product that was on the market as of February 15, 2007.

The new and predicate tobacco products have insignificant changes to ingredients and may be sold in different product quantities and packaging.

3.1. Need for Action

Sutliff wishes to introduce the new tobacco product as described in Section 2 into interstate commerce for commercial distribution in the United States. Sutliff believes that the new and corresponding predicate product are substantially equivalent, as they have the same characteristics other than product quantity. After considering the SE Report, Sutliff requests the Agency issue an order under the provisions of sections 910 and 905(j) of the FD&C Act when finding the new product to be substantially equivalent to the predicate product.

The new tobacco product listed in Section 2 does not replace any product currently commercially marketed in U.S. commerce.

4. Alternatives to the Proposed Action

The no-action alternative is FDA does not issue marketing orders for the new tobacco product.

5. Potential Environmental Impacts Due to the Proposed Action

The new product is currently manufactured at the facility, and does not replace the predicate product.¹ Both products will continue to be manufactured at the same facility at the same time. Further, there will be no facility construction or expansion to manufacture the new tobacco products, and no production capacity is expected to expand due to manufacturing the new tobacco products.

5.1. Affected Environment

The new tobacco product is manufactured at 600 Perdue Ave., Richmond, VA 23234 (Figure 1).

¹ The pipe tobacco itself is currently manufactured at the facility and this SE Report only addresses a new product quantity being produced in addition to the predicate product quantity.

Figure 1. Location of the Manufacturing Facility²



The manufacturing facility is surrounded by a cemetery to the south and east, a construction company on the west, and other industrial properties to the north.

The facility is located in the James River watershed, which occupies the central portion of Virginia and covers 24% of total land area in the commonwealth of Virginia.³ Land use within the watershed is 65% forest, 19% agriculture and farming, and 12% urbanized area.⁴

The affected environment includes human and natural environments surrounding the facility.

5.1.1. Air Quality

The manufacturing of the new tobacco product is not expected to result in changes in air emissions, and therefore no new or additional environmental controls will be needed for air emissions or new permits for air emissions.

² Google. 2019 Map of 600 Perdue Ave., Richmond, VA 23234. Retrieved from Google Maps November 12, 2019.

³ Virginia Department of Environmental Quality. *James River Basin Summary*. Available at <https://www.deq.virginia.gov/Portals/0/DEQ/Water/SWRP/App%20B%20James%20River%20Basin%20Summary.pdf> November 12 2019.

⁴ *Id.*

5.1.2. Water Resources

The manufacturing of the new tobacco product is not expected to result in changes in wastewater discharges, and therefore no new or additional environmental controls will be needed for wastewater discharges or new permits for wastewater discharges.

5.1.3. Soil, Land Use and Zoning

There will be no facility expansion or new construction due to manufacturing the new tobacco products. Additionally, there will be no zoning changes or land conversion of prime farmland, unique farmland, or farmland of state-wide importance to non-agricultural use.

5.1.4. Biological Resources

The manufacturing of the new tobacco product will not jeopardize the continued existence of any listed species or result in the destruction or adverse modification of the habitat of any such species identified under the Endangered Species Act (ESA). Sutliff has reviewed the U.S. Fish and Wildlife Services (U.S. FWS) critical habitat and endangered species maps. According to the maps, three threatened species (two flowering plants – sensitive-joint-vetch and swamp pink, as well as one mammal – northern long-eared bat), and two endangered freshwater mussel species – James spinymussel and Atlantic Pigtoe are listed in the city of Richmond and the bordering counties (Henrico and Chesterfield counties).^{5,6} While these species may be found within the city of Richmond, to the knowledge of Sutliff, none are found near the manufacturing facility.

5.1.5. Regulatory Compliance

Sutliff's manufacturing facility complies with all local, state, and federal environmental regulations applicable to it.

Sutliff has been issued a City of Richmond Industrial Pretreatment Permit. Permit (b) (4) was issued on (b) (4) in accordance with the provisions of 27 C.F.R. set 40 et seq. sections 106-691-692, 106-694-696 of the City of Richmond. The permit covers wastewater discharged from the facility. See attached Confidential Exhibit 1.

On (b) (4) the Commonwealth of Virginia, Department of Environmental Quality issued Sutliff (b) (4) which is a No Exposure Certification for Exclusion from Virginia Pollutant Discharge Elimination System Stormwater Permitting. See attached Confidential Exhibit 2.

⁵ U.S. Fish and Wildlife Services <https://www.fws.gov/endangered/?ref=topbar> Accessed October 22, 2019

⁶ U.S. Fish and Wildlife Services: ECOS: Species by County Reports <https://ecos.fws.gov/ecp0/reports/species-by-current-range-county?fips=51760>; <https://ecos.fws.gov/ecp0/reports/species-by-current-range-county?fips=51087>; <https://ecos.fws.gov/ecp0/reports/species-by-current-range-county?fips=51041> Accessed October 23, 2019.

The facility complies with the Endangered Species Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

5.1.6. Socioeconomics and Environmental Justice

No changes in socioeconomics are anticipated due to manufacturing the new product. There will be no impact on employment revenue or taxes as the products are currently being marketing along with the predicate products that are manufactured at the facility.

The future projections of pipe tobacco manufacturing at the facility, including the new products, are within the permitted manufacturing capacity and would not require facility expansion. Further, emissions and waste discharges are not expected to change with the manufacturing of the new product.

The 2010 U.S. Census and American Community Survey show that the population within a three mile radius of the manufacturing facility are 67% minority and 49% below the poverty level,⁷ and no disproportionate impacts to environmental justice populations will occur as a result of manufacturing the new product. In addition, the facility is not located on an Indian reservation.

5.1.7. Solid Waste and Hazardous Materials

The manufacture of the new tobacco products should not notably effect the manufacturing waste generated from the facility production of pipe tobacco. Any waste that would be generated would be released to the environment, and disposed of in landfills in the same manner as any other waste generated from the manufacture of pipe tobacco products in the manufacturing facility. The manufacture of the new pipe tobacco products would not require any additional environmental controls for solid waste disposal. No new or revised waste permit or construction of new waste management facilities are planned.

5.1.8. Floodplains, Wetlands and Coastal Zones

There will be no expansion of the facility due to the manufacture of the new products, and no disturbance to land will occur, therefore, there is no anticipated impact on floodplains, wetlands, or coastal zones due to the manufacture of the new products.

5.1.9. Cumulative Impacts

Sutliff does not anticipate that the manufacturing of the new products will incrementally change or increase the chemicals released to the air from the facility due to tobacco manufacturing. Further, a search in EPA's Toxic Release Inventory database revealed no information on toxic

⁷ EPA Echo Detailed Facility Report: Demographic Profile of surrounding area (3 miles). Available at: <https://echo.epa.gov/detailed-facility-report?fid=110001892603> Accessed November 12, 2019.

releases from the manufacturing facility.⁸ EPA's echo database showed that the facility did not release the following reportable criteria pollutants lead, particulate matter, carbon dioxide or nitrogen dioxide or sulfur dioxide, at or above the reportable threshold levels to air.⁹ There should be no need for a revised or new storm water permit or wastewater permit due to manufacturing the new tobacco product.

5.1.10. Impacts of the No-Action Alternative

The environmental impacts of the no-action alternative would not change the existing condition of manufacturing pipe tobacco, as many similar pipe tobacco products would continue to be manufactured at the listed manufacturing facility.

6. Potential Environmental Impacts Due to Use of the New Products

6.1. Affected Environment

The affected environment includes human and natural environments in the United States because the marketing order would allow for the new tobacco product to be sold to consumers in the United States.

The new tobacco product is used in a manner similar to any other pipe tobacco products currently on the market. The ingredients used in the new tobacco product are used in other pipe tobaccos. Sutliff does not anticipate any new substances to be released into the environment as a result of use of the new tobacco product, in comparison to the substances released by pipe tobaccos that are already on the market.

No economic models are available to predict the use of pipe tobacco in the U.S. To evaluate the environmental impact of the approval of the new product to market, Sutliff uses the 2018 pipe tobacco manufacturing data and the projected sales volumes of the new tobacco product which show that the marketing of the new tobacco product makes up a fraction of the total pipe tobacco in the US market.

Consequently, the amount of release of material mass into the environment as a result of use of the Subject is negligible compared to that of all pipe tobacco being used in the U.S.

⁸ U.S. Environmental Protection Agency (EPA) TRI Data Form R&A Download. Available at: https://enviro.epa.gov/triexplorer/tri_factsheet.factsheet?pzip=23224&pyear=2018&pParent=TRI&pDataSet=TRIQ1 (searched on November 12, 2019).

⁹ See *supra* note 6.

6.2. Air Quality

Sutliff does not anticipate that new chemicals would be released into the environment as a result of the use of the new product, relative to chemicals released into the environment due to use of other pipe tobacco products on the market because (1) the combustion products from the new product would be released in the same manner as the combustion products of any other marketed pipe tobacco; (2) the new product is already on the market, so there will be no increased emissions with use of the product; and (3) the ingredients used in the new products are used in many other pipe tobacco products.

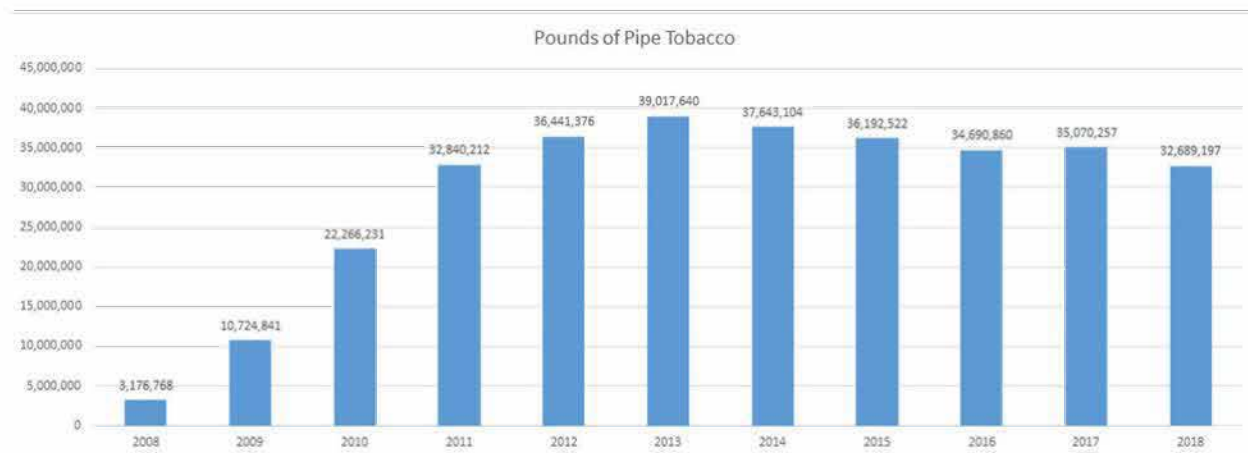
6.3. Environmental Justice

No new emissions are expected due to use of the new product. Therefore, no new disproportionate impacts on minority or low-income populations are expected.

6.4. Cumulative Impacts

In 2009, sales of pipe tobacco increased dramatically due to roll-your-own (RYO) tobacco being mislabeled as pipe tobacco, in order to take advantage of the lower tax rate on pipe tobacco.¹⁰ However, since 2012, pipe tobacco consumption has stabilized and now has decreased, per the statistical reports of the U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau (TTB). Most recently, the use of pipe tobacco products decreased from 35,070,257 million pounds in 2017 to 32,689,197 million pounds in 2018.

Figure 2. Use of Pipe Tobacco in the U.S. from 2008-2018 in Pounds¹¹



¹⁰ Government Accountability Office, Report to the Committee on Finance, U.S. Senate, Tobacco Taxes: Market Shifts toward Lower-Taxed Products Continue to Reduce Federal Revenue. (June 2019) at 10-11.

¹¹ U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. Available at <https://ttb.gov/tobacco/tobacco-stats.shtml> Accessed October 22, 2019.

As of September 28, 2018, 28 states and the District of Columbia had implemented comprehensive smoke-free laws. Such laws are expected to reduce the levels of non-users' exposures to secondhand smoke.¹²

6.5. Impacts of the No Action Alternative

The environmental impacts of the no-action alternative would not change the existing condition of use of pipe tobacco, as many pipe tobacco products would continue to be marketed and used in the United States.

7. Potential Environmental Impacts Due to Disposal of the New Products

7.1. Affected Environment

The affected environment includes human and natural environments in the United States because the marketing order would allow Sutliff to distribute and market the new products to consumers in the United States.

7.2. Air Quality

No changes in air quality are expected from the disposal of used pipe tobacco from the new tobacco product. The chemicals used in the new pipe tobacco are similar to currently marketed pipe tobaccos, further as the product is already being sold in the U.S. use of the new product will not generate additional waste.

Similarly, no changes in air quality from disposal of the packaging materials in the new product would be expected because (1) the packaging materials are commonly used in the United States; and (2) the waste generated from the packing materials should be a nearly unmeasurable portion of the municipal solid waste generated in the United States.

7.3. Water Resources

Sutliff does not expect any changes in impacts on water resources due to disposal of the used pipe tobacco from the new tobacco product as the chemicals in the new product are like chemicals in currently markets pipe tobaccos and the new pipe tobacco is already being commercially marketed.

7.4. Biological Resources

Sutliff does not expect that the proposed action will change the continued existence of any endangered species or result in the destruction of or adverse modification of the habitat of any such species, as prohibited under the U.S. ESA.

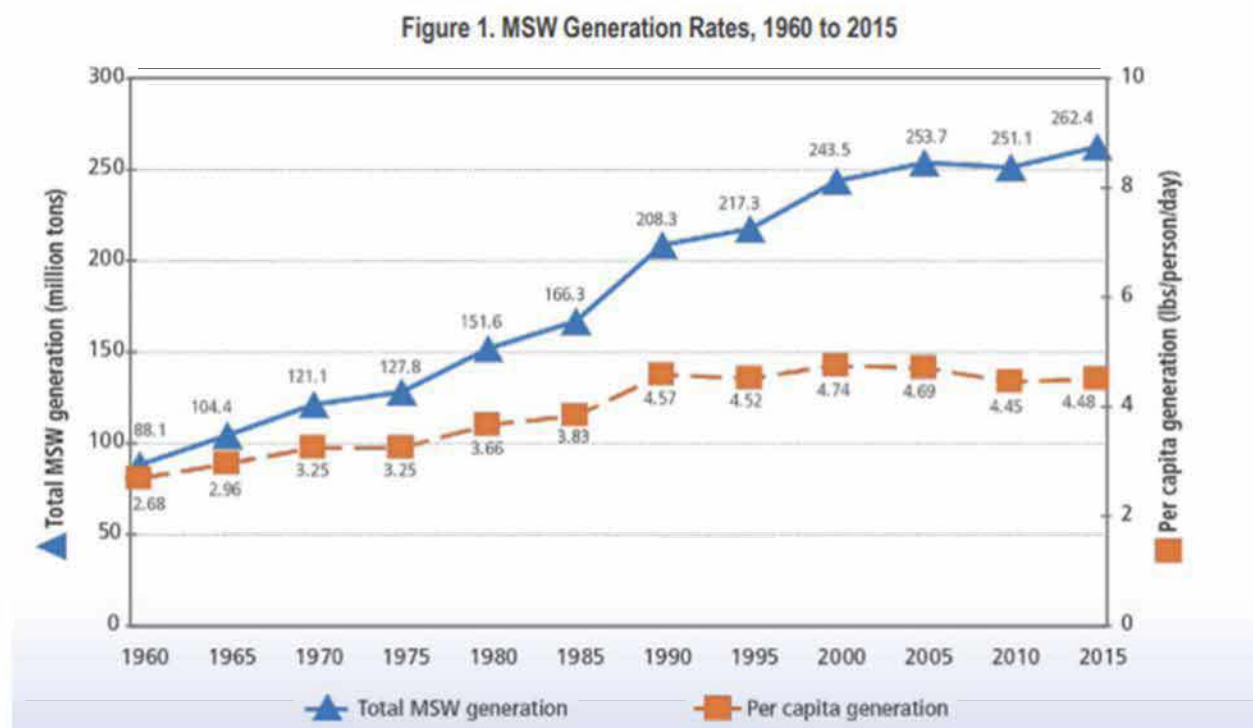
¹² American Lung Association 2019. <https://www.lung.org/our-initiatives/tobacco/smokefree-environments/smokefree-air-laws.html> Accessed October 22, 2019.

7.5. Solid Waste

Sutliff does not foresee an order for marketing of the new tobacco product as notably affecting the current pipe tobacco waste generated from all pipe tobacco. The waste generated from the disposal of the new pipe tobacco will be similar to the waste generated from all other pipe tobaccos disposed in the United States.

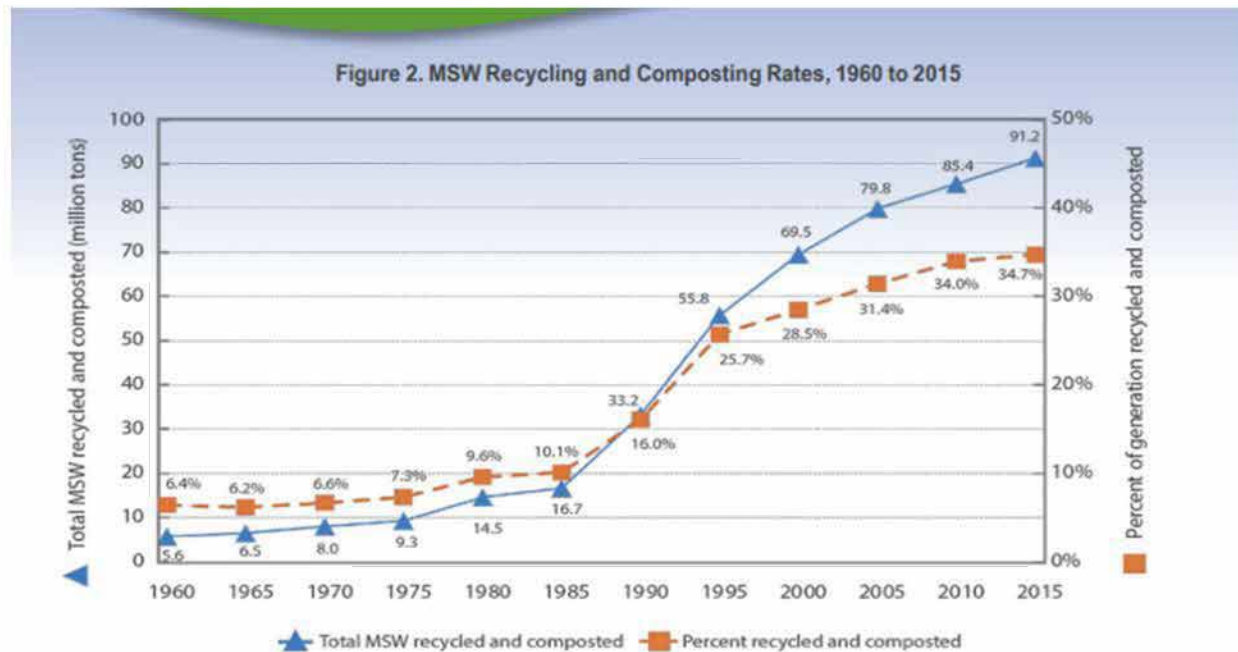
Disposal of packaging materials following use will either enter the recycling stream or be disposed of in MSW landfills or as litter. In 2015, the amount of waste generated in the U.S. was approximately 262 million tons. Approximately 91 million tons of this material was recycled and composted, equivalent to a 34.7% recycling and composting rate.¹³ [Figure 3 and Figure 4]

Figure 3.¹⁴



¹³ U.S. Environmental Protection Agency. Advancing Sustainable Materials Management: 2015 Fact Sheet https://www.epa.gov/sites/production/files/2018-07/documents/2015_smm_msw_factsheet_07242018_fnl_508_002.pdf Accessed March 18, 2019.

¹⁴ *Id.*

Figure 4.¹⁵

7.6. Socioeconomics and Environmental Justice

Sutliff does not anticipate changes in impacts on socioeconomic conditions or environmental justice from disposal of the new product. The waste and emissions from the new product are expected to be similar to other products on the market and therefore will not have disproportionate impacts on minority or low-income populations.

7.7. Cumulative Impacts

The use of the new product may impact the environment by disposal of pipe tobacco and its packaging. Pipe tobacco, unlike cigarettes, does not produce a cigarette butt that can be disposed of as litter in the environment. Any impacts on the environment from use of the products, therefore, are expected to be minimal.

Further, the TTB data noted above demonstrate that pipe tobacco use has been relatively stable and the proposed action is unlikely to change that.

7.8. Impact of No Action Alternative

¹⁵ *Id.*

The no-action alternative would not change the existing condition of disposal of pipe tobacco or pipe tobacco packaging, as many similar other tobacco products will be continued to be sold in the United States.

7.9 List of Preparers

Sutliff Personnel and outside counsel assisted in preparation of this Environmental Assessment.

8. Confidential Exhibit List

Confidential Exhibit 1	City of Richmond Industrial Pretreatment Permit
Confidential Exhibit 2	Commonwealth of Virginia, Department of Environmental Quality, (b)(4)
Confidential Appendix 1	Packaging and Projected Sales Information

9. References

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2008

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2009

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2010

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2011

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2012

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2013

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2014

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2015

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2016

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2017

U.S. Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Tobacco Statistics. December 2018.

Confidential Exhibit 1



CITY OF RICHMOND
DEPARTMENT OF PUBLIC UTILITIES
DIVISION OF WASTEWATER TREATMENT

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

(b)(4)

Jonathan D. Wood, Operation Manager
Sutliff Tobacco Company (Formerly Altadis USA)
600 Perdue Avenue
Richmond, VA 23224

Re: Reissuance of Industrial User Permit to **Sutliff Tobacco Company** by the **City of Richmond**. Permit No. (b)(4)

Dear Mr. Wood:

The City of Richmond Department of Public Utilities, Pretreatment Section has reviewed your application and has reissued your facility a City of Richmond Industrial Pretreatment Permit. (b)(4) This issuance is in accordance with provisions as set forth in the Code of Federal Regulations, 27 CFR40, and sections 106-691 through 106-692 and 106-694 through 106-696 of the code of the City of Richmond.

This permit covers the wastewater discharged from the facility at 600 Perdue Avenue into the City of Richmond wastewater system. All discharges, actions and reports relating thereto shall be in accordance with the terms and conditions of this permit.

If you wish to appeal or challenge any conditions imposed in this permit, a petition shall be filed for modification or re-issuance within 30 days of receipt of this letter. Failure to petition for reconsideration of the permit within the allotted time is deemed a waiver by the permittee of his right to challenge the terms of this permit.

Sincerely,

(b)(4)

Eric Whitehurst
Environmental Compliance Officer
City of Richmond DPU
1400 Brander St.
Richmond, VA 23224

(b)(4)

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CITY OF RICHMOND

DEPARTMENT OF PUBLIC UTILITIES

DIVISION OF WASTEWATER TREATMENT

SIGNIFICANT INDUSTRIAL USER PERMIT

(b)(4)

In accordance with the provisions of City of Richmond, Department of Public Utilities, Industrial Wastewater Discharge Rules and Regulations

SUTLIFF TOBACCO COMPANY (formerly Altadis USA)

*600 Perdue Avenue
Richmond, VA 23224*

is hereby authorized to discharge industrial wastewater from the above identified facility, through the outfall identified herein, into the City of Richmond wastewater system, in accordance with the conditions set forth in this permit **and** Richmond City Code 106-606 through 106-609, 106-662, 106-668 through 106-700 and 106-691 through 106-702. Compliance with this permit does not relieve the permittee of its obligation to comply with any or all applicable pretreatment regulations, standards, or requirements under local, State, and Federal laws, including any such regulations, standards, requirements, or laws that may become effective during the term of this permit.

Noncompliance with any term or condition of this permit shall constitute a violation of the City of Richmond sewer use ordinance. The attached City of Richmond, Department of Public Utilities, Industrial Wastewater Discharge Rules and Regulations are considered a part of this permit.

This permit shall become effective

(b)(4)

(b)(4)

If the permittee wishes to continue to discharge after the expiration date of this permit, an application must be filed for a renewal permit, a minimum of 90 days prior to the expiration date, or by

(b)(4)

Authorized By:

(b)(4)

Eric Whitehurst
Environmental Compliance Officer

(b)(4)

CC: VA DEQ Piedmont Regional Coordinator,

(b)(4)

(b)(4)

PART 1 - EFFLUENT LIMITATIONS

- A. Description of outfall: During the period of (b)(4) the permittee is authorized to discharge process wastewater into the City of Richmond's wastewater system from the outfall listed below:

Outfall 001 – The outfall shall be identified as the manhole located in the sidewalk along Perdue Avenue, approximately 50 feet south of the main entrance.

Description of processes associated with the outfall

(b)(4)

- B. Discharge Limits: During the period of (b)(4) the discharge from **Outfall 001** shall not exceed the following effluent limitations.

***SIC 2131– Chewing and Smoking Tobacco and Snuff
NAICS 312230 – Tobacco Manufacturing***

EFFLUENT LIMITATIONS

Parameter	Daily Max (mg/L)	Standard
Arsenic	4.45	Local
BTEX	2.13	Local
Cadmium, Total	0.04	Local
Chromium, Total	4.17	Local
Copper, Total	3.19	Local
Cyanide, Total	1.00	Local
Lead	0.45	Local
Mercury	0.0034	Local
Molybdenum	Monitoring Requirements	Local
Nickel	2.01	Local
Selenium	Monitoring Requirements	Local
Silver, Total	1.74	Local
Zinc, Total	1.53	Local
Oil and Grease (Petroleum)	100	Local
Oil and Grease (Animal/Vegetable)	300	Local
pH	5.0 – 12.5	Local
Total Petroleum Hydrocarbon	Monitoring Requirements	Local
Surcharge Parameters	Minimum Concentration	Surcharge
Biochemical Oxygen Demand (BOD)	250mg/l	Surcharge
Total Suspended Solids (TSS)	275 mg/l	Surcharge
*Total Nitrogen(TN)	30 mg/l	Surcharge
*Total Phosphorous (TP)	12 mg/l	Surcharge

*¹This is a range of values. The pH of the discharged wastewater shall not be below 5.0 standard units or exceed 12.5 standard units. * See Part 4.A.14*

- C. **Prohibited Discharges:** The permittee shall not discharge wastewater containing any of the following substances from any of the outfalls:
1. Fats, wax, grease, or oils of petroleum origin, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32° F (0° C) and 140° F (60° C);
 2. Any gasoline, benzene, naptha, fuel oil or other flammable or explosive liquids, solids or gases;
 3. Any effluent having a temperature higher than 104 ° F (40° C).
 4. Any ashes, hair, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure, or any other solids capable of causing obstructions or other interferences with proper operation of the sewer system;
 5. Any pollutant, including oxygen demanding pollutants (BOD, etc.) at a flow rate and/or concentration that will cause the pollutant to pass through to the receiving waters or interfere with the City of Richmond's wastewater treatment facility.

PART 2 - MONITORING REQUIREMENTS

- A. **Continued Compliance Monitoring:** During the period of April 1, 2015 through April 1, 2020, the permittee shall monitor Outfall 001 for the following parameters at the indicated frequency:

<u>Parameter</u>	<u>Industry Monitoring Quarters²</u>	<u>Sample Frequencies³</u>	<u>Type</u>
Arsenic	1 st & 3 rd Qtrs.	1 day	Composite
BOD	1 st & 3 rd Qtrs. ²	2 days	Composite
BTEX	1 st & 3 rd Qtrs.	1 day	Grab
Cadmium, Total	1 st & 3 rd Qtrs.	2 days	Composite
Chromium, Total	1 st & 3 rd Qtrs.	2 days	Composite
Copper, Total	1 st & 3 rd Qtrs.	2 days	Composite
COD	1 st & 3 rd Qtrs.	2 days	Composite
Flow ⁴	1 st & 3 rd Qtrs.	2 days	Metered/Estimated
Lead	1 st & 3 rd Qtrs.	2 days	Composite
Mercury	1 st & 3 rd Qtrs.	2 days	Composite
Molybdenum	1 st & 3 rd Qtrs.	1 day	Grab
Nickel	1 st & 3 rd Qtrs.	2 days	Composite
Oil and Grease (Petroleum)	1 st & 3 rd Qtrs.	2 days	Grab
Oil and Grease (Animal/Vegetable)	1 st & 3 rd Qtrs.	2 days	Grab
pH	1 st & 3 rd Qtrs.	2 days	Grab
Selenium	1 st & 3 rd Qtrs.	1 day	Grab
Silver, Total	1 st & 3 rd Qtrs.	2 days	Composite
Total Petroleum Hydrocarbon	1 st & 3 rd Qtrs.	1 day	Grab
TSS	1 st & 3 rd Qtrs.	2 days	Composite
Zinc, Total	1 st & 3 rd Qtrs.	2 days	Composite

²Quarters are defined as -
 1st Quarter (January-March)
 2nd Quarter (April-June)
 3rd Quarter (July-September)
 4th Quarter (October-December)

³Sample frequency is defined as the number of days for an industry to sample during the specified monitoring period. The City has required that on 2 separate days, samples of wastewater discharged into the City's system shall be collected. The day's samples shall be analyzed for the parameters identified above.

EXAMPLE: *If your self monitoring periods are in the 1st and 3rd quarters and the number of events per quarter indicated is two (2) days, this means you must sample two (2) separate workdays in the 1st quarter and you must sample two (2) separate workdays in the 3rd quarter and have each days' samples analyzed.*

⁴On the day sampling is conducted, the volume of wastewater discharged shall be recorded. These volume(s) shall be reported on the SMR form in gallons per day or million gallons per day. Refer to Part 2, Section F of this permit for details regarding this parameter.

- B. pH Monitoring:** The City of Richmond requires pH be monitored on the days when you sample for the parameters listed above.
- C. Representative Sampling:** Samples and measurements taken herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring point(s) specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water or substance. All equipment used for sampling and analysis must be routinely calibrated, inspected and maintained to ensure their accuracy. Monitoring points shall not be changed without notification to and approval of the Environmental Compliance Officer.
- D. Automatic Re-Sampling:** If the analysis results reported by the permittee or City indicate that a violation of this permit has occurred, the permittee must:
1. Inform the City of Richmond's Wastewater Department of the violation within 24 hours of becoming aware of the violation; and
 2. Within 10 days of becoming aware of the violation, the permittee shall forward a written explanation of the violation, including the actions implemented to correct and prevent the reoccurrence of the violation; and
 3. Within 30 days of becoming aware of the violation, the permittee shall conduct four (4) additional days of sampling and analysis for the parameter(s) in violation. The results of this analysis shall be submitted in writing on a completed SMR form.
- E. Analytical Methods to Demonstrate Continued Compliance:** All handling, sampling, preservation and analysis of collected samples required by this permit shall be performed in accordance with 40 CFR Part 136 and amendments thereto unless otherwise approved by EPA, or as specified in this permit.
- F. Flow Measurements:** The City of Richmond requires flow be measured (or estimated) in gallons per day or million gallons per day, and reported on the days when sampling for the parameters listed. As flow measurement is required by this permit, the User shall monitor the incoming flow meter on the days when sampling is conducted. If the User significantly increases the production or wastewater flow or incorporates additional processes that discharge regulated wastewater or the User makes changes to the effluent sewer lateral, the City shall require the installation of effluent flow monitoring equipment. This equipment shall be installed and maintained at the expense of the User.
1. **Maintenance Logbook:** A logbook or equivalent shall be developed for documenting all maintenance activities associated with the flow metering system. The logbook shall indicate the date, time, and a description of the activity and identify the personnel conducting the activity. The logbook shall document activities such as, but not limited to, changing the strip chart paper, any routine inspections of the flow during and after rain events, observations during sampling events, etc.

- a. Logbook Review: The logbook shall be made available for review and comment during the semi-annual facility inspections conducted by the City.
- G.** Reduction in sampling: If after the submission of four (4) self-monitoring reports, the permittee may petition the Environmental Compliance Officer to reduce the frequency of sampling and/or the parameter(s) monitored which have consistently remained below the permitted limit.

PART 3 - REPORTING REQUIREMENTS

A. Monitoring Reports:

Monitoring results obtained shall be summarized and reported on an Industrial Discharge Self-Monitoring Report Form (Appendix C). The reports are due on the 10th day of the month following the specified monitoring period (monthly or quarterly monitoring periods). The report shall indicate the nature and concentration of all pollutants in the effluent for which sampling and analyses were performed during the self-monitoring period, including the volume discharged into the City's treatment system.

All reports required by this permit shall be submitted to the City of Richmond Wastewater Division at the following address:

City of Richmond, DPU
Division of Wastewater Treatment
Attention: Environmental Compliance Officer
1400 Brander Street
Richmond, VA 23230

1. Data Reporting: If the permittee monitors any pollutant more frequently than required by this permit, using test procedures prescribed in 40 CFR Part 136 or amendments thereto, or otherwise approved EPA or as specified in this permit, the results of such monitoring shall be included in any calculations of daily mass or monthly average mass pollutant discharge and results shall be reported in the monitoring report submitted to the City of Richmond. Such increased monitoring frequency shall also be indicated in the monthly report.
2. Record Contents: Records of sampling and analysis shall include:
 - a. The date, exact place, time, and methods of sampling or measurements; and
 - b. The sample preservation techniques or procedures utilized to preserve the integrity of the sample; and
 - c. Who performed the sampling or measurements; and
 - d. The date(s) analyses were performed; and
 - e. Who performed the analyses; and
 - f. The analytical techniques or methods used; and
 - g. The results of such analyses.
3. Retention of Records: The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, for a period of at least three years from the date of sample, measurement, report or application. This period may be extended by request of the City of Richmond Wastewater Division at any time.

All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by the City of Richmond shall be retained and preserved by the permittee until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. Information submitted to the City as confidential will be treated in accordance with 40 CFR Part 403.
4. Signatory Requirements: (use whichever alternative best applies)

All applications, reports, or information submitted to the City of Richmond Wastewater Department must contain the following certification statement and be signed as required in sections (a), (b), (c), or (d) below:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- a. By a responsible corporate officer, if the Industrial User submitting the reports is a corporation. For the purpose of this paragraph, a responsible corporate officer means:
 - (i) a president, secretary, treasurer, or vice- president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or:
 - (ii) the manager of one more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million dollars. If authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. By a general partner or proprietor if the Industrial User submitting the reports is a partnership or sole proprietorship respectively.
 - c. The principal executive officer or director having responsibility for the overall operation of the discharging facility if the Industrial User submitting the reports is a Federal, State, or local governmental entity, or their agents.
 - d. By a duly authorized representative of the individual designated in paragraph (a), (b), or (c) of this section if:
 - (i) The authorization is made in writing by the individual described in paragraph (a), (b), or (c);
 - (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or a well field superintendent, or a position of equivalent responsibility, or having the overall responsibility for environmental matters for the company; and
 - (iii) The written authorization is submitted to the City of Richmond.
 - e. If an authorization under paragraph (d) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (d) of this section must be submitted to the City prior to or together with any reports to be signed by an authorized representative.
5. **Accidental Discharge Report:** The permittee shall notify the City of Richmond immediately upon the occurrence of an accidental discharge of substances prohibited by this permit or any slug loads or spills that may enter the public sewer. The notification shall include the location of discharge, date and time thereof, type of waste, including concentration and volume, and corrective actions taken. The permittee's notification of accidental releases in accordance with this section does not relieve it of other reporting requirements that arise under local, State or Federal laws.

Within five days following an accidental discharge, the permittee shall submit to the City of Richmond a detailed written report. The report shall specify:

- a. Description and cause of the upset, slug load or accidental discharge, the cause thereof, and the impact on the permittee's compliance status. The description should also include the location of discharge, type, concentration and volume of waste.
- b. Duration of noncompliance, including exact dates and times of noncompliance and, if the noncompliance is continuing, the time by which compliance is reasonably expected to occur.
- c. All steps taken or to be taken to reduce, eliminate, and/or prevent recurrence of such an upset, slug load, accidental discharge, or other conditions of noncompliance.

B. Additional Reporting Requirements:

1. Planned Changes: The permittee shall give notice to the City of Richmond Wastewater Department 90 days prior to any facility expansion, production increase, or process modifications which result in new or substantially increased discharges or a change in the nature of the discharge.
 - a. The discharge limits identified in Part I, B. of this permit were developed using estimated volumes of process and sanitary wastewater. After four (4) quarterly sampling events, the City shall review the available water consumption records or any other means of identifying flow, to verify the applicability of the applied standards. The applicable flow measurements shall be used to re-calculate effluent standards. The City shall amend the Effluent Standards section of the permit to incorporate the more accurate standard.
2. Anticipated Noncompliance: The permittee shall give advance notice to the City of Richmond Wastewater Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
3. Duty to Provide Information: The permittee shall furnish to the City of Richmond's Wastewater Division, within ten (10) days, any information which the City of Richmond Wastewater Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also, upon request, furnish to the City of Richmond's Wastewater Division within ten (10) days copies of any record required to be kept by this permit. Information submitted to the City as confidential will be treated in accordance with 40 CFR Part 403.
4. Falsifying Information: Knowingly making any false statement or any report or other document required by this permit or knowingly rendering any monitoring device or method inaccurate, is a crime and may result in the imposition of criminal sanctions and/or civil penalties.
5. Pollution Prevention Accomplishments: Annually, the permittee shall forward a report indicating the status of any pollution prevention activities being conducted and proposed for the facility. The report shall be due on or before the 10th of July. The contents of the report shall include, but not be limited to, the following:
 - a. Indicate the techniques used to identify source reduction opportunities; and
 - b. Indicate the source reduction activities used during the reporting year; and
 - c. Describe the outcome, success or failure, of each activity; and
 - d. Describe each activity proposed for the upcoming year.
 - e. Evaluate the effectiveness of past and ongoing pollution prevention activities.

It is important to remember that the development and implementation of a Slug Control Plan, Spill Control and Countermeasure Plan, Chemical Handling Plan, and Toxic Organic Management Plan, can all be incorporated into a facility Pollution Prevention Program. Each permittee needs to conduct an evaluation of their facility for

controlling Slug Discharges and Accidental Spills. Therefore, it may be prudent to utilize the techniques associated with pollution prevention assessments to accomplish these evaluations. The outcome has the potential of providing some economic rewards or reduced risk of liability.

6. Annual Publication: A list of all industrial users which were subject to enforcement proceedings during the twelve (12) previous months shall be annually published by the City of Richmond in the Richmond Times-Dispatch. Accordingly, the permittee is apprised that noncompliance with this permit may lead to an enforcement action and may result in publication of its name in an appropriate newspaper in accordance with this section.

7. Civil and Criminal Liability: Nothing in this permit shall be construed to relieve the permittee from civil and/or criminal penalties for noncompliance under local, State or Federal laws or regulations.

8. Recovery of Costs Incurred: In addition to civil and criminal liability, the permittee violating any of the provisions of this permit causing damage to or otherwise inhibiting the City of Richmond wastewater disposal system shall be liable to the City of Richmond for any expense, loss, or damage caused by such violation or discharge. The City of Richmond shall bill the permittee for the costs incurred by the City of Richmond for any cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a separate violation.

PART 4 - STANDARD CONDITIONS

A. GENERAL CONDITIONS

1. Duty to Comply: The permittee must comply with all conditions of this permit. Failure to comply with the requirements of this permit shall be grounds for administrative action, or enforcement proceedings including civil or criminal penalties, injunctive relief, and summary abatements.
2. Duty to Mitigate: The permittee shall take all reasonable steps to minimize or correct any adverse impact to the public treatment plant or the environment resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.
3. Permit Modification: This permit may be modified for good causes including, but not limited to, the following:
 - a. To incorporate any new or revised Federal, State, or Local pretreatment standards or requirements.
 - b. Material and substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit.
 - c. A change in any condition in either the industrial user or the City of Richmond Wastewater Treatment Plant that requires either a temporary or permanent reduction or elimination of the authorized discharge.
 - d. Information indicating that the permitted discharge poses a threat to the Richmond wastewater collection and/or treatment systems, City personnel or the receiving waters.
 - e. Violation of any term(s) or condition(s) of this permit.
 - f. Misrepresentation or failure to disclose fully all-relevant facts in the permit application or in any required reporting.
 - g. Revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13;
 - h. To correct typographical or other errors in the permit.
 - i. To reflect transfer of the facility ownership and/or operation to a new owner/operator.
 - j. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and re-issuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4. Severability: The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

5. Permit Termination: This permit may be terminated for the following reasons:
- a. Falsifying self-monitoring reports.
 - b. Tampering with monitoring equipment.
 - c. Refusing to allow timely access to the facility premises and records.
 - d. Failure to meet effluent limitations.
 - e. Failure to pay fines.
 - f. Failure to pay wastewater charges.
 - g. Failure to meet compliance schedules.
 - h. At the request of the permittee provide they submit appropriate documentation validating the request.
6. Property Rights: The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any violation of Federal, State, or local laws or regulations.
7. Limitation on Permit Transfer: Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the Environmental Compliance Officer:
- a. The permittee must give at least thirty (30) days advance notice to the Environmental Compliance Officer.
 - b. The notice must include a written certification by the new owner which:
 - (i) States that the new owner has no immediate intent to change the facility's operations and processes
 - (ii) Identifies the specific date on which the transfer is to occur
 - (iii) Acknowledges full responsibility for complying with the existing permit.
8. Duty to Reapply: If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must submit an application for a new permit at least ninety (90) days before the expiration date of this permit.
9. Continuation of Expired Permit: An expired permit will continue to be effective and enforceable until the permit is reissued if:
- a. The permittee has submitted a complete permit application at least ninety (90) days prior to the expiration date on the user's existing permit.
 - b. The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the permittee.
10. Dilution: The permittee shall not increase the use of potable or process water or, in any way; attempt to dilute an effluent as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this permit.
11. Right of Entry: The permittee shall allow the staff of the City of Richmond, and/or their Authorized representative(s), upon the presentation of credentials:
- a. To enter upon the permittee's premises where a real or potential discharge is located or in which records are required to be kept under the terms and conditions of this permit; and

- b. At reasonable times, to have access to and copy records required to be kept under the terms and conditions of this permit;
- c. To inspect any monitoring equipment or monitoring method, practices or operations regulated or required in this permit;
- d. To sample any discharge of pollutants as authorized by City Ordinance(s) provided that EPA and OSHA approved appropriate sampling and safety protocols are followed;
- e. To inspect any production, manufacturing, fabricating, or storage area where pollutants, regulated by this permit, could originate, be stored, or be discharged to the City treatment system.

12. Confidential Information: As per 40 CFR 403 and Section 7 of the SWCB regulations, the City must make all information submitted by its users available to the EPA and State.

Effluent data cannot be designated as confidential information.

Confidential information submitted by a user will not be released to the public without the written permission of the user, except that all information submitted to the City shall be available to the public at least to the extent provided by Section 2.302, Title 40 of the Code of Federal Regulations. "Confidential Information means secret formulae, secret processes, secret methods or other trade secrets which are proprietary information certified by the signature of the responsible party to meet the following criteria:

- a. information for which the reporting firm has been taking and will continue to take measures to protect confidentiality;
- b. information that has not been made and is not presently reasonably obtainable without the reporting firm's consent by private citizens or other firms through legitimate means other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding;
- c. information which is not publicly available from sources other than the reporting firm; and
- d. information the disclosure of which would cause substantial harm to the reporting firm.

The Director shall have the right to substitute information received from sources that is not confidential for information claimed as confidential and to inquire as to the basis of the confidentiality claim.

13. General Prohibitive Standards: The permittee shall comply with the general prohibitive discharge standards in 40 CFR parts 403.5 (a) and (b) of the federal pretreatment regulations (Appendix B).

14. Surcharge Parameters and Limits: The City of Richmond's surcharge program currently includes Biochemical Oxygen Demand, Total Suspended Solids, Total Nitrogen, and Total Phosphorous.

<u>Surcharge Parameters</u>	<u>Minimum Concentration</u>
Biochemical Oxygen Demand (BOD)	250 mg/L
Total Suspended Solids (TSS)	275 mg/L
Total Nitrogen (TN)	30 mg/L
Total Phosphorous (TP)	12 mg/L

The formula to calculate the Monthly Surcharge amount is:

(BOD Concentration - 250) * Monthly Water Consumption (CCF) * \$ 0.2763 = Monthly charge
 (TSS Concentration - 275) * Monthly Water Consumption (CCF) * \$ 0.2247 = Monthly charge
 (TN Concentration - 30) * Monthly Water Consumption (CCF) * \$ 0.969 = Monthly charge
 (TP Concentration - 12) * Monthly Water Consumption (CCF) * \$ 1.2402 = Monthly charge

B. DEFINITIONS

1. Bypass: Means the intentional diversion of wastes from any portion of a treatment facility.
2. Cooling Water:
 - a. Uncontaminated: Water used for cooling purposes only, which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectable higher than the intake water.
 - b. Contaminated: Water used for cooling purposes only, which may become contaminated either through the use of water treatment chemicals used for corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.
3. Composite Sample: A sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected in one container at constant time intervals providing representative sample irrespective of stream flow; or as a flow-proportional composite sample: collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant interval between the aliquots.
4. Daily Maximum: The maximum allowable discharge of pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitation is expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
5. Grab: An individual sample collected in less than 15 minutes, without regard for flow or time.
6. Instantaneous Maximum Concentration: The maximum concentration allowed in any single grab sample
7. Monthly Average: The arithmetic mean of the values for effluent samples collected during a calendar month or specified 30 day period.
8. Non-Compliance: Any violation of pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules, and regulatory deadlines)
9. RCRA: Resource Conservation and Recovery Act
10. Significant Non-compliance: Industrial user violations which meet one or more of the following criteria:
 - a. Violations of Wastewater Discharge Limits: The sampling results from the previous six (6) months are reviewed each quarter for the determination of significant non-compliance.
 1. **CHRONIC VIOLATIONS** - Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit in a six-(6) month period (any exceedance).
 2. **TECHNICAL REVIEW CRITERIA (TRC) VIOLATIONS** - Thirty-three (33%) percent or more of the measurements exceed the same daily maximum limit by more than the TRC in a six (6) month period:

There are two groups of TRCs:

- I. Group I for conventional Pollutants (BOD, TSS, fats, Oil, and Grease) **TRC = 1.4**
- II. Group II for all other Pollutants **TRC = 1.2**
 3. ANY OTHER VIOLATION(S) of the effluent limit (average or daily maximum) that the City of Richmond Wastewater Department believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass-through; or endangered the health of the wastewater treatment personnel or the public.
 4. ANY DISCHARGE of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the City of Richmond Wastewater Departments exercise of its emergency authority to halt or prevent such a discharge.
- b. Violations of Compliance Schedule Milestones, contained in a local control mechanism or enforcement order for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- c. Failure to Provide Reports for Compliance Schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.
- d. Failure to accurately report noncompliance.
- e. Any other violation or group of violations that the City of Richmond Wastewater Department considers to be significant.

11. Upset: Means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee, excluding such factors as operational error, improperly designed or inadequate treatment facilities, or improper operation and maintenance or lack thereof.

C. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper operation and Maintenance: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes but is not limited to; effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this permit.

a. Automatic Sampling equipment: If automatic sampling equipment is installed at monitoring site 001, it shall be properly maintained. A Standard Operating Procedure manual (SOP) shall be developed for conducting sampling at this site. The SOP shall dictate how the equipment is to be operated and maintained.

i) Maintenance Logbook: A logbook shall be developed for documenting all maintenance activities associated with the automatic sampling system. The logbook shall indicate the date, time, and a description of the activity and identification of the personnel conducting the activity. The logbook shall document activities such as, but not limited to, routinely changing the tubing, properly cleaning the bottle used to collect the sample, monitoring the temperature

- within the refrigeration unit, ensuring the automatic sampler is programmed properly; and
- ii) The logbook shall be made available for review and comment during the semi-annual facility inspections conducted by the City; and
 - iii) If this equipment is out of service for any reason, the permittee shall notify the Environmental Compliance Officer within 24 hours of becoming aware of the situation; and
 - iv) The permittee shall identify the cause of the problem and indicate the earliest date that the equipment will be put back into service.
2. **Duty to Halt or Reduce Activity:** Upon reduction of efficiency of operation, or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with this permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
3. **Bypass of Treatment Facilities:** Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternatives exist.
- a. The permittee may allow bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to insure efficient operation.
 - b. Notification of bypass:
 1. **Anticipated bypass:** If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, at least ten days before the date of the bypass, to the City of Richmond Environmental Compliance Officer.
 2. **Unanticipated bypass:** The permittee shall immediately notify the City of Richmond Environmental Compliance Officer and submit a written report to the wastewater department within five (5) days. This report shall specify:
 - (i) A description of the bypass, and its cause, including its duration;
 - (ii) Whether the bypass has been corrected; and
 - (iii) The actions being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.
4. **Removed Substances:** Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewater shall be disposed of in accordance with section 405 of the Clean Water Act and Subtitle C and D of the Resource Conservation and Recovery Act. In any case these sludges shall be handled in such manner as to prevent any pollutants, from such materials, from entering the City's treatment system. Within 90 days after the effective date of this permit and prior to the disposal of any sludge, the permittee shall submit a sludge disposal plan to the City's Environmental Compliance Officer.

The sludge disposal plan shall contain the following information:

- a. A determination indicating if the sludge is regulated as a Hazardous Waste under RCRA.
 1. Indicate the current State and Federal identification and/or registration number(s).

(b) (4)

- b. Specify the maintenance schedule and the procedures used when removing the sludge.
 - c. Specify the disposal procedures, including the following:
 - 1. The final destination of the sludge;
 - 2. Method of transporting the sludge;
 - 3. Indicate the approximate volume of sludge disposed of;
 - 4. A current copy of the manifest utilized when transporting the sludge.
5. Construction: No construction of pretreatment facilities or additions thereto shall be initiated until Final Plans and Specifications have been submitted to the City for review and comment.

(b) (4)

(b) (4)

APPENDIX A

PRIORITY POLLUTANTS

001 Acenaphthene	032 1,2-dichloropropane	063 N-nitrosodi-n-propylamin
002 Acrolein	033 1,2-dichloropropylene (1,3-dichloropropene)	064 Pentachlorophenol
003 Acrylonitrile	034 2,4-dimethylphenol	065 Phenol
004 Benzene	035 2,4-dinitrotoluene	066 Bis(2-ethylhexyl) phthalate
005 Benzidine	036 2,6-dinitrotoluene	067 Butyl benzyl phthalate
006 Carbon tetrachloride (tetrachloromethane)	037 1,2-diphenylhydrazine	068 Di-N-Butyl Phthalate
007 Chlorobenzene	038 Ethylbenzene	069 Di-n-octyl phthalate
008 1,2,4-trichlorobenzene	039 Fluoranthene	070 Diethyl Phthalate
009 Hexachlorobenzene	040 4-chlorophenyl phenyl ether	071 Dimethyl phthalate
010 1,2-dichloroethane	041 4-bromophenyl phenyl ether	072 1,2-benzanthracene (benzo(a)anthracene)
011 1,1,1-trichloroethane	042 Bis(2-chloroisopropyl) ether	073 Benzo(a)pyrene (3,4-benzopyrene)
012 Hexachloroethane	043 Bis(2-chloroethoxy) methane	074 3,4-Benzofluoranthene (benzo(b) fluoranthene)
013 1,1-dichloroethane	044 Methylene chloride (dichloromethane)	075 1,1,12-benzofluoranthene (benzo(K) fluoranthene)
014 1,1,2-trichloroethane	045 Methyl chloride (dichloromethane)	076 Chrysene
015 1,1,2,2-tetrachloroethane	046 Methyl bromide (bromomethane)	077 Acenaphthylene
016 Chloroethane	047 Bromoform (tribromomethane)	078 Anthracene
018 Bis(2-chloroethyl) ether	048 Dichlorobromomethane	079 1,12-benzoperylene (benzo(ghi) perylene)
019 2-chloroethyl vinyl ether (mixed)	051 Chlorodibromomethane	080 Fluorene
020 2-chloronaphthalene	052 Hexachlorobutadiene	081 Phenanthrene
021 2,4, 6-trichlorophenol	053 Hexachloromyclopentadiene	082 1,2,5,6-dibenzanthracene (dibenzo(h) anthracene)
022 Parachlorometa cresol	054 Isophorone	083 Indeno (,1,2,3-cd) pyrene (2,3-o-pheynylene pyrene)
023 Chloroform (trichloromethane)	055 Naphthalene	084 Pyrene
024 2-chlorophenol	056 Nitrobenzene	085 Tetrachloroethylene
025 1,2-dichlorobenzene	057 2-nitrophenol	086 Toluene
026 1,3-dichlorobenzene	058 4-nitrophenol	087 Trichloroethylene
027 1,4-dichlorobenzene	059 2,4-dinitrophenol	088 Vinyl chloride (chloroethylene)
028 3,3-dichlorobenzidine	060 4,6-dinitro-o-cresol	089 Aldrin
029 1,1-dichloroethylene	061 N-nitrosodimethylamine	
030 1,2-trans-dichloroethylene	062 N-nitrosodiphenylamine	
031 2,4-dichlorophenol		

090 Dieldrin	120 Copper
091 Chlordane (technical mixture and metabolites)	121 Cyanide, Total
092 4,4-DDT	122 Lead
093 4,4-DDE (p,p-DDX)	123 Mercury
094 4,4-DDD (p,p-TDE)	124 Nickel
095 Alpha-endosulfan	125 Selenium
096 Beta-endosulfan	126 Silver
097 Endosulfan sulfate	127 Thallium
098 Endrin	128 Zinc
099 Endrin aldehyde	129 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)
100 Heptachlor	
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)	
102 Alpha-BHC	
103 Beta-BHC	
104 Gamma-BHC (lindane)	
105 Delta-BHC (PCB-polychlorinated biphenyls)	
106 PCB-1242 (Arochlor 1242)	
107 PCB-1254 (Arochlor 1254)	
108 PCB-1221 (Arochlor 1221)	
109 PCB-1232 (Arochlor 1232)	
110 PCB-1248 (Arochlor 1248)	
111 PCB-1260 (Arochlor 1260)	
112 PCB-1016 (Arochlor 1016)	
113 Toxaphene	
114 Antimony	
115 Arsenic	
116 Asbestos	
117 Beryllium	
118 Cadmium	
119 Chromium	

APPENDIX B

GENERAL PROHIBITIVE DISCHARGE STANDARDS

GENERAL PROHIBITIVE DISCHARGE STANDARDS

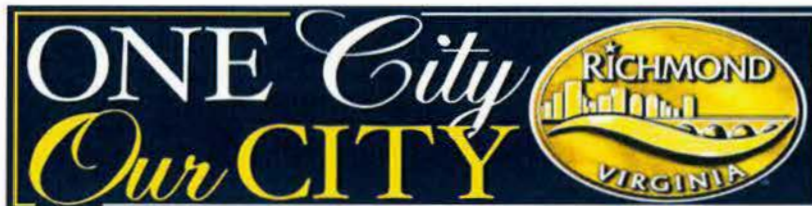
- (A) No industrial user of the City's wastewater treatment system shall discharge or cause to be discharged into such system any pollutant(s) or wastewater which in the judgment of the Director of Public Utilities or his designee has the potential to cause:
1. PASS THROUGH;
 2. INTERFERENCE;
 3. ENDANGERMENT TO THE HEALTH OR SAFETY OF CITY EMPLOYEES OR THE GENERAL PUBLIC;
 4. ADVERSELY IMPACT THE OPPORTUNITY TO RECYCLE AND RECLAIM WASTEWATER AND/OR SLUDGE FROM THE CITY'S TREATMENT SYSTEM.
- (B) In addition the following pollutants shall not be introduced into the City's wastewater treatment system:
1. Any material containing gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases; and in no case pollutants with a closed cup flashpoint of less than 140 ° Fahrenheit or 60 ° Centigrade using the test method specified in 40 CFR 261.21.
 2. Any pollutants which cause an exceedance of 10 percent of the Lower Explosive Limit (LEL) at any point within the POTW;
 3. Any garbage that has not been ground by household type or other suitable garbage grinders;
 4. Any ashes, hair, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure, or any other solids capable of causing obstructions or other interferences with proper operation of the sewer system;
 5. Any material containing toxic or poisonous substances in sufficient quantity to injure or interfere with any wastewater treatment process, to constitute hazards to humans or animals, or to create any hazard in waters which receive treated effluent from the sewer system treatment plant. Toxic wastes shall include but are not limited to wastes containing cyanide, chromium, cadmium, mercury, copper and nickel ions;
 6. Any material containing noxious or malodorous gases or substances capable of creating a public nuisance; including pollutants which result in the presence of toxic gases, vapors, or fumes;
 7. Any material containing solids of such character and quantity that special and unusual attention is required for their handling;
 8. Any material Containing any substance which may affect the treatment plant's effluent and cause violation of the NPDES permit requirements;
 9. Any material containing substances which would cause the treatment plant to be in noncompliance with sludge use, recycle or disposal criteria pursuant to guidelines or regulations developed under section 405 of the Federal Act, the Solid Waste Disposal Act, the Clean Air Act, the toxic Substances Control Act or other regulations or criteria for sludge management and disposal as required by the State.
 10. Any material Containing color which is not removed in the treatment processes;
 11. Any material containing any medical or infectious wastes;
 12. Any material containing any radioactive wastes or isotopes;

13. Any material containing any pollutant, including BOD pollutants, released at a flow rate and/or pollutant concentration which would cause interference with the treatment plant;
14. Any material containing more than 100 ppm by weight of fats, oils and grease;
15. Any material which has a pH below 5.0 or higher than 12.5 that will cause corrosive structural damage to any part of the City's wastewater system;
16. Any solids or viscous matter in an amount which may cause obstruction or interference in the City's wastewater system;
17. Any material that, by its constituents, character, volume, strength or any combination thereof, may cause or contribute to an interference with the normal operation of the City's wastewater system;
18. Heat in an amount that would inhibit biological activity or cause wastewater treatment plant influent temperature to exceed forty (40°) ° Celsius (one hundred four (104°) ° Fahrenheit).

APPENDIX C

**CITY OF RICHMOND
INDUSTRIAL DISCHARGE SELF-MONITORING REPORT**

[Continue to use the current report forms.]



Revised July, 2014

CITY OF RICHMOND LOCAL LIMITS
&
SURCHARGE LIMITS

<u>PARAMETER</u>	<u>MAX CONCENTRATION</u>
Arsenic	4.45 mg/l
Cadmium	0.04 mg/l
Chromium	4.17 mg/l
Copper	3.19 mg/l
Cyanide	1.00 mg/l
Lead	0.45 mg/l
Mercury	0.0034 mg/l
Molybdenum	Monitoring requirement
Nickel	2.01 mg/l
Selenium	Monitoring requirement
Silver	1.74 mg/l
Zinc	1.53 mg/l
Oil & Grease (Petroleum)	100 mg/l
Oil & Grease (Animal/Vegetable)	300 mg/l
BTEX	2.13 mg/l
Total Petroleum Hydrocarbon	Monitoring requirement
pH	5.0 -12.5 s.u.
<u>Surcharge Parameters</u>	<u>Minimum Concentration</u>
Biochemical Oxygen Demand (BOD)	250 mg/l
Total Suspended Solids (TSS)	275 mg/l
Total Nitrogen (TN)	30 mg/l
Total Phosphorous (TP)	12 mg/l

The formula to calculate the Monthly Surcharge amount is:

(BOD Conc. - 250) * Monthly Water Consumption (CCF) * \$0.2763 = Monthly Charge

(TSS Conc. - 275) * Monthly Water Consumption (CCF) * \$0.2247 = Monthly Charge

(TN Conc. - 30) * Monthly water Consumption (CCF) * \$0.969 = Monthly Charge

(TP Conc. - 12) * Monthly Water Consumption (CCF) * \$1.2402 = Monthly Charge

Confidential Exhibit 2



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

4949A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

James J. Golden
Regional Director

(b) (4)

Jonathan Wood
Vice President Operations
Sutliff Tobacco Company
P.O. Box 24508
Richmond, VA 23224

Transmitted electronically to: (b) (6)

RE: (b) (4) Sutliff Tobacco Company
Located at 600 Perdue Avenue, Richmond, VA 23224

Dear Mr. Wood:

Please find enclosed a copy of the completed Virginia Department of Environmental Quality (DEQ) (b) (4)

(b) (4)
(b) (4) This certification constitutes notice that permit authorization is not required for stormwater discharges associated with industrial activity under the VPDES Permit Program due to the existence of a condition of "No Exposure" at the above referenced facility.

In accordance with the VPDES Permit Regulation (9VAC25-31-120.E), to maintain eligibility for continued exclusion, you must submit a signed certification to DEQ no less frequently than once every five years. Consequently, this certification is effective through July 9, 2024 provided the condition of no exposure continues to exist at this facility.

Should site conditions change and industrial activities or materials become exposed to precipitation that may result in a stormwater discharge to waters of the Commonwealth, authorization under an individual or general VPDES permit may be required.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period.

Alternatively, any owner under §§ 62.1 - 44.16, 62.1 - 44.17, and 62.1 - 44.19 of the State Water Control Law aggrieved by any action of the State Water Control Board taken without a formal hearing, or by inaction of the Board, may demand in writing a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the Board. Said petition must meet the requirements set forth in 9VAC25-230-130 (Procedural Rule No. 1 – Petition for formal hearing). In cases involving actions of the Board, such petition must be filed within thirty days after notice of such action is mailed to such owner by certified mail.

(b) (4)

Sutliff Tobacco Company

(b) (4)

If you have any questions, please feel free to contact Shawn Weimer at (b) (6) or via email at (b) (6)

Sincerely,

(b) (6)

Kyle Ivar Winter, P.E.
Deputy Regional Director

Enclosure: Approved NEC

**VIRGINIA DEQ NO EXPOSURE CERTIFICATION
FOR EXCLUSION FROM VPDES INDUSTRIAL ACTIVITY STORMWATER PERMITTING**

Submission of this **No Exposure Certification** constitutes notice that the entity identified below does not require permit authorization for its stormwater discharges associated with industrial activity under the VPDES Permit Program due to the existence of a condition of **No Exposure**.

A condition of **No Exposure** exists at an industrial facility when all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. A storm resistant shelter is not required for the following industrial materials and activities:

- drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak. "Sealed" means banded or otherwise secured and without operational taps or valves;
- adequately maintained vehicles used in material handling; and
- final products, other than products that would be mobilized in stormwater discharges (e.g., rock salt).

A No Exposure Certification must be provided for each facility qualifying for the No Exposure exclusion. In addition, the exclusion from VPDES permitting is available on a facility-wide basis only, not for individual outfalls. If any industrial activities or materials are or will be exposed to precipitation, the facility is not eligible for the No Exposure exclusion.

By signing and submitting this No Exposure Certification form, the entity below is certifying that a condition of No Exposure exists at its facility or site, and is obligated to comply with the terms and conditions at 9VAC25-31-120 E (the VPDES Permit Regulation).

Please Type or Print All Information. ALL INFORMATION ON THIS FORM MUST BE PROVIDED.

1. Facility Operator Information

Name: Sutliff Tobacco Company
 Mailing Address: P.O. Box 24508
 City: Richmond State: VA Zip: 23224 Phone: (b) (6)

2. Facility/Site Location Information

Facility Name: Sutliff Tobacco Company
 Address: 600 Perdue Avenue
 City: Richmond State: VA Zip: 23224
 County Name: _____
 Latitude: _____ Longitude: _____

3. Was the facility or site previously covered under a VPDES stormwater permit? Yes No

If "Yes", enter the VPDES permit number: _____

4. SIC/Activity Codes: Primary: 2131 Secondary (if applicable): _____

5. Total size of facility/site associated with industrial activity: 4.4 acres

6. Have you paved or roofed over a formerly exposed pervious area in order to qualify for the No Exposure exclusion? Yes No

If "Yes", please indicate approximately how much area was paved or roofed. Completing this question does not disqualify you for the No Exposure exclusion. However, DEQ may use this information in considering whether stormwater discharges from your site are likely to have an adverse impact on water quality, in which case you could be required to obtain permit coverage.

Less than one acre One to five acres More than five acres

7. Exposure Checklist

Are any of the following materials or activities exposed to precipitation, now or in the foreseeable future? (Please check either "Yes" or "No" in the appropriate box.) If you answer "Yes" to any of these questions (1) through (11), you are NOT eligible for the No Exposure exclusion.

	Yes	No
(1) Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to stormwater		<input checked="" type="checkbox"/>
(2) Materials or residuals on the ground or in stormwater inlets from spill/leaks		<input checked="" type="checkbox"/>
(3) Materials or products from past industrial activity		<input checked="" type="checkbox"/>
(4) Material handling equipment (except adequately maintained vehicles)		<input checked="" type="checkbox"/>
(5) Materials or products during loading/unloading or transporting activities		<input checked="" type="checkbox"/>
(6) Materials or products stored outdoors (except final products intended for outside use [e.g., new cars] where exposure to stormwater does not result in the discharge of pollutants)		<input checked="" type="checkbox"/>
(7) Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers		<input checked="" type="checkbox"/>
(8) Materials or products handled/stored on roads or railways owned or maintained by the discharger		<input checked="" type="checkbox"/>
(9) Waste material (except waste in covered, non-leaking containers [e.g., dumpsters])		<input checked="" type="checkbox"/>
(10) Application or disposal of process wastewater (unless otherwise permitted)		<input checked="" type="checkbox"/>
(11) Particulate matter or visible deposits of residuals from roof stacks and/or vents not otherwise regulated (i.e., under an air quality control permit) and evident in the stormwater outflow	<input type="checkbox"/>	<input checked="" type="checkbox"/>

8. Certification Statement

I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of no exposure and obtaining an exclusion from VPDES stormwater permitting; and that there are no discharges of stormwater contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under 9VAC25-31-120 E 2).

I understand that I am obligated to submit a No Exposure Certification form once every five years to the Department of Environmental Quality and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the Department, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under a VPDES permit prior to any point source discharge of stormwater associated with industrial activity from the facility.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: Jonathan Wood

Print Title: VP Operations

Email Address: (b) (6)

Signature: (b) (6) Date: 7/10/19

For Department of Environmental Quality Use Only

Accepted/ Not Accepted by: Shawn Weimer Date: July 11, 2019

Confidential Appendix 1

The weight of the package for the New Tobacco Product is 1.5 oz.

Projected Market Volumes of the New Tobacco Product in the 1st and 5th Years

Product	Projected Year	Projected Market Volume (lbs)	Weight of Product (lbs/pkg)
Predicate Product	1 st year	(b) (4)	
	5 th year		
New Product	1 st year		
	5 th year		

Please note that the attached contains confidential commercial and non-public information. All such confidential commercial information is exempt from public disclosure under § 301(j) and § 906(c) of the F.D.C.A, 5 U.S.C. § 552(b)(4), 18 U.S.C. § 1905 and 21 C.F.R. § 20.61. Sutliff requests that FDA maintain the confidentiality of this information.