

CB&BD

California Chief, Regulations and Procedures Division  
Beer and Beverage Alcohol and Tobacco Tax and Trade Bureau  
Distributors P0 Box 50221  
Washington, D.C. 20091-0221  
One Capitol Mall, Suite 230  
Sacramento, California 95814 RE: TTB Notice No. 4  
(916) 441-5402  
1-800-952-8308  
FAX (916)441-0713

On behalf of the California Beer and Beverage Distributors and our 130 members we would join with the Beer Institute and the National Beer Wholesalers Association in our strong support of the Treasury Department's Tax and Trade Bureau's (TTB) March 24, 2003 notice of proposed rulemaking that would establish a federal standard for flavored malt beverages. We find the proposed standard that the term "flavored beer" or "flavored malt beverage" cannot be used on a product if more than 0.5% of the alcohol in the final product was derived from distilled alcohol is reasonable and comports with long standing definitions of beer found in federal and state statutes and regulations.

The notice of rulemaking requests industry comment on the following questions: . -

1. Is it practical to produce beverages currently on the market under the proposed standard, and what is time needed to comply?

Response: It is our understanding, based on information derived from our leading brewer suppliers, e.g., Anheuser-Busch, SAB/Miller and Coors Brewing Company, that existing products can be reformulated in a timely manner in compliance with the proposed definition with minimal disruption to the marketplace.

2. Is there an alternative standard that would be more appropriate?

Response :The proposed 0.5 % standard is the most appropriate standard as it is consistent with the Internal Revenue Code (IRC) treatment of flavor concentrates: The IRC provides that beverages in which distilled alcohol constitutes more than 0.5% of the alcohol in the final product may be produced, provided they are sold, marketed and taxed as distilled spirits. To establish &

<< 0042444A >>

TTB Notice No. 4 -2- October 2, 2003

standard not in accord with past laws and regulations would be unreasonable and will blur longstanding federal and state statutory and regulatory distinctions among the three licensed beverage product categories.

3. Are there any legislative changes this would require?

Response: California has adopted the federal standards for beer and malt beverages. Federal leadership in defining beverage categories is important to avoiding a wide variation in state law regarding beverage classification. The adoption of this standard is in historic compliance with the composition of products that are generally regarded to be beer by the public and state policymakers.

In summary, the California Beer and Beverage Distributors respectfully urges TTB to give final approval to the proposed 0.5% standard for flavored beer and/or flavored malt beverages. Thank you for the opportunity to comment on this important rulemaking.

Sincerely,

VICTORIA G. HORTON  
President