



December 6, 2021

Via Email (Gracie.Joy@ttb.gov)

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Alcohol and Tobacco Tax and Trade Bureau (TTB)
1310 G St. NW, Suite 400
Washington, DC 20220

American Cider Association
401 NE 19th Ave, Suite 200
Portland, Oregon 97233

Re: Labeling of Fruit Wines with Date of Harvest

Dear, Director Joy:

I write on behalf of the American Cider Association (ACA) to request an update on an important wine labeling matter that was addressed in TTB Notice 176: Harvest Dates. We wrote Director Janet Scalese requesting harvest dates rules in 2018 (under our former name, United States Association of Cider Makers) prior to the publication of Notice 176. Notice 176 was published the month following our letter. As the notice included harvest date rules, the ACA and dozens of our members included support for the harvest date rules in our comments submitted in spring of 2019. We made an in person request for an update in winter of 2019. We also mentioned the issue in our letter to Director Greenburg in August 2021 in response to President Biden's executive order regarding fair competition. We have received no updates about this topic that is important to our industry, so on the advice of members of the division, we are writing to reiterate our strong support for the proposed regulations regarding truthful and accurate harvest dates for qualified wine and cider labels as described in Notice 176.

The ACA is an organization of cider and perry producers in the United States. Our mission is to grow a diverse and successful U.S. cider industry by providing valuable information, resources and services to its members and by advocating on their behalf.

The ACA and the cider industry are extremely supportive of the proposal in Notice 176 to create harvest dates for wine labels (including cider). Annual variation in apple, pear and fruit growing conditions results in flavor impacts on the fermented juice of these fruits. This variation in harvest is part of how a small cidemaker distinguishes their new products from year to year. Unfortunately, listing the date of harvest is prohibited on COLA-approved labels over 7% ABV. This creates a disadvantage to small cidemakers who are more likely to work with one or just a few orchards every year.

The ACA was very pleased to see a proposed solution to this labeling concern in Notice 176.

Below is a direct quote from the notice:

“the proposed regulations allow the use of additional truthful, accurate, and specific information about the year of harvest of the grapes or fruit, provided that the label indicates the percentage of wine derived from grapes or fruit, as applicable, harvested in each year. If applicable, the years of harvest must be presented in descending order based on the percentage of wine derived from grapes or fruit, as applicable, grown in each year. Examples of allowable statements would be as follows: “60% of the grapes used to make this wine were harvested in 2014; the remaining 40% were harvested in 2013,” or “This wine is a blend of 50% wine made from apples harvested in 2012 and 50% wine made from apples harvested in 2011.”

The ACA recognizes that wine labeling regulations define “vintage wine” as grape wine and include specific requirements particularly applicable to such wines that qualify for appellations. We understand why TTB will not permit that the dates appearing on cider and other non-qualifying wine labels to be referred to as vintage dates. We do, however, urge the TTB to liberalize the regulations for the inclusion of truthful and accurate claims about fruit harvest date language as proposed in Notice 176.

“The proposed regulations allow the use of additional truthful, accurate, and specific information about the year of harvest of the grapes or fruit, provided that the label indicates the percentage of wine derived from grapes or fruit, as applicable, harvested in each year;” (Notice 176).

How does harvest year impact cidemakers and winemakers?

Grapes are not alone in susceptibility to acid and sugar fluctuations due to the influence of climate. Apples, for example, follow the same climate patterns as grapes. Cool climate apples have high acid and low sugar. Warm climate apples have low acid and high sugar. The weather patterns of a particular harvest season therefore influence a cider’s flavor profile. Being able to identify the harvest year is important information for the cider consumer for this year. If a cider consumer prefers high acid ciders, they will seek ciders made in years with cooler summers.

Our recent summer heat is an example of the benefit of harvest dates for cider. The summer of 2021 included record heat and a deadly heat dome on the west coast. Growers on the west are reporting record breaking brix levels in this year’s harvested apples—levels that would be high for a wine grape. The TTB validated that variations in apple brix levels impact a cider’s ABV levels in an earlier Notice 176 response to wine standards of fill. Acid levels also vary from year to year and can greatly impact a cider’s flavor and stability. In fact, producers in Pennsylvania are seeing such low acid levels after a 2021 growing season characterized by record heat, some are needing to augment with high-acid apple varieties. **Harvest year conditions impact flavor and blending decisions.**

The 2021 heat dome decimated cane berry crops in the Pacific Northwest. Fruit winemakers using fresh cane berries such as blackberry or raspberry had to make decisions about pricing related to the fruit shortage. Why one year’s product might be priced differently than another year’s product is important information for a cider or winemaker to relay to a consumer. **Harvest year conditions impact pricing decisions.**

Increasing frequency in crop-damaging wildfires is another reason we support harvest dating for wine labels. Apples are less susceptible to smoke taint than grapes. When grape harvest is limited due to damage, many small winemakers have started producing grape/apple co-ferments. **Harvest year conditions impact fermentation decisions.**

In summary, a harvest date is valuable information that will help cider and wine consumers decide what product to purchase and will provide an additional marketing avenue for cidemakers to differentiate their products. We perceive no sound policy reason for suppressing such truthful, non-misleading statements as “apples harvested in 2021” or “raspberries picked in 2020.”

Moreover, TTB would retain its authority to disapprove any label application that is false or misleading. *Cf.* 27 C.F.R. § 4.39(a)(1). In the examples above, for example, no reasonable consumer could construe these statements containing dates as denoting that the product is grape wine or that the date references the harvest date for grapes.

As weather destabilizes more and more the use of harvest dates on wine and cider labels is an important marketing tool. We reiterate our strong support of the proposed harvest dates rules as written in Notice 176 and request the TTB advance the proposal to published rules. The outpouring of industry letters for Notice 176 submitted during the official comment period should reiterate the broad industry support for harvest date rules.

We appreciate the TTB taking the time to review our request, and we know how much work goes into evaluating these proposals. We'd be more than happy to discuss these proposed rules with the TTB if any questions should develop. We are hopeful for published rules on this matter shortly, hopefully—given the current weather and harvest challenges we are seeing—in time for cider and winemakers to address the year of harvest on labels for this year's ferments. We look forward to your reply.

Sincerely,



Michelle McGrath
Executive Director
American Cider Association

And

Eleanor Leger
Board President
American Cider Association



The American Cider Association is a 501(C)-6 membership organization.
We represent the interests of cider and perry producers in the United States.
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by providing valuable information, resources and services to our members
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CC: Susan Evans, Janelle Christian