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Brewers Association Of America

Dedicated to the
Best Interests of the
Brewing Industry

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Sierra Nevada Brewing Company
Chico, CA

October 21, 2003

Chief, Regulations and Procedures Division
Tax and Trade Bureau
PO Box 50221
Washington, D.C. 20031-0221

RE: TTB Notice #4

Dear Sir or Madam:

The Brewer's Association of America, a 62 year-old trade association representing the interests of more than 1,400 small American breweries, supports the proposed standard of composition for Flavored Malt Beverages ("FMBs"), as set forth by the Tax and Trade Bureau ("TTB") in TTB Notice No. 4 of March 2003. This proposal is essential to the beer industry as it clearly delineates the difference between beer and other alcohol beverages, requiring that the alcohol content in FMBs derived from distilled alcohol not exceed 0.5% in order to be classified as "beer."

The United States has, in the past quarter of a century, experienced a revival in the brewing industry, from a low of 41 breweries to today's high of more than 1,400 breweries. The revival is predicated on Company renewed commitment to traditional processes and beer styles. This dedication to the art of beer has produced extensive investment in small businesses and the emergence of a group of consumers who appreciate the unique qualities of beer. Many of our customers do understand the attributes of beer and the consequences of this rulemaking process.

The perception of the general public is that beer is a beverage with malt flavor and hop bitterness, flavor and aroma. Many small brewers currently produce flavored malt beverages that have these characteristics. The products currently classified as FMBs and recently analyzed by TTB display none of these characteristics, and should not be considered or taxed as beer. The manner of FMB production described in Notice No. 4 avoids many of the costs associated with the volume demands of beer production and storage, and enjoys an unfair competitive advantage over traditional and craft brewers, based on the regulations.

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Continued success in the small brewing industry requires maintenance of an even playing field for all industry members claiming to produce beer or other malt beverages. Our association regards this proposed rule as a critical step towards consistent classification of alcoholic beverages. An orderly marketplace and consistency of laws and regulations establishing alcohol beverage categories are primary concerns of the brewing industry.

The industry stands united in support of the proposed regulation. Along with substantial numbers of wholesalers, a large number of brewery owners, from large and small breweries, have written in support of the proposed regulation. Numerous retail associations have also concurred.

The TTB proposal asks for comment on alternative standards, such as whether the standard should be less than 50 percent of the final alcohol derived from spirits addition. This alternative limit would create a huge disruption to state governments who currently have regulations mirroring the federal standards. TTB has correctly analyzed state laws and regulations, and the 0.5% standard appears to eliminate the need for changes in a majority of states. As of this writing nearly half of the state regulatory agencies have written in support of the proposed regulation.

Furthermore, any alternative to the TTB proposal will likely trigger disruptive state legislative and regulatory actions. These measures could have significant ramifications for the more than 1,400 small breweries and for thousands of alcohol beverage licensees, most of which are also small businesses.

The beer industry has undergone a major revitalization in the past twenty-five years, with smaller breweries and brewpubs employing tens of thousands of people found in every state, every major metropolitan area, and many small towns. These smaller players often rely on the goodwill and patronage of a single community or smaller geographic area. As such, they are typically more exposed to economic fluctuations, as they are at risk not only from national downturns but local and regional declines as well. This is a sector of the alcohol beverage industry that the federal government should foster and protect.

We reaffirm our association's support for the proposed "0.5% standard" for FMBs. Its consistency with historical interpretations of

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federal regulations will help maintain an orderly marketplace and the integrity of the beer category.

Sincerely,
Daniel Bradford

President
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