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TITLE 16. TRANSPORTATION

CHAPTER 41D. TOURIST ORIENTED DIRECTIONAL SIGNS PROGRAM (TODS)

CHAPTER EXPIRATION DATE:

Expires on June 20, 2018.

SUBCHAPTER 1. GENERAL PROVISIONS

16:41D-1.1 Purpose

The purpose of this chapter is to establish procedures and standards for the implementation of the Tourist Oriented Directional Sign Program for the New Jersey Department of Transportation. This program is intended to enhance motorist safety and support tourism by providing signs that identify facilities of particular interest to tourists and provide directional information to those facilities.

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. 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) The program will not be available on freeways, expressways, interstate highways, limited access highways, service roads to limited access highways, interchanges or conventional roads in urban areas.

(c) The TODS program complies with the standards of the Manual on Uniform Traffic Control Devices and is guided by sound engineering judgment. The eligibility of State highways is determined by the Department's Bureau of Traffic Engineering and Safety and is based on traffic volumes, speed, and location as guided by sound engineering judgment.

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:

"Agri-tourism" means a style of tourism that offers activities that occur on a farm and are related to the agricultural use of the farm site, including, but not limited to: on-farm sales of agricultural products directly to the consumer, such as roadside farm markets, community farm markets, pick-your own operations, you-cut Christmas trees or wineries; educational activities and tours; entertainment, such as corn mazes, hay rides, seasonal festivals, petting zoo or haunted barns; and outdoor recreation and lodging. This definition recognizes that agriculture includes a broad range of activities including, but not limited to apiaries, aquaculture, fruits and vegetables, grain, dairy, poultry, livestock, equine activities, nurseries and greenhouses.

"Amusement park" means a commercially operated enterprise that offers rides, games and other similar forms of entertainment. The term includes theme parks and water parks.

"Civic area" means a particular public district, plaza or place that has been officially designated by the State, county or municipality such as, but not limited to, a defined main street, a historic village or neighborhood, a downtown business district, a town center, an individual park or a transit village.

"Commissioner" means the Commissioner of the New Jersey Department of Transportation.

"Community farm market" means a market that exists primarily for the direct sale of locally produced agricultural products by one or more producers to the general public.

"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.

"Department" means the New Jersey Department of Transportation.

"Golf course" means a tract of land designed for standard play, par-3 play and/or driving ranges, but excluding a miniature golf course.

"Historic site" means any district, site, building, structure or object designated by the United States, the State of New Jersey, the county or the municipality where the property is located as being significant in American history, architecture, archaeology, engineering or culture.

"Interchange" means a system of interconnecting roadways that provides for traffic movement between two or more highways that do not intersect at grade.

"Intersection approach sign" means a TODS sign that is erected on a conventional road for the purpose of displaying the panels that describe and identify the participating facility and provides directional information.

"Interstate highway" means a highway constructed within this State and approved by the Secretary of Transportation of the United States as an official portion of the National System of Interstate and Defense Highways pursuant to the provisions of Title 23 of the United States Code.

"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, including any highway segment classified as AL-1 by the State Highway Access Management Code, N.J.A.C. 16:47 Appendix B.

"Manual on Uniform Traffic Control Devices" or "MUTCD" means the 2009 manual periodically published and revised by the United States Department of Transportation, Federal Highway Administration, available from the Superintendent of Documents, U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20401 or online at <http://mutcd.fhwa.dot.gov/>, which is hereby incorporated by reference, as amended and supplemented.

"Natural attraction" means a publicly- or privately-owned natural or naturalized place of scenic or natural importance as designated by the State or the county or municipality in which it is located. Natural attractions are facilities including, but not limited to, caves, hunting areas, fishing areas, wildlife management areas, bird watching areas, riding trails and hiking trails.

"Non-profit organization" means an organization that has received an Internal Revenue Service determination that it is tax exempt under 26 U.S.C. § 501(c)(3) or a successor provision, or any organization with a similar tax exemption.

"Park" means a natural or naturalized area of land for the enjoyment of the public as designated by the State or the county or municipality in which it is located. As used in this chapter, the term excludes "theme park," "amusement park" and "athletic park."

"Re-fabrication and re-installation" means the work expended to fabricate and install a new sign panel for an intersection approach sign where the facility has elected to change the design of the panel. Re-fabrication and re-installation does not mean the work expended to replace a sign panel that has been knocked-down, damaged or is replaced as part of customary maintenance.

"Restaurant" means a retail business, which, as its primary use, prepares and sells meals, snacks or refreshments for immediate consumption. A business, which, as its primary use, sells groceries or pre-packaged food items including, but not limited to, convenience stores, supermarkets or food courts, is not considered a restaurant.

"Straight-ahead sign" means an intersection approach sign that identifies a facility that has direct access to the conventional road on which the sign is located.

"TODS" means the Tourist Oriented Directional Signs Program.

"Trailblazer sign" means a TODS sign, which is erected on roads leading away from an intersection of a conventional road, which describes the facility and provides directional information.

"Transit village" means any facility so designated by the Commissioner of Transportation.

"Vendor" means a contractor procured by the Department to implement TODS, pursuant to N.J.S.A. 27:7-21.12(a) and (b).

"Village" means any such civic place so designated by the State, county or municipality in which it is located.

"Water-oriented business" means a facility whose primary purpose is to provide services or activities that are dependent on a body of water such as a bay, lake, ocean or river. A water-oriented business includes, but is not limited to, the rental of watercraft, such as boats, canoes, kayaks or jet-skis; the conduct of recreational activities, such as tours, para-sailing, group fishing or chartered fishing; or the provision of a boating facility to the general public, such as a marina, dock or boat launch. A water-oriented business does not include a facility whose purpose is the commercial sale of goods, merchandise or equipment that can be used on water, such as the sale of clothing, boats, jet-skis, bait or other water related items; nor does it include a boating facility that is not available for public use.

SUBCHAPTER 3. ELIGIBILITY AND GENERAL REQUIREMENTS

16:41D-3.1 Eligible facilities

(a) Eligible facilities shall satisfy all requirements of this chapter and shall:

1. Have 50 percent or more of their customers live outside the immediate area or shall receive 50 percent of their annual sales from people who live outside the immediate area. For the purposes of this chapter, the immediate area is the area within 10 miles of the facility as measured from the driveway of the facility to the centerline of the nearest State highway; and

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.

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

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

- i. Aquariums;
 - ii. Arts or crafts centers;
 - iii. Arboretums or botanical gardens;
 - iv. Concert halls, amphitheatres, theatres, arenas, auditoriums or performing arts centers;
 - v. Historic sites;
 - vi. Museums; and
 - vii. Zoos;
2. Commercial tourism sites, including, but not limited to:
- i. Agri-tourism;
 - ii. Antiques stores;
 - iii. Art or craft galleries;
 - iv. Breweries;
 - v. Wineries;
 - vi. Lodging, including motels, hotels and bed and breakfasts;
 - vii. Flea markets;
 - viii. Fuel stations, including truck stops;
 - ix. Restaurants; and
 - x. Outlet malls;
3. Recreational sites; including, but not limited to:
- i. Amusement parks;
 - ii. Boat landings and marinas;
 - iii. Camping facilities;
 - iv. Equestrian centers or stables;
 - v. Fairgrounds;
 - vi. Golf courses;
 - vii. Parks and natural attractions;
 - viii. Skating rinks (including ice, roller and in-line skating);
 - ix. Ski resorts or ski slopes;
 - x. Speedways and racetracks; and
 - xi. Water-oriented businesses; and
4. Civic areas, including, but not limited to:
- i. Main streets;
 - ii. Town centers;
 - iii. Transit villages; and
 - iv. Villages.

(c) The following facilities are ineligible for the TODS program:

1. Businesses, including, but not limited to:

- i. Adult entertainment facilities;
- ii. Automobile dealers;
- iii. Banks;
- iv. Day care or child learning center facilities;
- v. Funeral homes;
- vi. General commercial sales;
- vii. Movie theaters;
- viii. Pharmacies;
- ix. Supermarkets;
- x. Bars or taverns; and
- xi. Truck terminals;

2. Governmental entities, including, but not limited to:

- i. Jails, prisons and juvenile detention facilities;
- ii. Post offices; and
- iii. Government offices and facilities;

3. Medical and health facilities, including, but not limited to:

- i. Health clubs;
- ii. Hospitals, clinics or treatment centers;
- iii. Physician offices;
- iv. Retirement homes, nursing homes and extended care facilities; and
- v. Veterinary facilities;

4. Real estate developments, including, but not limited to:

- i. Industrial parks;
- ii. Mobile home parks;
- iii. Office buildings and office parks;
- iv. Residential subdivisions; and
- v. General retail shopping centers or malls (including food courts);

5. Religious facilities, including, but not limited to:

- i. Cathedrals;
- ii. Chapels;
- iii. Churches;
- iv. Mosques;
- v. Shrines;

vi. Synagogues; and

vii. Temples; and

6. Miscellaneous facilities, including, but not limited to:

i. Animal shelters; and

ii. Public or private schools, continuing education facilities, colleges, universities.

16:41D-3.2 Participation requirements

(a) Each 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. Possess all valid licenses and permits necessary for their operation;

4. Have free public rest rooms or sanitary facilities available. This requirement does not apply to agri-tourism facilities;

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

6. Be open and available to the general public; and

7. Have received all of the relevant municipal approvals needed to allow it to provide the goods, services or activities, which establish its eligibility in the TODS program.

(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. The facility-specific requirements for agri-tourism 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 six hours each day, five days during its growing or operating season.

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. Be located within one mile of the State highway on which the intersection approach sign is erected;

ii. Be open a minimum of 16 hours each day, seven days each week, 360 days per year;

- iii. Have gas, fuel and oil for cars, trucks and other vehicles;
 - iv. Provide tire repair service or information on available local tire repair facilities;
 - 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. The restaurant shall be open a minimum of 12 hours each day, six days each week, unless designated as seasonal;
 - 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. 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.

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 by the Department.

(b) If a facility is closed between seven and 90 consecutive days, the Department will cover the TODS signs until the facility reopens.

(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.

16:41D-3.4 General conditions

(a) No facility that maintains a sign in violation of the Roadside Sign Control and Outdoor Advertising Act, N.J.S.A. 27:5-5 et seq., or the rules promulgated pursuant thereto is eligible to participate in the TODS program.

(b) No TODS sign will be erected for a facility for which directional signs have been provided on the same State highway by the Department or other entities.

(c) No TODS sign, other than a straight-ahead sign, will be erected for a facility that has direct access to the State highway on which the intersection approach sign would be located. Direct access will be deemed to exist where the facility is located within a shopping center or other real estate development that itself has direct access to the State highway.

(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.

(e) No TODS sign will be erected if the Department determines that the sign would cause an unsafe condition or an unnecessarily complex traffic maneuver.

(f) Sign panels for civic areas will be installed at the top of the intersection approach sign.

(g) Where a specific service trailblazer sign is needed at an intersection and a TODS sign is, or can be, provided, the TODS sign will be used instead of the 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 of the MUTCD.

(h) Distances for participation requirements will be measured from the intersection of the highway at which the intersection approach sign would be located to the driveway of the proposed facility.

16:41D-3.5 Waiver from distance requirements

(a) A waiver from the distance provision of N.J.A.C. 16:41D-3.2(a) will be allowed if the facility is located in a straight-ahead direction from a State highway, at a distance of no more than six miles.

(b) A waiver from the distance provision of N.J.A.C. 16:41D-3.2(b) will be allowed if the facility is located in a straight-ahead direction from a State highway, at a distance of no more than 12 miles. No waiver will be granted for fuel facilities located further than one mile off the State highway.

(c) A waiver from the provisions of N.J.A.C. 16:41D-3.4(c), which prohibits a TODS sign for a facility that has direct access from a State highway, may be allowed to provide a straight-ahead sign only under the following conditions:

1. Space is available on an existing intersection approach sign. When a straight-ahead sign has been erected and its space becomes needed for an approved facility that does not have direct access to the State highway, the straight-ahead sign shall be removed at the end of its contract term. If there are more than one straight-ahead signs on an existing intersection approach sign, the sign farthest from the intersection shall be the first to be removed;

2. A TODS sign for a similar facility exists on the intersection approach sign. Similar facilities are those that are business competitors (for example, two restaurants or two fuel stations) or those which offer the same type of activity (for example, two museums); and

3. The facility does not require a left turn traffic movement that the Department determines to be unsafe.

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 be found at: <http://www.state.nj.us/transportation/business/signs/tods/> or can be obtained from the vendor. 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.

(b) No application will be approved, unless the facility satisfies all requirements of this chapter and is in full operation.

(c) Facilities that are determined to be ineligible will be notified and may appeal the determination as set forth in this chapter.

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 cannot be provided a space will be placed on a waiting list. When a space becomes available, the earliest approved applicant on the waiting list will be offered admittance to the program.

16:41D-4.3 Entry into a contract

(a) All approved applicants who elect to participate in the TODS program shall do so by entering into a standard contract, which has been approved by the Department.

(b) The contract will provide for the fabrication and erection of one sign panel on an intersection approach sign 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 less than 12 months, the contract term will be the balance of the existing contract year plus the next complete contract year. The fees for the balance of the existing contract year will be prorated. 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 sign removed pursuant to other provisions of this chapter or any other applicable law. When a facility does not meet all eligibility requirements for any reason, it may not renew its contract.

(e) The Department may terminate any contract, at its sole discretion, for its convenience or necessity. If the Department terminates a contract for convenience or necessity, it will only be liable for the pro-rata reimbursement of fees paid by the participating facility.

SUBCHAPTER 5. FEES

16:41D-5.1 Fees

(a) Annual fees will be as follows:

1. For each sign panel (per direction of travel):

i. Regular facility - \$ 800.00; and

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

(b) Non-annual fees shall be as follows:

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

2. Covering of a 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 trailblazer sign in excess of three.

(c) No fee shall be charged for facilities that are on a waiting list pursuant to N.J.A.C. 16:41D-4.2.

(d) Where a TODS sign 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, the execution of a contract and payment of all fees 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 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 new location would be safe and effective.

(d) The content of the sign will be determined to ensure the safety of the driving public.

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 sign 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 signs, including trailblazer signs will be inspected in accordance with a schedule approved by the Department.

(b) Damaged or missing signs, including trailblazer signs, will be repaired or replaced as soon as practicable as the Department determines. No fee will be charged.

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

(d) No credit will be given for the loss of a trailblazer sign.

SUBCHAPTER 7. DETERMINATIONS AND APPEALS

16:41D-7.1 Departmental determinations

(a) If the Department determines that a participating facility has ceased to satisfy all requirements, it will direct the facility to comply within 30 days. The Department may extend this time for good cause if the public safety and the public interest are not adversely affected.

(b) The Department's determination may be appealed by the participating facility as provided by this chapter.

(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,

the Department may terminate the contract, remove or cover the TODS sign panel and trail-blazer signs. The space may be allocated to another eligible business.

(d) If the Department determines that the participating facility's failure to meet all requirements would result in an immediate health or safety hazard, the Department may cover the TODS sign panel upon notice to the participating facility.

(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 signs shall be maintained until the end of the contract term.

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 letter 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. Box 600
Trenton, NJ 08625

1. The letter shall include a statement describing the nature of the appeal and the facts on which the appeal is based. The letter must be received within 30 days of the date of denial or determination.

(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. If the dispute is not fully resolved, the applicant may appeal by submitting a letter to the Director of the Division of Right of Way (Director) within 30 days at:

Director, Division of Right of Way
New Jersey Department of Transportation
P.O. Box 600
Trenton, NJ 08625

(c) 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. 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.

SUBCHAPTER 8. TERMINATION OF PROGRAM

16:41D-8.1 Termination

The Department may, in its sole discretion, terminate the program for its convenience or necessity. If the Department terminates the program, it will reimburse the annual fees paid by the participating facilities after pro-rata on a monthly basis.

APPENDIX

The following State highway routes have been designated for Tourist Oriented Directional Signs (TODS), as determined by the Department's Bureau of Traffic Engineering and Safety, based on traffic volumes, speed, location and sound engineering judgment:

9	28	38	50	71	109	179
9w	29	40	52	72	124	181
10	30	41	53	73	130	182
12	31	44	54	77	138	183
15	33	45	56	79	147	202
17	34	46	57	82	152	206
22	35	47	66	83	166	208
23	36	48	68	88	168	284
27	37	49	70	94	173	322