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Napa County Planning Commission Board Agenda Letter

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

RECOMMENDATION

2007 WINERY PRODUCTION AUDIT

Presentation, discussion and possible action regarding the outcome of a confidential audit of production capacity at wineries selected in 2007, followed by selection of 2008 audit participants.

Staff Recommendation: Select 2008 audit participants, direct staff to work with industry representatives on formula methodology, and direct staff to monitor those wineries exceeding production limits.

Staff Contact: Trish Hornisher 299-1348

EXECUTIVE SUMMARY

Proposed Action: Staff recommends that the Commission: 1) blind draw 20 new wineries for the 2008 production review; 2) direct staff to continue monitoring wineries found out of compliance in the 2007 review; and, 3) direct staff to consult with industry representatives to determine what changes are needed to the production level formula.

Discussion:

The 2007 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 for the 2007 review by the Planning Commission by blind draw at the conclusion of their public hearing on February 7, 2007. Staff selected six wineries out of the twenty in order to expedite the review process. Two out of the group were found to be non-producers. Of the remaining four wineries, one was in compliance while the other three were found to be out of compliance with their approved annual production limitations. As discussed further in this report, the established formula used to calculate annual production levels for these three wineries was modified to account for negative production levels resulting from shipment of bulk wine.

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**Wine Audit Background:**

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 quantify a winery's annual production level. 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 in the following annual production equation: $A + (B - C)$ or D whichever is greater. It can also be stated as: Fermentation + (Bulk In - Bulk Out) or Bottling (whichever is greater) = Annual Production.

Quantities for the yearly amount of fermented wine, bulk wine received and shipped, bottled wine received or the amount of wine bottled in a given year are taken from monthly reporting forms that wineries submit to the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (ATF). The Department of the Treasury requires accurate filing of Form ATF F 5120.17, "Report of Wine Premises Operations" by all operating wineries.

On Wednesday, February 7, 2007, the Planning Commission held a public hearing discussing the results of the first wine production process review. This "2006 audit" reviewed 17 wineries. All were found to be in compliance. At the conclusion of the hearing, the Commission requested the review process continue for the following year and proceeded to select 20 more anonymous wineries drawn from the Napa County Winery Database.

2007 Winery Audit:

Due to changes in staffing, the 2007 wine production review did not get underway until March of 2008. Due to the late start, staff selected 6 wineries to review from the original 20. Three years of data were used in the review because production can vary from year to year and the Department allows for averaging of three to five years of data to determine compliance. Out of the six wineries selected, two were found to be non-producers. One of the non-producers was currently only selling grapes grown on the property; the other failed to respond to the County's numerous requests for production information, and is assumed to be out of business. The Department is currently attempting to contact this owner through certified mail.

The remaining four wineries were analyzed for the years 2005, 2006 & 2007 using the established formula: $A + (B - C)$ or D whichever is greater. As shown on the attached spreadsheets entitled, "Winery A, B, C, and D", Winery D

was found to be in compliance with its existing use permit production limitation while Wineries A, B & C were not.

Please note that for Wineries A, B & C (with an annual production limitation of 250,000, 40,000 and 65,000 gallons respectively), a variation from the established formula was required. These 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). Thus in these instances, the net annual production for the three wineries in two or more of the years analyzed became a negative number.

An example of this can be shown using Winery C. If the established formula $A + (B - C)$ were used, the net annual production in 2007 would be a -38,772. $[80,506 + (3,221 - 122,499)]$ This example shows that high volumes of bulk wine out can cancel out what is actually fermented in a given year (80,506 gallons) and net out as a negative number. More importantly, a negative number can dramatically skew the averaging of production over several years. In order to overcome this problem, when the net bulk wine calculation $(B - C)$ resulted in a negative number, zero was used instead. As a result, the amount fermented (A in the formula) and bottled (D in the formula) were compared, and the larger of the two was considered the annual production level. Using the modified formula then, Winery C's net annual production is simply what was fermented or 80,506 gallons.

Conclusion:

Six wineries were reviewed for annual production compliance. Of the four producing wineries, one was found compliant while the remaining three were out of compliance. Based on the three year average, non-compliance ranged from 13 to 31%. While the 2006 audit found that wineries with varying business models were able to apply the County's annual production calculation without problematic results, the 2007 review found that the Department's formula requires adjustment in the case of wineries shipping high volumes of bulk wine. Staff recommends continued monitoring of the wineries that were identified as being out of compliance based on three years of data and the modified formula.

Finally, staff is requesting a blind draw of 20 new wineries for the 2008 production review. The names of all selected wineries will be kept confidential and the ATF forms used in the audit will not be maintained as public records.

SUPPORTING DOCUMENTS

- A . Winery Process Flow Chart
- B . Winery A, B, C & D Annual Production Analysis Charts
- C . Sample ATF Form 5120.17

Napa County Planning Commission: Approve

Reviewed By: John McDowell