



American Cider Association
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Portland, Oregon 97232

October 5, 2024

Director, Regulations and Ruling Division
Alcohol and Tobacco Tax and Trade Bureau
Department of the Treasury
1310 G Street N.W.
Washington, D.C. 2000

Re: Docket No. TTB-2022-0004; Notice No. 210A Ref: Notice 210

To Whom It May Concern:

These comments are submitted on behalf of the American Cider Association and our members in response to the notice of proposed rulemaking published in the Federal Register on September 9, 2024 regarding standards of fill for wine and distilled spirits, Ref: Notice 210.

The ACA was founded in 2013 and represents the needs of the nation's commercial hard cider producers. There are over 1300 commercial cider producers in the U.S. and cider is commercially made in all 50 states. Our mission is to build and protect a sustainable and diverse cider industry in the United States through targeted education, effective advocacy, and supporting a welcoming, thriving cider community.

The ACA reiterates its support of adding additional standards of fill for wine:

- 16 oz and metric equivalents
- 19.2 oz and metric equivalents

The American Cider Association and its members have long advocated for additional standards of fill for wine and cider. The ACA petitioned for the addition of several volumes the first time in 2019, and at that time, the TTB agreed that the nature of fermenting apples demands that cider have access to more packaging sizes for flexibility of packaging decisions.

In their comments on their final ruling in 2020 ([Docket Nos. TTB-2019-0004 and TTB-2019-0005; T.D. TTB-165; Re: Notice Nos. 182, 183, and 184]), the TTB stated: "These producers note that, in the production of cider, apples often naturally ferment to an alcohol

by volume (abv) level just above 7.4%, so producers often take steps to lower the abv below 7% so that the standards of fill regulations will not apply, enabling them to use 355 milliliter containers. They state that sugar levels in apples vary widely depending on climate and other factors, making final alcohol levels difficult to predict. They argue that being able to use the 355 milliliter container size will eliminate this uncertainty.”

The ACA argues that the above conclusion is also applicable to cidermakers considering other packaging sizes currently only available to cidermakers with a COLA exemption, such as 19.2 oz and 16 oz packaging. The closest approved packaging size to 16 oz is 500 ml. 500 ml cans are not produced in the United States, and 500 ml bottles are often expensive and not the packaging of choice for retailers or consumers. On the other hand, a 16 oz can is readily available to cidermakers and highly desirable by consumers and retailers. Cidermakers need to be able to plan for 16oz cans without fear of their juice naturally fermenting above the threshold allowed for that packaging size.

Additionally, not being able to utilize 16 oz and 19.2 oz containers puts wine and cider at a severe market disadvantage. Wine and cider are fruit-based beverages that support agriculture. We find no compelling argument that fruit beer, fruit seltzer, and other fruit-based malt beverages should have legal access to 16 oz and 19.2 oz containers, but cider and wine may not.

Need For A Streamlined Standard of Fill Approval Pipeline

We write to petition for a streamlined standard of fill approval pipeline. Market trends move quickly, and the standard petition process is too slow for producers to benefit from trend adoption. It puts wine and cider producers at a severe disadvantage, while malt beverage producers can respond quickly to market trends. For example, 19.2 oz cans have been trending with consumers for a couple of years, and cider has not had access. We petitioned for 19.2 oz cans over two years ago. The cider category has missed out on years of growth opportunity because of the standards of fill.

We do appreciate that the TTB has many priorities, and we'd be happy to provide input on a streamlined process for standard of fill approval that could create market opportunity for wine and cidermakers.

We thank the TTB for opening Notice 210 back up to comments, and we appreciate the opportunity for the cider industry's input to be considered.

Thank you for considering our comments,

A handwritten signature in black ink that reads "Michelle McGrath". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Michelle McGrath, CEO
American Cider Association