13:2–31.4 Hearing procedure

Upon determination that the matter is a contested case, the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1) shall govern the conduct of the case.

Amended by R.1979 d.393, effective October 1, 1979.
See: 11 N.J.R. 580(f).
Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).
Stylistic revisions.

SUBCHAPTER 32. (RESERVED)

Subchapter Historical Note

Subchapter 32, Sales of Forfeited Property, was repealed by R.1995 d.450, effective July 24, 1995. See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

SUBCHAPTER 33. PRODUCT INFORMATION FILING: BRAND REGISTRATION

Subchapter Historical Note

Amendments of this subchapter repealing sections 3 and 5 through 7 and recodifying section 4 as section 3, were filed on April 4, 1979, as R.1979 d.138 to become effective on May 1, 1979. See: 11 N.J.R. 143(a), 11 N.J.R. 257(c). Previous amendments to the repealed sections were R.1972 d.158, effective August 11, 1972 (see: 4 N.J.R. 233(d)), R.1974 d.349, effective December 19, 1974 (see: 6 N.J.R. 437(c), 7 N.J.R. 13(b)); R.1975 d.238, effective September 2, 1975 (see: 7 N.J.R. 336(a), 7 N.J.R. 436(c)); and R.1978 d.75, effective March 1, 1978 (see: 9 N.J.R. 482(a), 10 N.J.R. 170(a)). An amendment repealed section 3 effective July 3, 1980 as R.1980 d.304. See: 12 N.J.R. 343(b), 12 N.J.R. 494(b). Pursuant to Executive Order No. 66(1978), Subchapter 33 was readopted as R.1985 d.279, effective May 8, 1985. See: 17 N.J.R. 794(a), 17 N.J.R. 1423(a). See also Chapter Historical Note and section annotations.

13:2–33.1 Brand registration schedule

(a) No licensee shall knowingly sell, offer for sale, deliver, receive or purchase, for resale in New Jersey, any alcoholic beverage (including private label brands owned by a retailer or exclusive brands owned by a manufacturer or wholesaler and sold by such manufacturer or wholesaler exclusively to one New Jersey retailer or group of affiliated retailers) unless there is first filed with the Director of the Division of Alcoholic Beverage Control a schedule, for each separate alcoholic beverage product, listing the following:

1. The full and correct brand or trade name;

2. Its nature and type;

3. Its age or vintage and proof or percentage of alcoholic content when stated on the label;

4. The sizes of standard packaging and the standard number of unit containers per standard case;

5. The date of label approval granted by the Federal Bureau of Alcohol, Tobacco and Firearms (B.A.T.F.), together with a copy of the B.A.T.F. Form 1649;

6. The names and license numbers of each New Jersey Class B licensee designated by the filer to be an authorized distributor of the product at wholesale;

7. The full name, address, telephone number, taxpayer identification number and New Jersey license number (if any) of the filer; and

8. An indication whether the schedule is an original filing or an amendment to any existing one.

(b) The brand registration schedule shall be filed by:

1. The manufacturer, importer or wholesaler who owns the brand or trade name and label; or

2. An importer or a wholesaler selling such brand who is appointed as authorized agent by the brand owner for the purpose of filing the brand registration schedule; or

3. In the case of private label brands, by the manufacturer or wholesaler supplying such private label brand to the retailer or by any wholesaler having authority, in writing, from the retailer or affiliated retailers owning such private label brand, except where the alcoholic beverages are imported by the retailer under a special permit issued by the director, in which case the retailer shall file the schedule and the labels.

(c) Whenever any change occurs, including but not limited to the addition or deletion of an authorized wholesaler, the filer of the brand registration schedule shall file an amended brand registration schedule within 10 days after the occurrence of such change.

Amended by R.1974 d.349, effective December 19, 1974.
See: 6 N.J.R. 437(c), 7 N.J.R. 13(b).
Amended by R.1985 d.279, effective June 3, 1985.
See: 17 N.J.R. 794(a), 17 N.J.R. 1423(a).
Substantially amended.
Amended by R.1990 d.412, effective August 20, 1990.
See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c).
In (a), clarified text.

Case Notes

Rule not promulgated to allow circumvention of importer-wholesaler antidiscrimination statute, but to identify the distribution network of alcoholic beverages to insure tax integrity: statute violation found. Joseph H. Reinfeld, Inc. v. Schieffelin & Co., 94 N.J. 400, 466 A.2d 563 (1983).

Former rule held to be valid as serving purpose of identifying licensees subject to taxation through filing of documentation, as providing marketplace and industry stability, as solving problem of industry member identification and as promoting and enhancing interbrand competition; rule does not adversely affect consumers or violate antitrust laws (Director's Decision). In Re: Todd Seifert, 4 N.J.A.R. 294 (1983).

New Jersey State Library

13:2–33.2 Filing fees and forms

(a) Each filing of an original brand registration schedule shall be accompanied by a non-refundable fee of $20.00, and each filing of an amendment to a previously filed brand registration schedule shall be accompanied by a non-refundable fee of $10.00. Such fees shall be payable to the Division of Alcoholic Beverage Control.

(b) All filings shall be made on a form which the director shall provide for the filing of brand registration schedules. Filers, however, may utilize a photocopy of the form.

Amended by R.1985 d.279, effective June 3, 1985.
See: 17 N.J.R. 794(a), 17 N.J.R. 1423(a).
Old text deleted and new text substituted.
Amended by R.1995 d.450, effective August 21, 1995.
See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).
Increased filing fees.

SUBCHAPTER 34. RESTRICTED BREWERY

Authority

N.J.S.A. 33:1–1 et seq.

Source and Effective Date

R.1995 d.450, effective August 21, 1995.
See: 27 N.J.R. 2051(a), 27 N.J.R. 3177(a).

Subchapter Historical Note

Subchapter 34, Alcohol Permits, was repealed by R.1990 d.412, effective August 20, 1990. See: 22 N.J.R. 1811(a), 22 N.J.R. 2508(c). Subchapter 34, Restricted Brewery, was adopted as New Rules by R.1995 d.450, effective August 21, 1995. See: Source and Effective Date. See also Chapter Historical Note.

13:2–34.1 Application for restricted brewery license

(a) All applicants for a restricted brewery license shall comply with the application, advertising and hearing provisions of this chapter. The application shall be accompanied by a description of the intended activities to be conducted under the authority of this license. The statement shall include the following information:

1. The amount of malt alcoholic beverage intended for brewing per year;

2. The site of restricted brewery license activities (must be immediately adjacent to retail license restaurant premises);

3. The name and license number of restaurant and seating capacity;

4. The license number of any other restricted brewery license which is issued to the plenary retail consumption licensee;

5. The manner in which the malt alcoholic beverage product will be sold by the open container, for immediate consumption on the restaurant premises, or as package goods for off premises consumption; and

6. A sketch of the proposed area of the licensed premises specifically setting forth the area in which the malt alcoholic beverage product will be sold.

(b) All applicants for a restricted brewery license shall provide this Division with the following documents:

1. Proof of posting of a tax bond with the New Jersey Division of Taxation;

2. Proof of registration as a brewer with the United States Bureau of Alcohol, Tobacco and Firearms (must be registered prior to issuance of license);

3. Compliance with all State, county and/or local requirements associated with manufacturing and waste water discharge;

4. Proof of notice to local issuing authority regarding intention to operate restricted brewery; and

5. Certification from local issuing authority that applicant has present ownership of an active plenary retail consumption license operated in conjunction with a restaurant.

13:2–34.2 License fees

There is a base license fee of $1,000 which must be paid at the time of the initial application. This fee shall entitle the licensee to brew up to one thousand 31 fluid gallon barrels per year. There is an additional $500.00 fee for every additional 1,000 barrels up to a 3,000 annual barrel limit. All fees shall be payable to the Division of Alcoholic Beverage Control.

13:2–34.3 Restaurant premises

(a) For the purposes of this license, a restaurant is defined as a premises which is regularly and principally used for the purpose of providing meals to its customers and having adequate kitchen and dining room facilities. The applicant shall submit a sketch of the restaurant premises which must be immediately adjacent to the restricted brewery. The sketch shall reflect the seating capacity of the restaurant, the menu provided to customers and the layout of the restaurant showing where the malt alcoholic beverage will be sold for off premises consumption, if any.

(b) The Director shall issue a restricted brewery license only to persons or entities who have identical ownership of an active plenary retail consumption license operated in conjunction with an immediately adjacent restaurant as defined herein. A site visit by the Division will be conducted to ensure compliance with these regulations.