

Summary of Public Comment and Agency Response:

The official comment period ended September 1, 2017. **No comments were received.**

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments are authorized by the provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., and are not subject to Federal law.

Full text of the adoption follows:

SUBCHAPTER 2. CASINO COMPUTER SYSTEMS

13:69D-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

...
“Critical data” is a subset of controlled data and means any record that is used in the calculation of gross gaming revenue and does not include marketing data.

“Critical hardware” means any device that is used to store critical data.

...

13:69D-2.2 Use of controlled computer systems

(a)-(g) (No change.)

(h) Each controlled computer system shall be capable of recovering from an outage or loss of service and shall utilize, at a minimum, the following:

1.-2. (No change.)

3. Backup capability that enables the casino licensee to create periodic copies of controlled data on a storage device which shall be maintained in a separate location.

(i)-(v) (No change.)

13:69D-2.3 Installation and change controls for controlled computer systems

(a)-(c) (No change.)

(d) The casino licensee shall ensure all software utilized works as intended and functions properly in compliance with the Division’s rules prior to installation. Division best practice is to evaluate the functionality and integrity of the software by utilizing a test that:

1.-2. (No change.)

3. Ensures the software operates in accordance with applicable rules of the Division;

4. Ensures the software is free from potential security weaknesses and cannot be exploited for fraud or theft;

Recodify existing 4.-5. as 5.-6. (No change in text.)

(e) (No change.)

(f) Prior to the installation, change, or upgrade of controlled hardware and software, the casino licensee shall ensure that:

1. (No change.)

2. The Division is provided with Release Notes three business days in advance except as provided in (g) below.

(g) The casino licensee may install or replace controlled hardware or software without prior notification to the Division when an unexpected event critically impacts the integrity or functionality of the system. The casino licensee shall provide notice to the Division within one business day, and shall provide Release Notes within three business days of installation.

13:69D-2.4 Networks

(a)-(d) (No change.)

(e) Each casino licensee shall perform an annual system integrity and security assessment conducted by an independent professional selected by the licensee, subject to the approval of the Division. The independent professional’s report on the assessment shall be submitted to the Division annually and shall include:

1. The scope of review;

2. The name and company affiliation of the individual(s) who conducted the assessment;

3. The date of the assessment;

4. The findings;

5. The recommended corrective action, if applicable; and

6. The casino licensee’s response to the findings and recommended corrective action.

TRANSPORTATION

(a)

DIVISION OF RIGHT-OF-WAY AND ACCESS MANAGEMENT**OFFICE OF OUTDOOR ADVERTISING AND WIRELESS SERVICES****Roadside Sign Control and Outdoor Advertising**

Adopted Amendments: N.J.A.C. 16:41C-1.2 and 2.1

Adopted New Rule: N.J.A.C. 16:41C-8.7

Proposed: July 17, 2017, at 49 N.J.R. 2187(a).

Adopted: October 31, 2017, by Richard T. Hammer, Commissioner, Department of Transportation.

Filed: November 1, 2017, as R.2017 d.214, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:5-5 et seq.

Effective Date: December 4, 2017.

Expiration Date: January 20, 2022.

Summary of Hearing Officer’s Recommendations and Agency Response:

A public hearing on the proposed amendments and new rule related to N.J.A.C. 16:41C was held on August 17, 2017. The following individuals were present: John Antal, General Manager and Paul Wiss, New Jersey Real Estate Manager on behalf of Outfront Media New Jersey. The comments and responses are addressed below.

These comments are addressed in the summary of public comments and responses below.

Summary of Public Comments and Agency Responses:

Written comments were received from Michael Cerra, Assistant Executive Director on behalf of the New Jersey State League of Municipalities.

COMMENT: Mr. Cerra commented that the definition section refers to a “bike share station,” but the terms “bike share kiosk” and “bike share structure” are also used in the rule text. Are these different types of structures?

RESPONSE: The Department thanks Mr. Cerra for pointing out this inadvertent error. The text will be corrected upon adoption and the term “bike share station” will be used throughout the text.

COMMENT: Mr. Cerra also commented that, by definition, bike share programs are sponsored by municipalities with jurisdiction over the roadways on which the structures are located and are distinguished from private bike rental agreements or programs. The costs of obtaining and maintaining a sign permit are only required for municipally sponsored programs. Mr. Cerra believes that limiting the permitting requirements to municipally sponsored programs puts the municipal program at a disadvantage when compared to private bike rental agreements or programs.

RESPONSE: The rules found in Chapter 41C apply to all outdoor advertising on all roadways throughout the State. The proposed rules refer to the off-premise signage associated with municipal bike share stations and do not apply to private bike share stations. Private bike share stations that allow advertising must comply with all applicable rules found at N.J.A.C. 16:41C. N.J.A.C. 16:41C-8.7(i) is added to clarify this distinction, as the notice of proposal Summary stated the amendments and new rule apply to public, private, and cooperatively owned businesses.

COMMENT: Mr. Cerra further commented that the rules create a minimum spacing requirement of 300 feet between permitted bike share stations and he believes that it is beyond the scope of the Department to promulgate such a rule. He stated that “at the very least it is improper to create such a limitation under the auspices of outdoor advertising rules.” As contrast, no spacing limitations exist for transit bus shelters or school bus stop shelters.

RESPONSE: The Department reviewed the proposed language and thanks Mr. Cerra for pointing out an inadvertent error. At N.J.A.C. 16:41C-8.7(h), the rules provide minimum spacing requirements of 300 feet between bike share stations when, in actuality, the spacing requirements refer to the advertising on those stations. Stations without advertising and stations not visible to roadways do not have any distance requirements. Language is changed upon adoption to clarify the provision.

COMMENT: Mr. Antal stated that clarification is needed regarding the zoning portion of the rules as to whether bike share permits or conditional permits will be issued in residential zoned areas.

RESPONSE: Pursuant to N.J.A.C. 16:41C-8.7(g), zoning requirements do not apply to bike share sign permits. Pursuant to N.J.A.C. 16:41C-8.7(a), after a required public hearing, a municipality or county may approve bike share stations in any area in which the governing authority has jurisdiction.

COMMENT: Mr. Antal also stated that the proposed language specifically addresses the spacing requirements from bus shelters and should also include spacing from billboards.

RESPONSE: The Department does not apply distance requirements to bike share signs that are located on public property on roadways under municipal or county jurisdiction with the exception of those on transit bus shelters within the public ROW and those on public property. There is no distance requirement with respect to signs, including billboards, that do not fit within this exception.

COMMENT: Mr. Antal further stated that bus shelters and other street furniture products, such as phone kiosks, street kiosks, and other forms of street level advertising should be addressed.

RESPONSE: The Department does not use the term “street furniture” in its rules. All advertising on phone kiosks, street kiosks, and other types of street level advertising must comply with applicable sections of N.J.A.C. 16:41C.

Federal Standards Statement

In 1971, the State entered into an agreement with the United States Secretary of Transportation, acting by and through the Federal Highway Administrator. A copy of the Agreement for Carrying Out National Policy Relative to Control of Outdoor Advertising in Areas Adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System (Dec. 29, 1971), as amended by an Amendment to Agreement (Feb. 15, 1972) (hereinafter collectively referred to as the “Agreement”), is available upon request from the Office of Outdoor Advertising Services. The Agreement effectuates 23 U.S.C. §§ 131 et seq., commonly referred to as Title I of the Highway Beautification Act of 1965, and the regulations promulgated thereunder at 23 CFR Part 750. In accordance with the Agreement, the Department regulates the location, spacing, size, and illumination of outdoor advertising signs. The Department does not regulate the content of signs, except to clarify that signs shall not advertise activities that are prohibited by Federal law or the laws of the State of New Jersey.

The adopted amendments are in conformity with the requirements of the Highway Beautification Act, 23 U.S.C. §§ 131 et seq.; 23 CFR Part 750 Highway Beautification; and the Agreement described above. Therefore, a Federal standards analysis pursuant to Executive Order No. 27 (1994) P.L. 1995, c. 65 is not required.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 1. PURPOSE, SCOPE, AND CONTACT INFORMATION

16:41C-1.2 Scope

(a) (No change.)

(b) The following signs are allowed in accordance with this chapter and require the issuance and maintenance of a permit:

1. Off-premise signs (see N.J.A.C. 16:41C-8), including, but not limited to:

i.-iv. (No change.)

v. Transit bus shelter signs;

vi. Bike share ***station*** signs; and

vii. (No change in text.)

(c)-(d) (No change.)

SUBCHAPTER 2. DEFINITIONS

16:41C-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

“Bike share ***station*** sign” ***or “sign”*** means a sign on a bike share station located on public property as part of a bike share program that is sponsored by the ***[municipality]* *governing authority*** that has jurisdiction over the roadway on which the bike share station is located.

“Bike share station” means a structure that provides bicycles at a self-service station ***[located on public property as part of a bike share program that is sponsored by the municipality that has jurisdiction over the roadway on which the structure is located. This is distinguished from a private bike rental agreement or program.]* *sponsored by a governing authority with jurisdiction over the roadway on which the station is located.***

...

SUBCHAPTER 8. OFF-PREMISE SIGNS

16:41C-8.7 Bike share signs

(a) No permit for a sign on a bike share ***[kiosk]* *station*** may be issued, other than a conditional permit, until there has been a public hearing affording the opportunity for public comment. Documentation of a public hearing shall be submitted with any application for an outdoor advertising permit on a bike share ***[sign]* *station***.

(b) The ***[bike share]*** sign must be erected and maintained with the express permission of the governing authority of the public property on which the bike share is located. No ***[bike share]*** signs or bike share ***[structures]* *stations*** will be permitted within the Department’s right-of-way.

(c) All bike share signs shall be physically attached to the bike share ***[bicycle structure]* *station***. No permit shall be issued for any structure that is not attached and within five feet of a bike share ***[bicycle structure]* *station***.

(d) Bike share signs shall be installed on one sign structure with two sign faces back-to-back or one wall in each traveling direction of the structure for a maximum of two signs visible to the travelling public. No sign face shall exceed 24 square feet in area. No signs shall be placed on the back wall of the bike share station.

(e) A multi-message sign shall not be allowed on a bike share ***[kiosk]* *station***.

(f) No ***[bike share]*** sign shall be constructed less than 300 feet from a transit bus shelter. In all instances, transit bus shelter applications shall have a priority of location over bike share ***station sign*** applications.

(g) A permit for a bike share sign may be issued in any area regardless of whether the site complies with the zoning requirements of this chapter.

(h) The minimum spacing between permitted bike share station***[s]* *signs*** shall be 300 feet.

(i) Private bike share stations which allow advertising must comply with all applicable provisions of this chapter.*

Recodify existing N.J.A.C. 16:41C-8.7 and 8.8 as 8.8 and 8.9 (No change in text.)

(a)

**DIVISION OF CAPITAL PROGRAM MANAGEMENT
OFFICE OF OUTDOOR ADVERTISING AND
WIRELESS SERVICES**

**Tourist Oriented Directional Signs Program (TODS)
Adopted Amendments: N.J.A.C. 16:41D-2.1 and 3.2**

Proposed: August 21, 2017, at 49 N.J.R. 2779(a).
Adopted: November 8, 2017, by Richard T. Hammer,
Commissioner, Department of Transportation.
Filed: November 9, 2017, as R.2017 d.229, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:7-21.12.
Effective Date: December 4, 2017.
Expiration Date: June 20, 2018.

Summary of Public Comments and Agency Responses:
Comments were received from Ryan Krill, President, Garden State Craft Brewers Guild and Cape May Brewing Company on behalf of Garden State Craft Brewers Guild.

COMMENT: Mr. Krill expressed the organization’s support of the proposed amendments, which update eligibility requirements for participation in the TODS program. The Guild advocated for passage of P.L. 2015, c. 139, which alleviated small businesses from public telephone and free water eligibility requirements. He believes that this change will result in increased participation in the TODS program by limited license breweries. The Guild will continue to support reforms to the program, which afford the craft breweries easier access to the program and increases exposure to the businesses.

RESPONSE: The Department thanks Mr. Krill and the Guild for their comments and continued support.

Federal Standards Statement

Pursuant to N.J.S.A. 39:4-183.6, all official highway signs must conform to the Manual of Uniform Traffic Control Devices (MUTCD). The adopted amendments do not pertain to signage, therefore a Federal standards analysis pursuant to Executive Order No. 27 (1994) P.L. 1995, c. 65, is not required.

Full text of the adoption follows:

SUBCHAPTER 2. DEFINITIONS

16:41D-2.1 Definitions

The following words and terms, when used in this chapter, have the following meanings unless the text clearly indicates otherwise:

...

SUBCHAPTER 3. ELIGIBILITY AND GENERAL REQUIREMENTS

16:41D-3.2 Participation requirements

(a) Each eligible facility must satisfy the following general requirements:

- 1.-3. (No change.)
Recodify existing 5.-8. as 4.-7. (No change in text.)

(b) Each eligible facility shall satisfy the following specific requirements. If a specific requirement conflicts with a general requirement, the specific requirement will apply.

- 1. (No change.)
- 2. The facility-specific requirements for camping facilities are as follows; the facility shall:
 - i. Be located within 10 miles of the State highway on which the intersection approach sign is erected; and
 - ii. Be open a minimum of seven days each week, 360 days per year, unless designated as seasonal.

3. The facility-specific requirements for fuel facilities are as follows; the facility shall:

- i.-iv. (No change.)
- v. Provide compressed air for tire inflation and free water for batteries and radiators.

4. The facility-specific requirements for lodging facilities are as follows; the facility shall:

- i. Be open a minimum of seven days each week, 360 days per year, unless designated as seasonal.

5. The facility-specific requirements for restaurants are as follows:

- i. (No change.)
- ii. A restaurant located in a mall, shopping center or other enclosed structure shall have a primary entrance from the public parking area, which is dedicated for the restaurant’s exclusive use.

- 6. (No change.)

TREASURY—GENERAL

(b)

DIVISION OF ADMINISTRATION

Small Business Set Aside Rules

Adopted New Rules: N.J.A.C. 17:13

Proposed: June 5, 2017, at 49 N.J.R. 1348(a).
Adopted: November 8, 2017, by Ford Scudder, State Treasurer.
Filed: November 8, 2017, as R.2017 d.227, **without change**.

Authority: N.J.S.A. 52:18A-30(d), 52:27H-21.7 et seq., 52:32-31, 52:34-6 et seq., 52:34-12, and 52:34-13; P.L. 2008, c. 27; and Executive Order Nos. 71 (2003) and 34 (2006).

Effective Date: December 4, 2017.
Expiration Date: December 4, 2024.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the expired rules adopted herein as new rules relate strictly to the State of New Jersey and its small business and veteran-owned business registration process and small business set-aside process. The expired rules adopted herein as new rules are independent from any Federal systems or requirements.

Full text of the expired rules adopted herein as new rules can be found in the New Jersey Administrative Code at N.J.A.C. 17:13.

Full text of the adopted amendments to the expired rules adopted herein as new rules and the adopted new rule follows:

CHAPTER 13
SMALL BUSINESSES SET-ASIDE AND VETERAN-OWNED
BUSINESS REGISTRATION

SUBCHAPTER 1. PURPOSE, SCOPE, AND DEFINITIONS

17:13-1.1 Purpose and scope

(a) The rules in this chapter are promulgated by the Department of the Treasury to implement N.J.S.A. 52:32-17 et seq., P.L. 2008, c. 27, and Executive Order No. 71, dated October 2, 2003, to establish a set-aside program that, in part, requires State agencies with contracting authority to make a good faith effort to award State contracts and subcontracts to eligible small businesses. Executive Order No. 71 (2003) requires at least 25 percent of the total dollar value of State contracts to be set aside for small businesses. This percentage goal is an overall program goal for each State contracting agency. State contracting agencies are expected to apply their business judgment when establishing set-aside goals for individual contracts.

(b) The rules in this chapter apply to both State contracts for goods and services awarded by any State contracting agency and to the award