



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 7/15/2009

Agenda Placement: 10A

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: Melissa Gray for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Trish Hornisher, PLANNER III - 299-1349
SUBJECT: 2008 Winery Production Review

RECOMMENDATION

2008 WINERY PRODUCTION AUDIT

Presentation, discussion and possible action regarding the outcome of a confidential review of wine production capacity at wineries selected anonymously by the Planning Commission in 2008, followed by selection of 2009 audit participants.

Staff Recommendation: Review results of 2008 winery production review and select 2009 participants.

Staff Contact: Patricia Hornisher, 299-1349 thornish@co.napa.ca.us

EXECUTIVE SUMMARY

Proposed Action: Staff recommends that the Commission receive a summary of the 2008 winery production review, select new wineries for the 2009 production review, and direct staff to continue monitoring the one winery found to be out of compliance in the 2008 review.

Discussion:

The 2008 Wine Production Review analyzes the annual wine production levels of six Napa County wineries for the purpose of verifying production compliance with their use permits. Twenty wineries were originally selected by blind draw for the 2008 review by the Planning Commission at their regular meeting of July 16, 2008. Staff then randomly selected six wineries from the original 20 in order to expedite the review process, requested documentation from the six wineries, and analyzed their winery production using the diagram developed for this purpose (see attached). Out of the six wineries selected, only one was found to be out of compliance. The remaining five were consistent with the annual production limitations specified in their use permits.

In addition to the six 2008 wineries reviewed, three wineries from the 2007 winery production review were carried over for a re-review since they were found to be out of compliance in last year's review. All three carry-over wineries were within their production limits for 2008.

Following presentation and discussion of the 2008 review, staff is requesting that the Commission select new wineries for the 2009 production review. Also, staff would like to explain procedures intended to expedite next year's review.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

In 2005, a formula was developed by County planning staff with the assistance of local industry representatives to clarify Napa County Code Section 18.16.030(G) (4) and to explain how a winery's annual production level is quantified. The method of calculation for annual production is consistent with various Napa County Code references regarding winery production and production capacity and is captured in the following statement and attached flow chart:

*A winery's total annual production equals either: (1) the sum of all wine created through fermentation in a given year, plus the net total of all fermented bulk wine received and shipped in the same year, including all bottled wine received on the premises during the same year; or (2) the amount of wine bottled on the premises in the same given year, whichever is greater. This statement is quantified on the flow chart by the following annual production equation: $A + (B - C)$ or D whichever is greater. The chart further qualifies that: *If $B - C$ is a negative number, total production is equal to either A or D , whichever is greater.* This qualifying statement was added to the established formula last year. It was needed because certain wineries showed a circumstance where the annual total of bulk wine gallons shipped (bulk wine out) was greater than the bulk wine gallons received (bulk wine in).*

Planning staff derives production volumes from a form that all wineries submit to the Department of the Treasury - Alcohol Tobacco Tax and Trade Bureau (TTB). This form is known as, *Form TTB F 5120.17, Report of Wine Premises Operations*, and identifies the amount of wine fermented, the amount of bulk or bottled wine received and shipped, and the amount of wine bottled on a monthly basis.

After wineries are selected for inclusion in the annual audit, the Planning Department requests that the winery owners provide copies of their forms for the years being reviewed. Typically, the Department has requested three years of data because production can vary from year to year and the Department allows for averaging of three to five years of data to determine compliance.

At the public hearing on July 16, 2008, the Planning Commission selected 20 wineries by blind draw. In order to expedite the review process, staff randomly selected six wineries from this group. Spreadsheets showing each

winery's production totals based on the information submitted have been provided as attachments and demonstrate that only one out of the six wineries was over their approved production limit. The other five wineries were found to be within the limitations of their approved annual production. It should be noted however, that two of the wineries did not report all three years requested. Thus, only two production years were analyzed for these two wineries.

In addition to the six 2008 wineries reviewed, three wineries from the 2007 winery production review were carried over to this year for a re-review because they were found to be out of compliance at last year's review. These wineries each submitted 2008 production data for review, and all were found to be within their production limits for 2008.

Conclusion:

Six wineries were reviewed for annual production compliance. Of the six producing wineries, only one was found to be out of compliance. While there was a variation in the data submitted by two of the wineries, staff was able to utilize the partial submittals and still conclude the remaining five were in compliance. The carry-over wineries from the 2007 review also appeared to be in compliance for 2008.

Staff recommends the Commission direct staff to monitor the one winery identified as being out of compliance for 2008 and blind draw 20 new wineries for the 2009 production review. Staff also recommends that future reviews analyze only one year of production data unless more years are voluntarily supplied by the winery to demonstrate compliance with their production limit. (This will make data collection less time consuming and costly for both the wineries and staff.) Also, staff should confirm with the wineries that all custom producers and alternating proprietors are included in the analysis of total production. *As a reminder, the names of all wineries selected for review are kept confidential, and the TTB forms used in the audit are not maintained as public records.*

SUPPORTING DOCUMENTS

- A . Winery Production Process Flow Chart
- B . 2008 Annual Production Spreadsheets - Wineries A thru F
- C . 2007 Carry-over Winery Spreadsheets - Wineries A thru C
- D . Sample Alcohol Tobacco Tax and Trade Bureau Form TTB F 5120.17

Napa County Planning Commission: Approve

Reviewed By: Melissa Gray