

**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

IN THE MATTER OF THE)	
APPLICATION TO EXTEND)	ORDER PERMITTING EXTENSION
THE PRICES POSTED IN THE MARCH)	OF PRICES POSTED IN MARCH,
2019, MAY 2019, JUNE 2019, AUGUST)	MAY, JUNE, AUGUST, AND DECEMBER
2019, AND DECEMBER 2019)	2019 CURRENT PRICE LISTS
CURRENT PRICE LISTS)	
)	

BY THE ACTING DIRECTOR:

N.J.A.C. 13:2-24.6(a)(4) provides that a Current Price List (“CPL”) shall be filed no later than the 15th day of each calendar month, and shall become effective the first day of the following calendar month and **shall remain effective for the entire month.**

On January 17, 2019, the Division of Alcoholic Beverage Control (the “Division”) received a request from Jeffrey A. Warsh, Esquire, General Counsel to the New Jersey Wine and Spirits Wholesalers Association (“NJWSWA”), seeking a relaxation of N.J.A.C. 13:2-24.6(a)(4), such that the prices contained in the March, May, June, August, and December 2019 CPLs would be extended as shown in the chart below.

CPL	END OF MONTH	REQUESTED END OF MONTH
March 2019	Sunday, March 31, 2019	Monday, April 1, 2019
May 2019	Friday, May 31, 2019	Monday, June 3, 2019
June 2019	Sunday, June 30, 2019	Monday, July 1, 2019
August 2019	Saturday, August 31, 2019	Tuesday, September 3, 2019*
December 2019	Tuesday, December 31, 2019	Friday, January 3, 2020

*The State-recognized holiday of Labor Day falls on Monday, September 2, 2019

If the requested relaxation is granted, all New Jersey licensed wholesalers would be authorized to utilize the prices listed in the March, May, June, August and December 2019 CPLs for orders that were received on or before the close of business on the dates shown in the Requested End of Month column above.

On February 27, 2019, Mr. Warsh and Mr. Robert Sansone, Chief Operating Officer of Fedway Associates, Inc., appeared before me to explain the reasons underlying the relaxation request.

Mr. Sansone stated that the preparation and efforts to timely file CPLs, along with the sales, billing, credit, warehousing and delivery of alcoholic beverages, are made considerably more difficult when random calendar pressures are applied. Retailers typically place significant orders at the end of each month, and although retailers are able to place orders on-line before the end of each month, their practice is to assess their inventory first so they know how much product is needed. When the end of the month falls on a weekend or legal holiday, or on the eve of a weekend or legal holiday, the retailers are not able to properly assess their inventory and place well-informed orders at the advantageous prices that may exist during the previous month.

To address this situation, many wholesalers have developed an administrative “work around,” in which wholesalers will file their CPL with two sets of prices, one set for the beginning of the month and one set for the remainder of the month. Such a practice places an operational burden on the wholesalers, but accomplishes the same result that is underlying the instant relaxation request. If granted, the request would alleviate some of those pressures, as well as additional concerns over scheduling and processing timelines, and provide critical relief to wholesaler personnel who could avoid working weekends prior to the deadlines.

In order to extend the effectiveness of the prices established in the March, May, June, August and December 2019 CPLs, affirmative action by the Acting Director is needed. In accordance with N.J.A.C. 13:2-9.1, the Director or Acting Director has the authority to relax the provisions of N.J.A.C. 13:2-24.6(a)(4) upon a showing of undue hardship (economic or otherwise); that the waiver of the rule would not unduly burden any affected parties; and that the waiver is consistent with the underlying purposes of Title 33 and its implementing regulations.

I have reviewed the requests to extend the expiration dates for the March, May, June, August and December 2019 CPLs in light of the standards contained in N.J.A.C. 13:2-9.1. I believe that denying the relief sought would cause hardship to both wholesalers and retailers. Without the relief sought, retailers would not be able to assess their inventory and place their significant orders at the end of the month at the advantageous prices offered. Wholesalers, on the other hand, are administratively burdened if choosing to file two sets of prices (one for the previous month’s prices, and then for the coming month), especially those wholesalers whose CPLs contain thousands of products.

Since the extension of the March, May, June, August and December 2019 prices would apply to all wholesale and retail licensees on a non-discriminatory basis, I do not believe that the requested approval would unduly burden any affected parties, or would undermine the purposes of Title 33, which are to prevent discrimination in the sale of alcoholic beverages and to maintain trade stability. I note that wholesalers who choose to exercise the extensions granted herein must extend the March, May, June, August and December 2019 prices on a uniform basis for all products and for all retail licensees.

Accordingly, it is on this **13** day of March, 2019,

ORDERED that wholesalers are authorized to extend prices listed in the **March 2019** CPL for retail orders received on or before the close of business on **Monday, April 1, 2019**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the **May 2019** CPL for retail orders received on or before the close of business on **Monday, June 3, 2019**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the **June 2019** CPL for retail orders received on or before the close of business on **Monday, July 1, 2019**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the **August 2019** CPL for retail orders received on or before the close of business on **Tuesday, September 3, 2019**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that wholesalers are authorized to extend prices listed in the **December 2019** CPL for retail orders received on or before the close of business on **Friday, January 3, 2020**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts.



JAMES B. GRAZIANO
ACTING DIRECTOR

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