

concern a new effective date of the rules regarding compounding of antineoplastic agents and other hazardous substances.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments concern the new effective date of the rules regarding the compounding of antineoplastic agents and other hazardous substances.

Racial and Ethnic Community Criminal and Public Safety Impact

The Board has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 11B. COMPOUNDING ANTINEOPLASTIC AGENTS AND OTHER HAZARDOUS SUBSTANCES: STERILE AND NON-STERILE PREPARATIONS

13:39-11B.1 Purpose and scope

(a) (No change.)

(b) Effective [July 1, 2018] **on the effective date of USP 800 (currently, December 1, 2019)**, the compounding of antineoplastic agents and other hazardous substances shall be consistent with the standards established in USP 800, which is incorporated herein by reference, as amended and supplemented, and which is available for purchase at the United States Pharmacopeia website, www.usp.org.

13:39-11B.3 Compounding antineoplastic agents and other hazardous products: sterile preparations

(a) (No change.)

(b) A pressure indicator or air velocity meter shall be installed that can be readily monitored for correct room pressurization or air velocity, respectively, consistent with the following:

1. [Until June 30, 2018] **Effective up until the day before the effective date of USP 800 (currently, November 30, 2019)**, for compounding of antineoplastic agents and other hazardous substances in a cleanroom pursuant to N.J.A.C. 13:39-11.9, the primary engineering control shall be placed in an ISO class 7 buffer room that is physically separated from other preparation areas and has not less than 0.01 inch water column negative pressure to adjacent positive pressure ISO class 7 or better ante room, thus providing inward airflow to contain any airborne drug. Effective [July 1, 2018] **on the effective date of USP 800 (currently, December 1, 2019)**, for compounding of antineoplastic agents and other hazardous substances in a cleanroom pursuant to N.J.A.C. 13:39-11.9, the primary engineering control shall be placed consistent with the standards set forth in USP 800.

2. [Until June 30, 2018] **Effective up until the day before the effective date of USP 800 (currently, November 30, 2019)**, for compounding of antineoplastic agents and other hazardous substances outside of a cleanroom pursuant to N.J.A.C. 13:39-11.8, if a compounding aseptic containment isolator is used outside of a buffer area, the compounding area shall be physically separated from other areas and shall maintain a minimum negative pressure of 0.01 inch water column and have a minimum of 12 air exchanges per hour. Effective [July 1, 2018] **on the effective date of USP 800 (currently, December 1, 2019)**, for compounding of antineoplastic agents and other hazardous substances outside of a cleanroom pursuant to N.J.A.C. 13:39-11.8, if a compounding aseptic containment isolator is used outside of a buffer area, the compounding area shall meet the standards set forth in USP 800.

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

(e) [Until June 30, 2018] **Effective up until the day before the effective date of USP 800 (currently, November 30, 2019)**, pharmacies

shall compound antineoplastic agents and other hazardous substances only in:

1.-2. (No change.)

(f) Effective [July 1, 2018] **on the effective date of USP 800 (currently, December 1, 2019)**, pharmacies shall compound antineoplastic agents and other hazardous substances consistent with the standards set forth in USP 800.

(g) Personnel who compound and dispense antineoplastic agents and other hazardous substances shall adhere to standards established by the Occupational Health and Safety Administration (OSHA) set forth in Section VI, Chapter 2 of OSHA’s Technical Manual on Controlling Occupational Exposure to Hazardous Drugs (effective date January 20, 1999). OSHA’s Technical Manual is incorporated herein by reference, as amended and supplemented, and can be found at the OSHA website, www.osha.gov, specifically, www.osha.gov/dts/osta/otm/otm_vi/otm_vi_2.html. Personnel shall also comply with the standards established by NIOSH in NIOSH Publication No. 2004-165: Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings. The NIOSH Publication No. 2004-165 (2012 Edition) is incorporated herein by reference, as amended and supplemented, and can be found at the CDC website, www.cdc.gov, specifically, www.cdc.gov/niosh/docs/2004-165/. Effective [July 1, 2018] **on the effective date of USP 800 (currently, December 1, 2019)**, personnel shall also comply with the standards set forth in USP 800.

(h) (No change.)

(i) Effective [July 1, 2018] **on the effective date of USP 800 (currently, December 1, 2019)**, antineoplastic agents and other hazardous substances used to compound sterile preparations shall be stored and handled consistent with the standards set forth in USP 800.

13:39-11B.4 Compounding antineoplastic agents and other hazardous products: non-sterile preparations

When antineoplastic agents and hazardous substances are utilized in the compounding of non-sterile preparations, a pharmacy shall adhere to standards established by the Occupational Health and Safety Administration (OSHA) set forth in Section VI, Chapter 2 of OSHA’s Technical Manual on Controlling Occupational Exposure to Hazardous Drugs (effective date January 20, 1999). OSHA’s Technical Manual is incorporated herein by reference, as amended and supplemented, and can be found at the OSHA website, www.osha.gov, specifically, www.osha.gov/dts/osta/otm/otm_vi/otm_vi_2.html. Personnel shall also comply with the standards established by National Institute for Occupational Safety and Health (NIOSH) in NIOSH Publication No. 2004-165: Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings. The NIOSH standard is incorporated herein by reference, as amended and supplemented, and can be found at the CDC website, www.cdc.gov, specifically, www.cdc.gov/niosh/docs/2004-165/. Effective [July 1, 2018] **on the effective date of USP 800 (currently, December 1, 2019)**, personnel shall also comply with the standards set forth in USP 800.

TRANSPORTATION

(a)

**DIVISION OF CAPITAL PROGRAM MANAGEMENT
OFFICE OF OUTDOOR ADVERTISING SERVICES
Tourist Oriented Directional Signs Program (TODS)**

Proposed Readoption with Amendments: N.J.A.C. 16:41D

Proposed Repeal and New Rule: N.J.A.C. 16:41D Appendix

Proposed Repeal: N.J.A.C. 16:41D-3.5

Authorized By: Diane Gutierrez-Scaccetti, Acting Commissioner,
Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:7-21.12.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2018-061.

Submit written comments by August 31, 2018, to:

Paul F. Sprewell
 Administrative Practice Officer
 New Jersey Department of Transportation
 PO Box 600
 Trenton, New Jersey 08626-0600
 Fax: (609) 530-4638
 Submit electronically at njdotRules@dot.state.nj.us.

This rule may be viewed or downloaded from the Department's website at <http://www.state.nj.us/transportation/about/rules/proposals.shtm>.

The agency proposal follows:

Summary

N.J.A.C. 16:41D was scheduled to expire on June 20, 2018. As the Department of Transportation (Department) has filed this notice with the Office of Administrative Law prior to that date, pursuant to N.J.S.A. 52:14B-5.1.c(2), the expiration date is extended 180 days to December 17, 2018.

These rules establish guidelines, standards, and requirements to be followed and adhered to in the provision of Tourist Oriented Directional Signs (TODS) along eligible State highways of New Jersey. The TODS program provides motorists with identification and directional information to eligible tourist-oriented businesses and activities located off the State highway system through official highway signs. The signs must comply with the standards established in the Manual on Uniform Traffic Control Devices (MUTCD). Participation in the TODS program is elective and is offered to facilities that meet the standards. Restaurants, wineries, museums, antique shops, marinas, and agritourism facilities are typical TODS participants.

The rules are necessary, reasonable, adequate, and responsive for the purpose for which they were originally promulgated. The Department of Transportation has reviewed the rules and determined that they should be readopted with amendments, repeals, and a new rule.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The subchapters are summarized as follows:

Subchapter 1 provides the purpose and scope of the chapter.

Subchapter 2 provides the definitions that are used throughout the chapter.

Subchapter 3 provides the eligibility and general participation requirements.

Subchapter 4 provides information on the application, approval, and participation procedures.

Subchapter 5 establishes the annual and non-annual fees.

Subchapter 6 provides for the design, construction, and maintenance of the signs.

Subchapter 7 discusses Departmental determinations and provides the appeals process.

Subchapter 8 discusses program termination.

The chapter Appendix contains the State highway routes that are designated for TODS.

Throughout the chapter, amendments are proposed to update terms, correct grammar and punctuation, and to remove passive voice. The specific, more substantive, proposed amendments, repeals, and new rule are as follows:

The heading of Subchapter 1 is amended to "Purpose and Scope." N.J.A.C. 16:41D-1.1(b) is added to further describe the purpose of TODS signs and to specify that these signs are not considered outdoor advertising (OA) requiring the issuance of OA permits, pursuant to N.J.A.C. 16:41C.

At N.J.A.C. 16:41D-2.1, Definitions, "TODS" is proposed for deletion. "Commissioner" is proposed for amendment to include the language found in other Department rules, allowing for the Commissioner to designate other persons to act. "Specific service sign" and "tourist oriented directional sign" or "TODS" are added.

N.J.A.C. 16:41D-3.1(a)1 and 2 are reorganized to flip their order in the list. Proposed new N.J.A.C. 16:41D-3.1(a)3 incorporates language found at existing N.J.A.C. 16:41D-3.2(a)5, to state that eligible facilities must be compliant with all applicable laws, rules, and regulations, concerning the provisions of public accommodations. The proposed amendment to N.J.A.C. 16:41D-3.1(b)4v establishes that TODS signs in civic areas may not identify individual businesses.

N.J.A.C. 16:41D-3.2(a)1 and 2 are proposed for relocation as new subsection (c). Paragraph (a)5 is proposed for deletion as the language is relocated to proposed new N.J.A.C. 16:41D-3.1(a)3. N.J.A.C. 16:41D-3.2(b)6 and (b)6i are proposed for deletion and the language is relocated to proposed new N.J.A.C. 16:41D-3.1(b)4v. N.J.A.C. 16:41D-3.2(c) is added as discussed above.

Proposed new N.J.A.C. 16:41D-3.3(d) establishes requirements for reinstatement of closed facilities.

N.J.A.C. 16:41D-3.4(d) is proposed for amendment to add that the TODS application will be denied if the governmental entity with jurisdiction does not grant approval for the sign. N.J.A.C. 16:41D-3.4(g) is proposed for amendment to establish that where both a TODS sign and a specific service sign would be needed at the same intersection, the design of the TODS signs shall be used, and the needed specific service information shall be incorporated therein in accordance with Section 2J.10 of the MUTCD. Proposed new N.J.A.C. 16:41D-3.4(i) establishes provisions for straight-ahead intersection approach signs. The new subsection incorporates language from existing N.J.A.C. 16:41D-3.5(c)2, which is proposed for repeal.

Existing N.J.A.C. 16:41D-3.5 is proposed for repeal because distance waivers are no longer Department procedures.

N.J.A.C. 16:41D-4.1(a) is proposed for deletion and replacement to include application form information. Application information requirements are proposed for relocation at proposed new subsection (b) with no change in text. Proposed new N.J.A.C. 16:41D-4.1(c) establishes provisions for intersection approach signs.

The heading of N.J.A.C. 16:41D-4.3 is proposed for amendment to "General contract requirements." N.J.A.C. 16:41D-4.3(a) is proposed for amendment to require that applicants must have a Department-approved contract with the vendor and that each intersection and direction of travel requires a separate contract. N.J.A.C. 16:41D-4.3(b) is proposed for amendment to establish that the contract will provide for the fabrication and erection of up to two intersection approach signs and all trailblazer signs that are needed to mark each intersection along the path to the facility. N.J.A.C. 16:41D-4.3(c) is proposed for amendment to provide further explanation of fees and to require the prorated fees to be paid immediately.

N.J.A.C. 16:41D-5.1(a) is proposed for amendment to specify that annual fees are for each contract. N.J.A.C. 16:41D-5.1(a)1 is proposed for amendment to delete language related to sign panels per direction of travel and state that fees are based on one intersection approach sign and up to three trailblazer signs. Proposed new N.J.A.C. 16:41D-5.1(a)2 is added to establish fees for one additional intersection approach sign. N.J.A.C. 16:41D-5.1(b) is proposed for amendment to delete the term "non-annual" fees and insert "additional" fees. N.J.A.C. 16:41D-5.1(b)1 is proposed for amendment to change "facility" to "participating facility," which is used throughout the rule. N.J.A.C. 16:41D-5.1(b)2 is proposed for amendment to add the term "sign," when referring to a "panel." N.J.A.C. 16:41D-5.1(d) is proposed for amendment to emphasize that the rule refers to TODS sign panels.

N.J.A.C. 16:41D-6.1(d) is proposed for amendment to establish that the "Department" makes all determinations regarding the safety of the driving public.

N.J.A.C. 16:41D-6.3(a) is proposed for amendment to specify that the Department inspects signs. N.J.A.C. 16:41D-6.3(b) is proposed for amendment to emphasize that the rule refers to TODS sign panels and that repair and replacement will be handled by the vendor at no cost to the facility. N.J.A.C. 16:41D-6.3(c) is proposed for amendment to correct terminology.

N.J.A.C. 16:41D-7.1(c) is proposed for amendment to clearly state that the rule refers to TODS sign panels and that the Department may terminate the contract, and remove or cover the TODS sign panel and trailblazer signs after the expiration of any time periods set forth in the

notice provided to the facility. N.J.A.C. 16:41D-7.1(e) is proposed for amendment to establish that if the facility fails to satisfy any requirements due to a change in the policies, guidance, rules, or regulations of the Department, Federal Highway Administration, or MUTCD, the sign panel may be maintained until the end of the contract duration, "if permitted by the changed policy."

The final sentence of N.J.A.C. 16:41D-7.2(b), pertaining to contact information, is relocated to proposed new N.J.A.C. 16:41D-7.2(c), which also establishes the process for requesting a hearing. Recodified N.J.A.C. 16:41D-7.2(d) is proposed for amendment to establish that the Director will determine if a hearing is required and to break the subsection up into two different subsections.

The table found at N.J.A.C. 16:41D Appendix has been proposed for repeal and is replaced with a corrected table.

Social Impact

The rules proposed for readoption with amendments, repeals, and a new rule apply to those public, private, and cooperatively owned businesses and facilities that conduct or provide tourist oriented activities, but are not located on State highways. The rules proposed for readoption with amendments, repeals, and a new rule establish a program to identify eligible businesses and facilities to motorists on State highways and to provide directional signage by which motorists can safely and easily drive to those businesses and facilities. The rules proposed for readoption with amendments, repeals, and a new rule also establish standards for the qualification of these businesses and procedures for the operation of the program. The Department believes that the rules proposed for readoption with amendments, repeals, and a new rule will continue to have a positive impact on the motoring public.

Economic Impact

The rules proposed for readoption with amendments, repeals, and a new rule will continue to have a positive economic impact on the State and on those persons that elect to participate in this program. Participants are required to pay an annual fee for the erection and maintenance of their TODS sign. Reduced fees are provided for non-profit and agri-tourism facilities. Participants obtain the benefit of exposure to motorists on State highways, even though their sites are not located on those highways.

The positive economic benefits to the State are the revenues gained from the use of public right-of-ways and the reduction of costs by the administration of this program by contract with a private vendor. As required by statute, this contract is made through competitive public bid to produce fair value to the State. The vendor incurs all costs associated with the fabrication, installation, and maintenance of the signs and the costs associated with the daily operations of the TODS program. The Department incurs costs associated with the review and approval of proposed sign locations to ensure public safety and those costs incurred to manage the contract with the vendor.

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 MUTCD is the national standard for signs installed on any street, highway, bikeway, or private road open to public travel. 23 U.S.C. §§ 109(d) and 402(a); 23 CFR Part 655, Subpart F. The rules proposed for readoption with amendments, repeals, and a new rule are in conformity with the requirements, therefore, a Federal standards analysis pursuant to Executive Order No. 27 (1994) and P.L. 1995, c. 65 is not required.

Jobs Impact

The TODS program promotes tourism in New Jersey. The Department does not expect that the rules proposed for readoption with amendments, repeals, and a new rule would result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments, repeals, and a new rule are not intended to regulate farming, crop, or animal production.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments, repeals, and a new rule provide guidelines, standards, and requirements to be voluntarily followed by participants in the Tourist Oriented Directional Signs Program. Eligible businesses that elect to participate will have a sign erected for them on a State right-of-way by the Department's approved vendor pursuant to a contract between the business and the vendor. Entities participating in the program are required to enter into an annual contract and pay an annual fee for the erection of their sign. The businesses must maintain records that show compliance with eligibility and participation requirements established by this chapter.

Some of these participating entities may be small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The Department has made provisions in the rules proposed for readoption with amendments, repeals, and a new rule that expand the eligibility of and reduce the fees for agri-tourism facilities, many of which are small farms and businesses in the State. The Department has also made provisions in the rules to establish the eligibility of and reduce the fees for non-profit organizations, many of which are also small organizations within the State. The rules proposed for readoption with amendments, repeals, and a new rule will be applied equally to both large and small businesses of the same business type, except as noted above.

A different standard for small businesses is not seen as being in the public interest because these signs are provided for the service of the motoring public. The Department has determined that the rules proposed for readoption with amendments, repeals, and a new rule are the minimum necessary to establish an effective program and to ensure fairness. The Department expects the economic impact on small businesses to be the same as the impact on businesses generally.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments, repeals, and a new rule will have no impact on the affordability of housing in New Jersey. The rules proposed for readoption with amendments, repeals, and a new rule provide guidelines, standards, and requirements to be followed by the Tourist Oriented Directional Signs Program. The Department believes that it is extremely unlikely that the rules proposed for readoption with amendments, repeals, and a new rule would bring about a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, repeals, and a new rule will have no impact on smart growth. The Department believes that it is extremely unlikely that the rules proposed for readoption with amendments, repeals, and a new rule would bring about a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules proposed for readoption with amendments, repeals, and a new rule provide guidelines, standards, and requirements to be followed by the Tourist Oriented Directional Signs Program.

Racial and Ethnic Community Criminal and Public Safety Impact

This chapter governs aeronautical facilities required to be licensed in the State of New Jersey. The rules proposed for readoption with amendments, repeals, and a new rule have had no, and will not have any, impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Therefore, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:41D.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 16:41D-3.5 and 16:41D Appendix.

Full text of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. [GENERAL PROVISIONS] **PURPOSE AND SCOPE**

16:41D-1.1 Purpose

(a) The purpose of this chapter is to establish procedures and standards for [the implementation of] **participation in** the Tourist Oriented Directional Signs (TODS) Program [for] **as administered by** the New Jersey Department of Transportation (Department). This program [is intended to] enhances motorist safety and supports tourism by providing signs that identify facilities of particular interest to tourists and provides directional information to those facilities.

(b) **TODS signs are placed along State highways to direct motorists to local attractions, services, and businesses located off the State system of highways and are erected in compliance with the Manual on Uniform Traffic Control Devices (MUTCD). These signs are not considered off-premise advertising, requiring compliance with N.J.A.C. 16:41C.**

16:41D-1.2 Scope

(a) The program will be implemented only on conventional roads and only on those routes and route segments that the Department has identified as available for TODS [signage] **signs**. A list of the routes is available in N.J.A.C. 16:41D Appendix, incorporated herein by reference, and online at <http://www.state.nj.us/transportation/business/signs/tods/>.

(b)-(c) (No change.)

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:

... “Commissioner” means the Commissioner of the New Jersey Department of Transportation **or such person as the Commissioner may designate, when legally permissible.**

... “Conventional road” means a multi-lane or divided State highway where direct access is provided to adjoining properties. The term excludes freeways, expressways, limited access highways, service roads to a limited access highway, interchange ramps, urban streets, and any highway segment having an access classification of Access Level (AL)-1 by the State Highway Access Management Code, N.J.A.C. 16:47 Appendix B.

... “Limited access highway” means a highway especially designed for through traffic over which abutters have no easement or right of light, air, or direct access, by reason of the fact that their property abuts such [right of way] **right-of-way**, including any highway segment classified as AL-1 by the State Highway Access Management Code, N.J.A.C. 16:47 Appendix B.

... “Specific service sign” means a sign erected in conformance with the MUTCD, which identifies one or more of the following service types: gas, food, lodging, camping, or attraction, and that displays logo sign panels of eligible facilities that provide the identified type of service. Specific service signs are placed along the main line of a highway.

... [“TODS” means the Tourist Oriented Directional Signs Program.]
 “Tourist oriented directional sign” or “TODS” means an official guide sign with one or more sign panels that displays the business identification of, and directional information for, tourist-oriented businesses and activities that draw a major portion of their visitors or income from outside the immediate area of the business or activity, pursuant to N.J.A.C. 16:41D-3.1(a)2.

...

SUBCHAPTER 3. ELIGIBILITY AND GENERAL REQUIREMENTS

16:41D-3.1 Eligible facilities

(a) [Eligible facilities] **An eligible facility** shall [satisfy all requirements of this chapter and shall]:

1. Be a place that is primarily of interest to tourists including, but not limited to, a cultural site, a commercial tourism site, a recreational site, and a civic area;

[1.] **2.** (No change in text.)

2. Be places that are primarily of interest to tourists including, but not limited to, cultural sites, commercial tourism sites, recreational sites and civic areas.].

3. Comply with all applicable laws, rules, and regulations concerning the provisions of public accommodations without regard to race, religion, color, age, sex, national origin, disability or other category protected by Federal or State law including, but not limited to, all required governmental licenses and permits.

(b) The following facilities are eligible to participate in the TODS program:

1. Cultural sites, including, but not limited to:

i.-iii. (No change.)

iv. Concert halls, [amphitheatres, theatres] **amphitheatres, theaters,** arenas, auditoriums, or performing arts centers;

v.-vii. (No change.)

2.-3. (No change.)

4. Civic areas, **for which a TODS sign shall not identify any individual businesses,** including, but not limited to:

i.-iv. (No change.)

(c) (No change.)

16:41D-3.2 Participation requirements

(a) [Each] **An** eligible facility must satisfy the following general requirements:

[1. Be located within five miles of the State highway on which the intersection approach sign is erected;

2. Be open a minimum of six hours each day, five days each week for a minimum of 20 consecutive weeks each year. This requirement does not apply to facilities that are not customarily open to the public on a daily basis or typically provide scheduled events including, but not limited to, amphitheatres, arenas, auditoriums, civic centers, community farm markets, fairgrounds, flea markets, racetracks, speedways, theatres and performing arts centers;]

[3.] **1.** Possess all valid licenses and permits necessary for [their] **its** operation;

[4.] **2.** (No change in text.)

[5. Comply with all applicable local, State and Federal laws concerning public accommodations;]

Recodify existing 6.-7. as **3.-4.** (No change in text.)

(b) [Each eligible facility] **In addition to the requirements in (a) above, eligible agri-tourism sites, camping facilities, fuel facilities, lodging, and restaurants** shall satisfy the following specific requirements. [If a specific requirement conflicts with a general requirement, the specific requirement will apply.]

1. [The facility-specific requirements for agri-tourism facilities are as follows; the facility] **Agri-tourism sites** shall:

i.-ii. (No change.)

2. [The facility-specific requirements for camping] **Camping** facilities [are as follows; the facility] shall:

i.-ii. (No change.)

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

i.-iii. (No change.)

iv. Provide tire repair service or information on available local tire repair facilities; **and**

v. (No change.)

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

i. (No change.)

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

5. Restaurants shall:

- i. [The restaurant shall be] **Be** open a minimum of 12 hours each day, six days each week, unless designated as seasonal; **and**
- ii. [A restaurant located in a mall, shopping center or other enclosed structure shall have] **Have** a primary entrance from the public parking area, which is dedicated for the restaurant's exclusive use.

[6. The facility-specific requirements for civic areas are as follows:

- i. A TODS sign, which identifies a civic area shall not identify any individual businesses.]

(c) Eligible facilities other than those described in (b) above shall, in addition to the requirements in (a) above, satisfy the following requirements:

1. Be located within five miles of the State highway on which the intersection approach sign is erected; and

2. Be open a minimum of six hours each day, five days each week for a minimum of 20 consecutive weeks each year. This requirement does not apply to facilities that are not customarily open to the public on a daily basis or typically provide scheduled events including, but not limited to, amphitheaters, arenas, auditoriums, civic centers, community farm markets, fairgrounds, flea markets, racetracks, speedways, theaters, and performing arts centers.

16:41D-3.3 Closure of a facility

(a) A facility may close for up to seven consecutive days in order to make repairs or to address an emergency with no changes to [signage] signs by the Department.

(b) (No change.)

(c) If a facility is closed for 90 consecutive days, the Department will permanently remove the signs. If there is a [facility on the] waiting list for this location, the next eligible facility from the waiting list will be admitted in accordance with N.J.A.C. 16:41D-4.2.

(d) If a closed facility wants to be reinstated into the program, it must submit a new application. If a waiting list exists for the requested location, it will be placed on the list in the order that it was received, provided that the facility still meets the eligibility requirements of this chapter.

16:41D-3.4 General conditions

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

(d) No TODS sign will be erected, unless each intersection in the path to the facility can be marked by a trailblazer sign or other official highway sign. A private sign will not be sufficient to mark the path to the facility. Where a trailblazer sign must be erected in a right-of-way that is not under the jurisdiction of the Department, approval must be obtained from the governmental entity that has jurisdiction. **If the governmental entity with jurisdiction does not grant approval for the sign, the TODS application will be denied.**

(e)-(f) (No change.)

(g) Where **both a TODS sign and a specific service [trailblazer] sign [is] would be needed at [an] the same intersection, [and a] the design of the TODS signs [is, or can be, provided, the TODS sign will] shall be used, [instead of] and the needed specific service [trailblazer] sign. For purposes of this chapter, a specific service trailblazer sign is a trailblazer sign erected as part of the Specific Service Signs Program as described by Part 2, Chapter 2F] information shall be incorporated therein in accordance with Section 2J.10 of the MUTCD.**

(h) (No change.)

(i) A facility requesting a straight-ahead intersection approach sign will only be allowed to participate in the TODS program when there is a sign for a similar business or activity in either the right or left direction and only if space is available on the existing structure. If a straight ahead sign is provided and space is subsequently required for a business or activity requiring a left or right turn, the straight ahead sign will be removed at the end of its contract duration. If there is more than one business with a straight ahead sign on the intersection approach sign and a straight ahead sign must be removed, the straight ahead sign of the business or activity furthest from the intersection will be removed.

16:41D-3.5 (Reserved)

SUBCHAPTER 4. APPLICATION, APPROVAL, AND PARTICIPATION PROCEDURES

16:41D-4.1 Application

(a) [Applications shall be submitted to the Department's vendor on forms approved by the Department. Application forms can] **To qualify for participation in the TODS program, an eligible tourist-oriented business must complete an application on a form provided by the Department's vendor. Information regarding the application may be found on the Department's website at: <http://www.state.nj.us/transportation/business/signs/tods/> or can be obtained from the vendor.**

(b) Applications shall include, but are not limited to, the following information: corporate or company name of applicant, address and phone number of applicant, contact person for the application, name and physical address of facility, and the requested location of the sign. Incomplete applications will be returned to the applicant.

(c) A single application may be submitted for two intersection approach signs for both directions of travel on a single roadway. A business or activity seeking intersection approach signs for multiple roadways must submit multiple applications.

Recodify existing (b)-(c) as **(d)-(e)** (No change in text.)

16:41D-4.2 Waiting list

Where the number of approved applicants exceeds the spaces available[, priority will be given to the earliest approved applications. Approved applicants that] **on a TODS sign, those who cannot be provided a space will be placed on a waiting list. When a space becomes available, priority for admittance to the program will be given to the earliest approved applicant [on the waiting list will be offered admittance to the program].**

16:41D-4.3 [Entry into a] General contract requirements

(a) All approved applicants who elect to participate in the TODS program shall do so by entering into a [standard] contract[, which] **with the vendor that has been approved by the Department. The applicant will be required to enter into a separate contract for each intersection and for each direction of travel.**

(b) The contract will provide for the fabrication and erection of [one sign panel on an] **up to two intersection approach signs and all trailblazer signs that are needed to mark each [subsequent] intersection along the path to the facility.**

(c) All contracts will terminate on a single date of the year, as specified by the Department. If the termination date would result in a [term that is] **contract duration of less than 12 months, the contract [term] duration will be the balance of the existing contract year [plus] and the next complete contract year. [The fees for the balance of the existing contract year will be prorated. The] The cost of the contract will be the fee for the complete contract year and a prorated amount for the remaining months of the current year. The fees for the prorated year must be paid immediately and the fees for the next complete contract year shall be paid at the beginning of that year.**

(d) A participating facility may elect to renew its contract each year if it has paid all fees, meets all eligibility requirements, and is not otherwise required to have its **TODS signs removed pursuant to other provisions of this chapter or any other applicable law. When a participating facility does not meet all eligibility requirements for any reason, it may not renew its contract.**

(e) (No change.)

SUBCHAPTER 5. FEES

16:41D-5.1 Fees

(a) Annual fees [will be] **for each contract are as follows:**

1. For [each sign panel (per direction of travel)] one intersection approach sign and up to three trailblazer signs:

i.-ii. (No change.)

2. For one additional intersection approach sign:

i. Regular facility - \$800.00; and

ii. Non-profit, civic area, or agri-tourism facility - \$400.00.

(b) [Non-annual] **Additional fees shall be as follows:**

1. Re-fabrication and re-installation of sign panel caused by a **participating** facility's **name** change [of name] or change of artwork - \$150.00 per sign panel;

2. Covering of a **sign** panel due to seasonal closing, temporary closure, or other reason - \$50.00 per occurrence; and

3. Erection of more than three trailblazer signs - \$50.00 for each **additional** trailblazer sign [in excess of three].

(c) (No change.)

(d) Where a TODS sign **panel** is used in place of a specific service trailblazer sign pursuant to N.J.A.C. 16:41D-3.4(g), there will be no fees, except the fees required for the specific service sign.

SUBCHAPTER 6. DESIGN, CONSTRUCTION, AND MAINTENANCE OF SIGNS

16:41D-6.1 Location and design of signs

(a) TODS signs will be erected after [approval of] the application **has been approved**, the [execution of a] contract **is executed** and [payment of] all fees **have been paid** by the participating facility.

(b) TODS signs shall be designed, fabricated, located, and installed in accordance with the standards and guidance of the MUTCD, [as the Department, through its] **subject to the Department's** engineering judgment[, shall determine].

(c) The Department may relocate an intersection approach sign or trailblazer sign for any reason, if it determines that the sign [at its] **will be more effective at a new location** [would be safe and effective].

(d) The content of the **TODS** sign [will be determined to ensure the] **cannot in any way compromise the safety of the driving public. All determinations as to the safety of the driving public shall be made at the sole discretion of the Department.**

16:41D-6.2 Seasonal facilities

Except for agri-tourism facilities, any facility that is open less than 16 consecutive weeks each year shall have a designation on its [intersection approach] **TODS** sign **panel** indicating that the facility is seasonal. This designation shall be determined by the Department and will be uniform throughout the State.

16:41D-6.3 Inspection, maintenance, and replacement of signs

(a) All TODS sign[s, including] **panels and** trailblazer signs will be inspected **by the Department** in accordance with a schedule approved by the Department.

(b) Damaged or missing **TODS** signs, [including] **TODS sign panels, and** trailblazer signs, will be repaired or replaced, **as determined by the Department, as soon as practicable by the vendor** [as the Department determines. No fee will be charged], **at no cost to the facility.**

(c) Where a Department highway improvement causes the removal of [an intersection approach] **a TODS** sign for more than 30 days, a credit, pro-rated on a monthly basis, will be applied on behalf of the [contracting] **participating** facility towards the renewal of its contract for the following year.

(d) No credit will be given for the loss of [a] trailblazer signs.

SUBCHAPTER 7. DETERMINATIONS AND APPEALS

16:41D-7.1 Departmental determinations

(a)-(b) (No change.)

(c) If the Department's determination is not appealed or the participating facility has not complied with the requirements within the time provided, the Department may deem the facility to be in breach of its contract and send written notice to the facility. [Upon or after notice,] **After the expiration of any time periods set forth in the notice, the Department may terminate the contract[,] and remove or cover the TODS sign panel and trailblazer signs. The space on the TODS sign may be allocated to another eligible business.**

(d) (No change.)

(e) Where a participating facility ceases to satisfy any requirements due to a change in the policies, guidance, rules, or regulations of the Department, Federal Highway Administration, or MUTCD, the TODS sign[s shall] **panel may be maintained until the end of the contract [term] duration, if permitted by the changed policy.**

16:41D-7.2 Appeals

(a) An applicant may appeal the denial of its application to the program or a determination that it does not satisfy the requirements of this chapter[. Appeals shall be submitted] by **submitting a letter requesting an appeal** to the Manager of the TODS program at:

New Jersey Department of Transportation
Office of Outdoor Advertising and Wireless Services
TODS [& LOGO] PROGRAM
[P.O.] PO Box 600
Trenton, NJ 08625

1. (No change.)

(b) Within 15 days of the receipt of an appeal letter, the Manager of the TODS program will schedule an informal meeting to resolve the dispute. A written decision will be issued within 30 days of the meeting.

(c) If the dispute is not fully resolved **at the informal meeting**, the applicant may appeal **the written decision** by submitting a letter **requesting a hearing. The letter must include all disputed material facts and legal issues that the applicant intends to raise. The request must be sent to the Director of the Division of [Right of Way] Right-of-Way [(Director)] within 30 days [at] of the date the written decision is received and should be submitted to:**

Director, Division of [Right of Way] **Right-of-Way**
New Jersey Department of Transportation
[P.O.] PO Box 600
Trenton, NJ 08625.

1. If the letter does not contain the disputed material facts and legal issues the applicant intends to raise at a hearing, or if the disputed material facts and legal issues do not warrant a hearing, the Director, in his or her sole discretion, may decline to grant a hearing.

[(c)] (d) The Director will determine if a hearing is required based on the statement and facts submitted. If a hearing is required, the Director will schedule a hearing within 15 days of receipt of the written request. The Director may conduct the hearing or designate a hearing officer. If a hearing officer conducts the hearing, he or she will make written recommendations to the Director and provide any other information requested by the Director.

(e) At the hearing, the person requesting the appeal will be accorded an opportunity to present information regarding the denial or determination. The Director's decision will be based on the information presented at the hearing, any recommendation of the hearing officer, the purposes and criteria set forth in this chapter and the MUTCD. The written decision will be issued within 30 days of the hearing and shall be sent to the person who requested the appeal. The Director's decision is the Department's final agency decision.

APPENDIX

Eligible Routes

The following State highway routes have been designated for Tourist Oriented Directional Signs (TODS) signs:

9*	28	38	50	71*	124	181
9w	29	40	52	72*	130*	182
10	30*	41	53	73*	138	183
12	31	44	54	77	147	202*
15	33	45	56	79*	152	206
17*	34	46*	57	83	166	284
22*	35*	47	66	88	168	322
23*	36*	48	68	94	173	
27	37*	49	70*	109	179	

*Portions of these highways, as determined by the New Jersey Department of Transportation's Bureau of Traffic Engineering and Safety, will not be eligible due to traffic volumes, speed, and/or location.

TREASURY—GENERAL

(a)

STATE INVESTMENT COUNCIL

Common Pension Funds

General Provisions

Proposed Readoption of Specially Adopted Amendment: N.J.A.C. 17:16-69.1

Authorized By: State Investment Council and Christopher McDonough, Director, Division of Investment.

Authority: N.J.S.A. 52:18A-91.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-058.

Submit comments by August 31, 2018, to:

Christopher McDonough
Administrative Practice Officer
Division of Investment
PO Box 290
Trenton, New Jersey 08625-0290
E-mail: doi@treas.nj.gov

The agency proposal follows:

Summary

N.J.A.C. 17:16-69 establishes and governs the Common Pension Funds. On July 27, 2017, the State Investment Council adopted an amendment at N.J.A.C. 17:16-69.1 that was effective upon filing with the Office of Administrative Law (OAL) to codify new statutory requirements enacted through P.L. 2017, c. 98. See 49 N.J.R. 2813(a). The rules were designed to make clear that Common Pension Fund L, established by P.L. 2017, c. 98, shall be a "Common Pension Fund" for purposes of N.J.A.C. 17:16-69. This specially adopted amendment was scheduled to expire on July 27, 2018, and the State Investment Council is proposing the specially adopted amendment for re-adoption and for public comment through standard rulemaking procedures in order for it to become permanently effective. As the State Investment Council has filed this notice of re-adoption with the OAL prior to that date, the expiration date is extended 180 days to January 23, 2019, pursuant to N.J.S.A. 52:14B-5.1.c(2).

Because the Division of Investment (Division) is providing a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The specially adopted amendment proposed for re-adoption shall have a positive social impact as it is necessary to the implementation of section 6 of P.L. 2017, c. 98, which established Common Pension Fund L within the Division to receive the lottery enterprise contribution on behalf of certain State-administered retirement systems (Police and Firemen's Retirement System, Public Employees' Retirement System, and Teachers' Pension and Annuity Fund), which contribution pursuant to, and in the manner contemplated by P.L. 2017, c. 98, is in the public interest in alleviating the underfunded status of such retirement systems.

Economic Impact

The specially adopted amendment proposed for re-adoption shall have a positive economic impact as it is necessary to the implementation of section 6 of P.L. 2017, c. 98, which established Common Pension Fund L within the Division to receive the lottery enterprise contribution on behalf of certain State-administered retirement systems (Police and Firemen's Retirement System, Public Employees' Retirement System,

and Teachers' Pension and Annuity Fund), which contribution pursuant to, and in the manner contemplated by P.L. 2017, c. 98, is in the public interest in alleviating the underfunded status of such retirement systems.

Federal Standards Statement

A Federal standards analysis is not required because the investment policy rules of the State Investment Council are not subject to any Federal requirements or standards.

Jobs Impact

The specially adopted amendment proposed for re-adoption will have no impact on jobs.

Agriculture Industry Impact

The specially adopted amendment proposed for re-adoption will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the specially adopted amendment proposed for re-adoption regulates only the Director of the Division of Investment and will have no effect on small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The specially adopted amendment proposed for re-adoption will have no impact on the affordability of housing in the State of New Jersey. The specially adopted amendment proposed for re-adoption is necessary to the implementation of section 6 of P.L. 2017, c. 98, which established Common Pension Fund L within the Division to receive the lottery enterprise contribution on behalf of certain State-administered retirement systems (Police and Firemen's Retirement System, Public Employees' Retirement System, and Teachers' Pension and Annuity Fund), which contribution pursuant to, and in the manner contemplated by P.L. 2017, c. 98, is in the public interest in alleviating the underfunded status of such retirement systems.

Smart Growth Development Impact Analysis

The specially adopted amendment proposed for re-adoption is not anticipated to have an impact on the availability of affordable housing or housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The specially adopted amendment proposed for re-adoption is necessary to the implementation of section 6 of P.L. 2017, c. 98, which established Common Pension Fund L within the Division to receive the lottery enterprise contribution on behalf of certain State-administered retirement systems (Police and Firemen's Retirement System, Public Employees' Retirement System, and Teachers' Pension and Annuity Fund), which contribution pursuant to, and in the manner contemplated by P.L. 2017, c. 98, is in the public interest in alleviating the underfunded status of such retirement systems.

Racial and Ethnic Community Criminal and Public Safety Impact

The Division has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the specially adopted amendment proposed for re-adoption follows (additions specially adopted July 27, 2017 (see 49 N.J.R. 2813(a)) indicated in boldface **thus**; deletions specially adopted July 27, 2017 (see 49 N.J.R. 2813(a)) indicated in brackets [thus]):

SUBCHAPTER 69. COMMON PENSION FUNDS

17:16-69.1 General provisions

(a) (No change.)

(b) The following funds may participate in [the] Common Pension Funds **A, B, D, and E**:

1.-5. (No change.)

(c) Common Pension Fund L was established pursuant to P.L. 2017, c. 98, effective July 4, 2017. The following funds shall participate in Common Pension Fund L in accordance with the