

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

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IN THE MATTER OF THE)	AO 2022-01
APPLICATION TO EXTEND THE)	ADMINISTRATIVE ORDER
PRICES POSTED IN THE APRIL 2022,)	PERMITTING EXTENSION
JULY 2022, SEPTEMBER 2022 AND)	OF PRICES POSTED IN APRIL,
DECEMBER 2022 CURRENT)	JULY, SEPTEMBER AND
PRICE LISTS)	DECEMBER 2022 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 December 27, 2021, 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 April, July, September and December 2022 CPLs would be extended as shown in the chart below.

CPL	End of Month	Requested End of Month
April 2022	Saturday, April 30, 2022	Monday, May 2, 2022
July 2022	Sunday, July 31, 2022	Monday, August 1, 2022
September 2022	Friday, September 30, 2022	Monday, October 3, 2022
December 2022	Saturday, December 31, 2022	Tuesday, January 3, 2023

If the requested relaxation is granted, all New Jersey licensed wholesalers who sell to retailers would be authorized to utilize the prices listed in the April, July, September and December 2022 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.

According to Mr. Warsh’s letter, the practice of changing over prices each month places operational pressures on the wholesalers in terms of managing the sales, billing, credit, warehousing and delivery of alcoholic beverages. The Division is aware from past requests for

similar relief that retailers typically place significant orders at the end of each month, and although retailers are able to place orders online 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 a 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 would not have to work weekends to fill these orders.

In order to extend the April, July, September and December 2022 CPLs to address the concerns described above, affirmative action by the Director is necessary. In accordance with N.J.A.C. 13:2-9.1, the 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.

The Division has reviewed the requests to extend the expiration dates for the April, July, September and December 2022 CPLs in light of the standards contained in N.J.A.C. 13:2-9.1. 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.

Because the extension of the April, July, September and December 2022 prices would apply to **all** wholesale and retail licensees on a non-discriminatory basis, it is the Division’s belief that the requested approval would neither unduly burden any affected parties, nor would it undermine the purposes of Title 33, which are to prevent discrimination in the sale of alcoholic beverages and to maintain trade stability. Please be advised that wholesalers who choose to exercise the extensions granted herein must extend the April, July, September and December 2022 prices on a uniform basis for all products and for all retail licensees.

Accordingly, it is on this 1st day of March 2022,

ORDERED that wholesalers are authorized to extend prices listed in the **April 2022** CPL for retail orders received on or before the close of business on **Monday, May 2, 2022**, 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 **July 2022 CPL** for retail orders received on or before the close of business on **Monday, August 1, 2022**, 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 **September 2022 CPL** for retail orders received on or before the close of business on **Monday, October 3, 2022**, 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 2022 CPL** for retail orders received on or before the close of business on **Tuesday, January 3, 2023**, provided that all such prices are extended in a uniform, non-discriminatory basis to all retail accounts; and it is further

ORDERED that the relief provided herein is based upon the specific facts alleged in this *ex parte* proceeding and, therefore, is subject to further review and modification should the factual circumstances warrant.



ALYSSA P. WOLFE
ACTING DIRECTOR

APW/ABC