U.S. FOOD & DRUG ADMINISTRATION

Technical Project Lead (TPL) Review: SE0000103

SE0000103: Longhorn Pouches Straight 23.25 g	
Package Type	Plastic can and lid
Package Quantity	23.25 g
Portion Count	15 Pouches
Portion Mass	1.55 g
Portion Length	41 mm
Portion Width	17 mm
Portion Thickness	6 mm
Tobacco Cut Size	(b) (4)
Characterizing Flavor	None
Attributes of SE Report	
Applicant	Swedish Match USA, Inc.
Report Type	Provisional
Product Category	Smokeless Tobacco
Product Sub-Category	Portioned Moist Snuff
Recommendation	
Issue a Substantially Equivalent (SE) Order.	

Technical Project Lead (TPL):

Matthew J. Walters -S
2018.04.05 10:03:09 -04'00'

Matthew J. Walters, Ph.D., MPH
CDR, U.S. Public Health Service
Deputy Director
Division of Product Science

Signatory Decision:

☒ Concur with TPL recommendation and basis of recommendation

☐ Concur with TPL recommendation with additional comments (see separate memo)

☐ Do not concur with TPL recommendation (see separate memo)

Digitally signed by Matthew R. Holman -S
Date: 2018.04.05 11:55:22 -04'00'

Matthew R. Holman, Ph.D.
Director
Office of Science

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1. BACKGROUND

1.1. PREDICATE TOBACCO PRODUCT

The applicant submitted the following predicate tobacco product:

SE0000103: Longhorn Pouches Straight 23.25 g	
Product Name	Timber Wolf Packs Wintergreen 23.25 g
Package Type	Plastic Can and Lid
Package Quantity	23.25 g
Portion Count	15 Pouches
Portion Mass	1.55 g
Portion Length	41 mm
Portion Width	17 mm
Portion Thickness	6 mm
Tobacco Cut Size	(b) (4) [redacted]
Characterizing Flavor	Wintergreen

The predicate tobacco product is a smokeless portioned moist snuff manufactured by the applicant.

1.2. REGULATORY ACTIVITY RELATED TO THIS REVIEW

The applicant submitted an SE Report (SE0000103) on March 8, 2011, received by FDA on March 10, 2011. On July 5, 2012, FDA received an unsolicited amendment providing an Environmental Assessment (EA) (SE0004654). FDA issued an Advice/Information (A/I) Request letter on December 27, 2012, and received a response (SE0006493) on January 25, 2013. FDA held a telecon with the applicant on April 17, 2013 to request additional information about the predicate product. FDA received an amendment containing applicant's response to FDA's inquiry on April 23, 2013 (SE0008261). FDA issued a Notification letter on August 11, 2015. FDA issued a Preliminary Finding letter on February 19, 2016. The applicant responded to the letter on March 9, 2016 (SE0013003). FDA issued an A/I Request letter on July 1, 2016. On December 22, 2015, the applicant had submitted two Requests for Supervisory Review in response to Not Substantially Equivalent (NSE) Orders issued by the FDA for two previous SE Reports (Appeals: AP0000016 and AP0000017). The July 1, 2016 A/I letter contained two deficiencies (Deficiency 12 and 13) related to the subject of these two pending appeals under review by the FDA. In a letter issued on July 25, 2016 for the pending appeals, AP0000016 and AP0000017, FDA extended the due date of response to these two deficiencies to 60 days after issuance of the decisions on pending Appeals. FDA received applicant's response to the July 1, 2016 letter on August 26, 2016 (SE0013671). The applicant provided timely responses to deficiencies in the A/I letter that were not related to the appeals. The responses to Deficiencies 12 and 13 were not included in the response.[1] On January 13, 2017, FDA issued an Appeal Denied letter for AP0000016 and an Appeal Granted letter for AP0000017. FDA received a response from the applicant for Deficiencies 12 and 13 from the July 1, 2016 A/I letter on March 13, 2017 (SE0013983).

[1] The applicant included FDA's July 25, 2016, letter granting an extension of time to respond to deficiencies related to appeal in their response to the Advice/Information Request letter (Appendix 12 A of SE0013671).)

FDA issued a Preliminary Finding for on May 22, 2017, and, in response, the applicant submitted a Preliminary Finding Extension Request (SE0014126), received on May 30, 2017. The applicant noted that they would like to apply the lessons learned from review of the other SMNA products to compile information to respond to FDA's letter. FDA issued a Preliminary Finding Extension Request Granted Letter on received June 14, 2017, extending the due date of response to July 21, 2017. The applicant submitted a "Request for Supervisory Review" (Appeal: AP0000033) on July 18, 2017 concerning FDA's May 22, 2017 Preliminary Finding letter. FDA issued a Refusal to Accept the appeal request on August 2, 2017 because a Preliminary Finding letter conveys a preliminary determination that an SE Report does not support a determination of substantial equivalence and provides the applicant the opportunity to submit additional information. Accepting and reviewing an appeal under 21 CFR 10.75 at this stage in the process would have prevented CTP from efficiently reviewing and making decisions on application. As the Preliminary Finding letter provides only advice, and the FD&C Act requires a decision on the SE Reports be in the form of an "order", FDA does not accept appeal requests under 21 CFR 10.75 regarding Preliminary Finding letters. The applicant submitted a response to the Preliminary Finding letter (SE0014205), received on July 19, 2017.

Product Name	SE Report	Amendments
Longhorn Pouches Straight 23.25 g	SE000010	SE0004654 SE0006493 SE0008261 SE0012385 SE0013003 SE0013671 SE0013983 SE0014126 SE0014205

1.3. SCOPE OF REVIEW

This review captures all regulatory, compliance, and scientific reviews completed for this SE Report.

2. REGULATORY REVIEW

Completeness reviews were completed by Stephanie Redus on December 27, 2012 and Joanna Randazzo on February 20, 2013. The final review concludes that the SE Report is administratively complete.

3. COMPLIANCE REVIEW

The Office of Compliance and Enforcement (OCE) completed a review to determine whether the applicant established that the predicate tobacco product is a grandfathered product (i.e., was commercially marketed as of February 15, 2007). The OCE reviews dated September 15, 2015, and March 30, 2018 conclude that the evidence submitted by the applicant is adequate to demonstrate

that the predicate tobacco product is grandfathered and, therefore, is an eligible predicate tobacco product.

OCE did not complete a review to determine whether the new tobacco product is in compliance with the Federal Food, Drug, and Cosmetic Act (FD&C Act) (see section 910(a)(2)(A)(i)(II) of the FD&C Act) because the new tobacco product subject to this SE Report is provisional.

4. SCIENTIFIC REVIEW

Scientific reviews were completed by the Office of Science (OS) for the following disciplines:

4.1. CHEMISTRY

Chemistry reviews were completed by Robert Gahl on May 25, 2016, May 1, 2017 and September 18, 2017.

The final chemistry review concludes that the new tobacco product has different characteristics related to product composition compared to the predicate tobacco product but the differences do not cause the new tobacco product to raise different questions of public health. The review identified the following differences related to product composition:

- The container lid for the new product contains a separate "holder" for used product so it does not contact the unused portion of the product.
- The new product contains increases and additions of five flavors with respect to the predicate product. The applicant reports a (b) (4) increase in (b) (4) and the additions of (b) (4).

The review identifies minimal differences in the tobacco blends between the new and predicate tobacco products with only a (b) (4) increase in the tobacco blends. Additionally, the reported HPHC measurements show a reduction in numerous HPHC yields between the new and predicate tobacco products. The applicant also provided appropriate methods in the determination of the measured HPHC yields. Therefore, the differences in characteristics between the new and predicate tobacco products do not cause the new tobacco product to raise different questions of public health related to product composition.

4.2. ENGINEERING

Engineering reviews were completed by Aarthi Arab on May 17, 2016 and May 1, 2017.

The final engineering review concludes that the new tobacco product has the same characteristics related to product design as the predicate tobacco product.

4.3. MICROBIOLOGY

Microbiology reviews were completed by Almaris Alonso on May 24, 2016 and by Wen Lin on May 1, 2017.

The final microbiology review concludes that the new tobacco product has different characteristics related to product microbiology compared to the predicate tobacco product but the differences do not cause the new tobacco product to raise different questions of public health. The review identified the following differences related to product microbiology:

- The new product has higher total aerobic bacterial counts over the course of the stability study compared to the predicate product.

The review indicates that the new product shows an increasing trend in the bacterial counts in the data provided. However, this increase is not a concern from a microbial perspective because the final microbiology count was low and the measured yields of NNN, NNK, and total TSNAs decreased for the new product over the length of product storage time compared to the predicate tobacco product. Therefore, the difference in characteristics between the new and predicate tobacco products does not cause the new tobacco product to raise different questions of public health related to microbiology.

4.4. TOXICOLOGY

Toxicology reviews were completed by Berran Yucesoy on May 26, 2016 and Mary Irwin on May 5, 2017 and February 15, 2018.

The final toxicology review concludes that the new tobacco products have different characteristics related to product toxicology compared to the predicate tobacco product but the differences do not cause the new tobacco product to raise different questions of public health. The review identified the following differences related to product toxicology:

- Decrease in the amount of (b) (4)
- Addition of a (b) (4) modifier
- Addition of (b) (4) and (b) (4)

The new and predicate tobacco products show minimal differences in the tobacco blends and as a result also showed minimal differences between the reported HPHC quantities. The new product contains increased amounts of (b) (4) and (b) (4) which can act as permeation enhancers for HPHCs, however these ingredients are at very low concentrations. The lowest observed effect level for permeation enhancement by (b) (4) is (b) (4), which is (b) (4) fold higher than the levels of (b) (4) and (b) (4) in the new product. For this particular situation, (b) (4) and (b) (4) are not expected to influence the permeation of HPHCs in the new product. Therefore, the differences in characteristics between the new and predicate tobacco products do not cause the new tobacco product to raise different questions of public health related to product toxicology.

4.5. SOCIAL SCIENCE

Social science reviews were completed by Katherine Margolis on May 25, 2016 and by Elisabeth Donaldson on April 25, 2017.

The final social science review concludes that the characteristics which may affect consumer perception and use are different for the new and predicate tobacco products, but the differences do not cause the new tobacco product to raise different questions of public health with respect to consumer perception and use.

The new tobacco product contains a non-characterizing flavor whereas the predicate product contains a characterizing flavor. However, the evidence for initiation of flavored moist snuff, suggests that the new product in its non-characterizing flavor is not likely to have a negative impact on initiation rates compared to the predicate (e.g., Wintergreen) product. Therefore, the difference in characteristics between the new and predicate tobacco products does not cause the new tobacco product to raise different questions of public health related to consumer perception and use.

The review also evaluated the health information summary and determined that it did not violate section 911(b)(2)(A)(i)(II) of the FD&C Act. Therefore, the final review did not identify a deficiency related to the health information summary.

5. ENVIRONMENTAL DECISION

The new tobacco products are being evaluated under section 910(a)(2)(B) of the FD&C Act. Under 21 CFR 25.35(a), issuance of SE orders for new tobacco products evaluated under section 910(a)(2)(B) of the FD&C Act falls within a class of actions that are ordinarily categorically excluded from the preparation of an environmental assessment (EA) or an environmental impact statement (EIS). The SE order is in compliance with the categorical exclusion criteria. To the best of our knowledge, no extraordinary circumstances exist that would preclude application of this categorical exclusion. FDA concludes that categorical exclusion is warranted and no EA or EIS is required.

6. CONCLUSION AND RECOMMENDATION

The following are the differences in characteristics between the new and predicate tobacco products:

- The container lid for the new product contains a separate “holder” for used product so it does not contact the unused portion of the product.
- The new product contains increases and additions of five flavors with respect to the predicate product. The applicant reports a (b) (4) increase in (b) (4) and the additions of (b) (4) .
- The new product has higher total aerobic bacterial counts over the course of the stability study compared to the predicate product.
- The new product does not contain a charactering flavor, whereas the predicate tobacco product contains a characterizing flavor (e.g., wintergreen).

The applicant has demonstrated that these differences in characteristics do not cause the new tobacco product to raise different questions of public health. The tobacco blends, ingredients, microbiology stability, and product design features had minimal differences or were identical between the new and predicate tobacco products. Though the applicant reports a (b) (4) increase in

(b) (4), this increase is minor in terms in absolute quantities between the new and predicate products, and, in addition, further evaluations by toxicology and social science has determined that this increase does not cause the new product to raise different questions of public health. The new product contains increased amounts of (b) (4) and (b) (4), which can act as permeation enhancers for HPHCs, however these ingredients are at very low concentrations. The lowest observed effect level for permeation enhancement by (b) (4) is (b) (4), which is (b) (4)-fold higher than the levels of (b) (4) and (b) (4) in the new product. For this particular situation, (b) (4) and (b) (4) are not expected to influence the permeation of HPHCs in the new product. Therefore, the differences in characteristics between the new and predicate products do not cause the new tobacco product to raise different questions of public health.

The predicate tobacco product meets statutory requirements because it is a grandfathered product (i.e., was commercially marketed in the United States as of February 15, 2007).

FDA examined the claim of categorical exclusion from environmental assessment and concluded that categorical exclusion is warranted and no extraordinary circumstances exist which would require preparation of an environmental assessment or an environmental impact statement.

An SE order letter should be issued for the new tobacco product in SE0000103, as identified on the cover page of this review.