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Andrew Gregory Greg Jones  
GENERAL MANAGER ASSISTANT GENERAL MANAGER

August 15, 2003

ATTN: TTB Notice No. 4

Chief, Regulations and Procedures Division  
Alcohol and Tobacco Tax and Trade Bureau  
PO Box 50221  
Washington, DC 20091-0221

Dear Sir or Madam:

Ben E. Keith Beers supports the proposed rule issued in March 2003 by the Tax and Trade Bureau (TTB) outlining the requirements for alcohol content for flavored malt beverages (FMB) to be classified as beer. The alcohol content for the FMB cannot exceed 0.5%.

The TTB proposed rule is consistent with the uniqueness of beer to tax and regulate the historically different beverage from other alcohol beverages. Dating back to the 1800's, when Congress first imposed the beer excise tax, the basis for the regulatory treatment of beer is the age-old production process of brewing beer. The adoption of the TTB "0.5 by volume" standard would ensure the integrity of beer and the brewing process.

Beer is not distilled spirits and is not fortified wine. Beer is made through the brewing process, and equating beer and beverages that derive the majority of their alcohol content from distilled spirits could weaken the important distinctions between beer and products with higher alcohol content. A regulatory policy that is consistent would allow states to continue their regulatory power over alcohol, while following federal guidelines in the regulation and taxation of beer. The proposed rule would also help the state maintain an orderly marketplace and avoid any disruptions in state licensing, taxation and distribution, which could be costly in the long run.

It will be a only matter of time before producers of other alcohol beverages attempt to place their products in the category of beer products, if these distinctions are allowed to disappear.

Ben E. Keith encourages the TTB to give final approval to the proposed 0.5% standard on FMB's.  
Sincerely,

Greg Jones  
Assistant General Manager  
Ben E. Keith Beers  
Palestine, Texas

cc: Kevin Bartholomew  
Flint Prewttt  
Robert Hallam, Jr.

BEN E. KEITH BEERS  
2019 W Oak St. Palestine, TX 75801 tel: (903) 729-1770 .fax: (903) 729-1086