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August 8, 2003

Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
P.O. Box 50221
Washington, D.C. 20091-0221

Dear Sir or Madam:

Margarita Ice is in support of the proposed rule issued in March 2003 by the Tax and Trade Bureau (TTB). The rule that outlines the alcohol content requirements in order for flavored malt beverages (FMB) to be classified as beer. Specifically, the TTB proposes that for an FMB to be classified as beer, its alcohol content from distilled alcohol cannot exceed 0.50/0.

Beer is and has always been a unique product that has been regulated and taxed differently than other alcohol beverages throughout our nation's history. The TTB proposed rule is consistent with the historical interpretation of what constitutes beer from other malt beverages. The distinct regulatory treatment of beer is based on its age-old production process, and its definition in the Internal Revenue Code dates back to the 1800s when Congress first imposed the beer excise tax. Adoption of the TTB "0.5 by volume standard" would ensure the integrity of beer and the brewing process.

Consistent regulatory policy is important because while states enjoy regulatory power over alcohol, most follow federal guidelines. This proposed rule would help maintain an orderly marketplace and avoid costly, timely and confusing disruptions in state licensing, taxation and distribution policies, any of which would deal a severe blow to the beer industry.

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Moreover, equating beer and beverages that derive a majority of their alcohol content from distilled spirits could weaken the important distinctions between beer and products with higher alcohol content. These distinctions impact state and federal policies regarding the regulation and taxation of beer and other alcohol beverages.

If traditional distinctions disappear, it will only be a matter of time before other producers of alcohol beverages attempt to categorize themselves as beer products.

Beer is not distilled spirits or fortified wine. Beer is not made through the distillation process. Beer is made through the brewing process. The 0.5% standard will ensure that the integrity of beer remains.

Once again, Margarita Ice encourages the TTB to give final approval to the proposed 0.5% standard on FMBs.

Larry D. Walker
CEO

bc: NBWA

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