

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

IN THE MATTER OF THE RESOLUTION)
OF EXTENSION OF CREDIT DURING THE)
COVID-19 PANDEMIC)

SR 2020-13
SPECIAL RULING AMENDING AND
SUPERSEDING SR 2020-02 (IN PART), SR
2020-07, SR 2020-11, AND APPROVING
THE INDUSTRY CREDIT RESOLUTION

BY THE ACTING DIRECTOR:

On April 7, 2020, in response to economic conditions brought on by the unprecedented health crisis posed by the novel coronavirus 19 (“COVID-19”), the Division of Alcoholic Beverage Control (the “Division”) issued Special Ruling 2020-02 (“SR 2020-02”). In SR 2020-02, the Division granted, among other things, relaxation of N.J.A.C. 13:2-24.4 pertaining to extension of credit and electronic filing of Notice of Obligations (“NOO”). On May 13, 2020, the Division issued SR 2020-07 and extended the previously authorized extension of credit in SR 2020-02 until June 7, 2020 for those invoices dated February 23 to March 16, 2020 (e.g., the “quarantined invoices”). On June 7, 2020, the Division issued SR 2020-11 and further extended credit to July 15, 2020. In SR 2020-11, the Division strongly encouraged wholesalers and retailers, through their respective associations, to work together to develop a payment plan to facilitate the repayment of the quarantined invoices.

On June 18, 2020, the Division received a proposed unified resolution regarding outstanding credit issues (“Industry Credit Resolution”) from representatives of the alcohol beverage trade associations. Specifically represented in reaching the Industry Credit Resolution were owners of retail establishments and wholesalers, the Beer Wholesalers Association of New Jersey, the Wine and Spirits Wholesalers Association of New Jersey, the New Jersey Licensed Beverage Association, the New Jersey Restaurant and Hospitality Association, and the Brewers

Guild of New Jersey. The Industry Credit Resolution requests that the Division approve the proposed plan and amend and supersede its prior Special Rulings, SR 2020-02, SR 2020-07, and SR 2020-11.

The Division has reviewed the Industry Credit Resolution and has determined to approve the proposal as the Resolution represents a reasonable balance of the interests of both the wholesale and retail tiers. The Resolution provides on-premises retailers with additional time to pay their quarantined invoices while allowing wholesalers to recoup payment on the debt that it has been carrying for months. This Resolution is non-discriminatory and applies to all on-premises retail licensees with quarantined invoices on an equal basis. The Division believes that this Resolution strikes an appropriate balance and will restore trade stability during these unprecedented times. The Industry Credit Resolution is incorporated and attached hereto as Schedule A.

The Industry Credit Resolution provides the following:

1. The outstanding quarantined invoices will be divided into two groups, each group representing eleven (11) days;
2. Group One will be comprised of invoices dated from February 23 through March 5. These invoices will be permitted to age 135 days with payment due on July 7 through July 20, respectively (e.g., invoice dated 2/23 is due on 7/7, invoice dated 2/24 is due on 7/8, etc.). No payment will be due on weekends with those invoices becoming due on the Monday thereafter. See Calendar, Schedule A.;
3. There will be a “payment holiday” with no payments due from July 21 through July 26;
4. Group Two will be comprised of invoices dated March 6 through March 16. These invoices will be permitted to age 142 days with payment due on July 27 through August 5, respectively (e.g., invoice dated 3/6 is due on 7/27, invoice dated 3/7 is due 7/28, etc.) No payments will be due on weekends with those invoices becoming due on the Monday thereafter. See Calendar, Schedule A.;
5. The failure of a retailer to make payment will result in the license being placed on C.O.D. status effective at 12:01 a.m. on the 136th and 143rd days.

6. Credit Compliance Corporation will send electronic NOO's to each retailer three days prior to the due date; and
7. Upon request, Credit Compliance Corporation will supply each wholesaler with a spreadsheet of each retailer, their invoices, and their due dates.

If any retailer receives a NOO and disputes the amount of the debt, that retailer should immediately contact its wholesaler to resolve any discrepancies prior to the invoice's due date. If further relief is required, the retailer must follow the dispute procedure set forth in N.J.A.C. 13:2-24.4(f) and notify the Division (and wholesaler) in writing that it disputes the debt, and the Division will take action in accordance with its authority under that regulation.

In the Division's prior Special Rulings regarding the extension of credit, it relaxed N.J.A.C. 13:24.4(b) (which requires wholesalers to serve NOOs on defaulting retailers personally or by first class mail), and permitted NOOs to be sent to defaulting retailers via e-mail for the duration of the public emergency or until restrictions were otherwise lifted. It is currently unknown how long the current public health emergency will last and it remains likely that employees of the wholesalers will continue to work remotely and will not have the ability to send NOOs by mail or by personal delivery. For these reasons, and because the Division is currently considering amending N.J.A.C. 13:2-24.4(b) to permit electronic service of NOOs¹, the Division has determined to exercise its authority under N.J.S.A. 33:1-39 and continue the relaxation of N.J.A.C. 13:2-24.4(b) and electronic service of NOOs. The Division has received additional information in support of its determination to relax N.J.A.C. 13:2-24.4(b). According to Credit Compliance Corporation, based on the first two weeks of allowing electronic service of NOOs:

¹ On November 23, 2019, the Division granted Michael Halfacre's Petition for Rulemaking, seeking to amend N.J.A.C. 13:2-24.4 to permit wholesalers, Credit Compliance Corporation, and credit information agencies to send electronic Notices of Obligation. 51 N.J.R. 1866(b). The Division is in the process of initiating rulemaking and anticipates that the regulation will be amended in the near future.

(i) eleven wholesalers participated in the service; (ii) 3,162 individual invoices were entered; (iii) 2,158 NOOs were e-mailed to 1,160 defaulting retailers; (iv) of those 2,158 NOOs, 56 had to be mailed due to failed email delivery; and (v) overall- 97.4% of NOOs were delivered electronically. This has resulted in a more efficient, streamlined, and cost effective process for both the wholesale and retail tiers.

Please be advised that the relief provided in this Special Ruling is available only to those on-premises retail consumption licensees that were not on C.O.D. status as of February 23, 2020, and must be made available to all on-premises retail consumption licensees on a non-discriminatory basis. The usual credit rules in N.J.A.C. 13:2-24.4 apply to all other purchases made outside of the quarantine window. All other provisions in N.J.A.C. 13:2-24.4 shall continue to apply unless circumstances arise warranting further relaxation.

Nothing in this Special Ruling Amending and Superseding SR 2020-02 (In Part), SR 2020-07, and SR 2020-11 is intended to alter any other relief granted in SR 2020-02, and any relaxation of rules or the June 2015 Special Ruling, as set forth therein, shall remain in place.

The relief provided herein is based on information provided by licensees in the wholesale and retail tiers of the industry. The Division will continue to monitor the economic impact of the COVID-19 pandemic on the alcoholic beverage industry and will consider modifications to this Special Ruling as conditions warrant. Should the underlying facts and circumstances and/or general State of Emergency change, the Director reserves the right to make modifications to this Special Ruling in the exercise of his discretion.



JAMES B. GRAZIANO
ACTING DIRECTOR

DATED: July 1, 2020

SCHEDULE A

Industry Credit Resolution



Beer Wholesalers Association of New Jersey

941 WHITEHORSE AVENUE, SUITE 16 · TRENTON, NJ 08610-1497
PHONE: (609) 585-5900 · FAX: (609) 585-5903

June 18, 2020

Honorable James Graziano, Director
State of New Jersey
Department of Law and Public Safety
Division of Alcoholic Beverage Control
P.O. Box 087
Trenton, NJ 08625-0087

Re: Special Ruling Amending Previous Relaxation of N.J.A.C. 13:2-20.4 et al.

Dear Director Graziano:

Please accept this correspondence in connection with Special Ruling 2020-11 in which it was requested that members of the alcohol beverage industry work together to resolve issues related to the relaxation of the credit regulation as set forth in Special Rulings 2020-02, 2020-07 and 2020-11.

On behalf of all participants in this process I would like to extend our gratitude for the efforts of yourself and your staff, particularly Counsel to the Director Alyssa Wolfe, in assisting the industry during this difficult time.

Since the Division issued Special Ruling 2020-11, dated June 7, 2020, representatives from the alcohol beverage industry trade associations along with owners of both retail establishments and wholesale distribution companies have met via conference call on multiple occasions. Specifically represented was the Beer Wholesalers Association of New Jersey, the Wine and Spirits Wholesalers Association of New Jersey, the New Jersey Licensed Beverage Association, the New Jersey Restaurant and Hospitality Association and the Brewers Guild of New Jersey.

The issues confronting the industry were thoroughly discussed and all points of view were considered in providing the proposed resolution that is set forth below.

The initial Special Ruling, SR 2020-02 dated April 7, 2020 provided that invoices for alcoholic beverages sold from wholesaler to retailer and dated between February 23, 2020 and March 16, 2020, inclusive, were to be segregated, (or "quarantined") and not

placed on “COD” at the expiration of the time frame prescribed in N.J.A.C 13:2–24 et seq.

As New Jersey engages in the re-opening of alcoholic beverage-licensed retail establishments, it is imperative that the retailers be provided with credit to restock in anticipation of re-opening. It is also imperative that wholesalers not become overextended in the supply of credit to those same retailers. The Special Rulings have recognized the competing interests and the special nature of the relationship between retailers and wholesalers under New Jersey’s alcoholic beverage licensing laws and have therefore provided the participants with both guidance and inspiration during this process.

The following is the unified industry resolution:

- The outstanding invoices will be divided into two groups, representing 11 days in each group.

- Group One will be comprised of invoices dated from February 23 through March 5 and will be permitted to age 135 days and will thereafter be due on July 7 through July 20, respectively.

- As always, no payment will be due on weekends with those invoices becoming due on the Monday thereafter.

- There will be a “payment holiday” with no payments due from July 21 through July 26.

- The Group 2 invoices will be comprised of invoices dated March 6 through March 16 and will be permitted to age 142 days and will thereafter be due on July 27 through August 5, respectively.

- Again, no payments will be due on weekends with those invoices all becoming due on the Monday thereafter.

- Failure to make payment within 135 days and 142 days, respectively, will result in the licensee being placed on COD status effective at 12:01 a.m. on the 136th and 143rd days.

- Credit Compliance Corporation will send electronic Notices of Obligation to each retailer three days prior to the due date.

Attached as Exhibit A to this correspondence is a breakdown of the calendar for the months of July and August 2020 with the appropriate due dates represented as set forth above.

Additionally, Credit Compliance Corporation will supply to each wholesaler, upon request, a spreadsheet of each retailer, their invoices, and their due dates.

In SR 2020-11 it was asked that a proposed resolution also address five specific concerns. Without reciting each concern in detail, it is the consensus of the participants that the proposed resolution, combined with the long-established operation of the industry participants in compliance with the credit regulation, that a specific response to those five concerns is unnecessary. For example, in Item 3 it was asked what would constitute a payment. It was agreed by all involved that there is no reason to change what constitutes a payment under normal circumstances. If the Division would like further clarification on these five concerns, please do not hesitate to contact the undersigned.

We would ask that the foregoing be incorporated into a new Special Ruling that will Amend and Supersede Special Rulings 2020-02, 2020-07 and 2020-11

Finally, it is requested that the new Special Ruling contain language that will allow electronic delivery of Notices of Obligation to continue until such time as the credit regulation is amended to allow same. The electronic NOO program has been a tremendous success, and CCC has committed to not charging for the service through the end of July 2020.

Again, on behalf of the undersigned Association representatives, we would like to thank the Division for its hard work during this crisis.

Please do not hesitate to contact me should you have any comments or questions. As always, thank you for your kind support and attention.

Respectfully submitted,



Michael I. Halfacre, Esq.

Diane Weiss, Executive Director
NJ Licensed Beverage Association

Jeff Warsh, Executive Director
NJ Wine and Spirits Wholesalers

Marilou Halvorsen, President
NJ Restaurant and Hospitality Association

Eric Orlando, Executive Director
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MIH/hm

cc: Counsel to the Director Alyssa Wolfe

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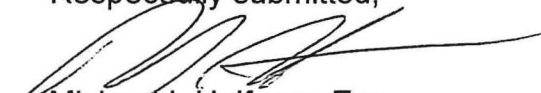
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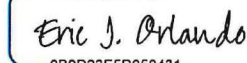


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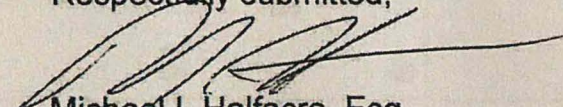
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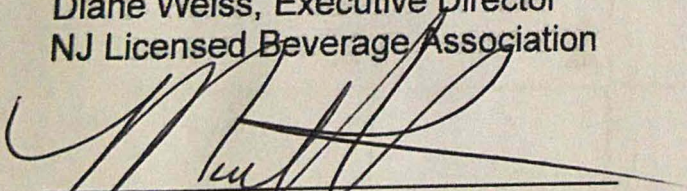
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JULY 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
28	29	30	1	2	3	4
5	6	7 2/23 (Aged 135 days)	8 2/24	9 2/25	10 2/26	11
12	13 2/27 2/28 2/29	14 3/1	15 3/2	16 3/3	17 3/4	18
19	20 3/5	21 Off	22 Off	23 Off	24 Off	25
26	27 3/6 3/7 (Aged 142 Days)	28 3/8	29 3/9	30 3/10	31 3/11	1

AUGUST 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
26	27	28	29	30	31	1
2	3	4	5	6	7	8
	3/12 3/13 3/14	3/15	3/16			
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5