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Wynkoop Brewing Company

August 19, 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 Wynkoop Brewing Company and the Phantom Canyon Brewing Company supports the proposed standard of composition for Flavored Malt Beverages ("FMB's"), 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 FMB's derived from distilled alcohol not exceed 0.5% in order to be classified as "beer."

The Wynkoop Brewing Company is one of the largest stand-alone brewpubs, established in Denver, Colorado in 1988. The brewery and restaurant employs over 100 people, and consistently sales over 3,400 barrels of freshly brewed beer each year. Our sister brewpub, The Phantom Canyon Brewing Company, located in Colorado Springs, Colorado opened in 1993, also employs over 100 people and brews roughly 2,000 barrels of freshly brewed beer each year.

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 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 properties of beer. Many of our customers do understand the attributes of beer and the consequences of this rulemaking process.

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 company 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.

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Federal leadership in this area is critical as state definitions of "beer," "malt beverage," and "spirits" are generally consistent with the definitions found in federal laws and regulations. Thus, the proposed rule will likely be followed at the state level, helping to maintain clear and distinct definitions that will guarantee consistent tax, licensing, and distribution policies for each category.

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.

We reaffirm our company's support for the proposed "0.5% standard" for FMBs. Its consistency with historical interpretations of federal regulations will help maintain and orderly marketplace and the integrity of the beer category.

Sincerely,

Lee F. Driscoll
Chief Executive Officer
Wynkoop Brewing Company