

Proposed Rule
LSA Document #07-471

DIGEST

Amends [105 IAC 7-1-2](#), adds [105 IAC 7-3-1.5](#), amends [105 IAC 7-3-5](#), and adds [105 IAC 7-3-7.5](#) concerning the regulation of signs and billboards. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[105 IAC 7-1-2](#); [105 IAC 7-3-1.5](#); [105 IAC 7-3-5](#); [105 IAC 7-3-7.5](#)

SECTION 1. [105 IAC 7-1-2](#) IS AMENDED TO READ AS FOLLOWS:

[105 IAC 7-1-2](#) Definitions

Authority: [IC 8-23-2-6](#); [IC 9-21-19-2](#)

Affected: [IC 8-23-1-14.3](#); [IC 8-23-1-38](#); [IC 8-23-20](#)

Sec. 2. The following definitions apply throughout this article:

(1) "Access" means a location that:

(A) allows vehicular or pedestrian traffic to cross the highway right-of-way line; and

(B) is positioned at the connection of a driveway with the approach at the right-of-way line.

(2) "Applicant" means:

(A) a person;

(B) a partnership;

(C) a company;

(D) a corporation;

(E) an association; or

(F) an agency;

making application for a permit to perform work on an approach.

(3) "Application" means a formally prepared request for a permit that is presented by an applicant on a permit form to the department seeking permission to perform work on a highway right-of-way.

(4) "Approach" means a way or place improved for vehicular or pedestrian traffic on the highway right-of-way that joins the pavement edge of the highway with a driveway or pedestrian walkway.

(5) "Auxiliary lane" means a portion of the roadway adjoining the traveled way for:

(A) parking;

(B) speed change;

(C) turning;

(D) storage for turning;

(E) weaving;

(F) truck climbing; or for

(G) other purposes.

(6) **"Changeable message sign" has the meaning set forth in [IC 8-23-1-14.3](#).**

~~(6)~~ (7) "Commercial approach" means an approach that joins the highway with a driveway to private property used for commercial purposes and to public property.

(8) **"Conforming sign" means a sign that meets the current criteria of 23 U.S.C. 131, 23 CFR 750.708, or [IC 8-23-20](#).**

~~(7)~~ (9) "Crossover" means a paved or graded crossing in the highway median that allows vehicles to cross or to turn across the highway.

~~(8)~~ (10) "Department" means the Indiana department of highways **transportation** acting directly or through its duly authorized officers and agents.

~~(9)~~ (11) "Driveway" means a way or place not on the department right-of-way that is used for vehicles.

~~(10)~~ (12) "Expiration date" means the last calendar day that the:

(A) valid permit is in effect; and ~~that the~~

(B) approach must be in compliance with all conditions of the permit.

~~(11)~~ (13) "Field approach" means an approach that joins the highway with a driveway to private property that is:

- (A) vacant;
 - (B) in an unimproved condition; or
 - (C) a farm field.
- ~~(12)~~ (14) "Highway" means any roadway under the jurisdiction of the department that is designated as:
- (A) a state route;
 - (B) a U.S. route; or
 - (C) an interstate.
- ~~(13)~~ (15) "Issue date" means a calendar day that the permit is granted to the applicant.
- ~~(14)~~ (16) "Level-of-service C" has the meaning as defined by the current edition of the Highway Capacity Manual*.
- ~~(15)~~ (17) "Level-of-service D" has the meaning as defined by the current edition of the Highway Capacity Manual*.
- ~~(16)~~ (18) "Limited access facility" means a highway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a limited right or easement of direct access, light, air, or view by reason of fact that their property abuts such limited access facility or for any other reason.
- ~~(17)~~ (19) "Median" means the portion of a divided highway separating the traveled way for traffic proceeding in opposite directions.
- ~~(18)~~ (20) "Notice" means a certified letter from the department addressed to the owner of the real estate stating that the approach for a driveway emanating from the real estate is unauthorized and providing:
- (A) the approximate location of the approach;
 - (B) a statement of any substandard elements of the approach;
 - (C) the action to be taken by the owner; and
 - (D) the deadline for completing the prescribed action.
- ~~(19)~~ (21) "Peak direction" means the principal direction of traffic flow during a selected period of time.
- ~~(20)~~ (22) "Permit" means a legal document in which the department gives written permission to an applicant to perform work on the highway right-of-way.
- ~~(21)~~ (23) "Permittee" means the applicant following the issuance of a permit by the department.
- ~~(22)~~ (24) "Private approach" means an approach that:
- (A) joins the highway with a driveway to private property having:
 - (i) a residence;
 - (ii) a barn;
 - (iii) a private garage; or
 - (iv) other improvements; and
 - (B) is ordinarily used only by:
 - (i) the owner or occupant of the premises;
 - (ii) guests; and
 - (iii) necessary service vehicles.
- ~~(23)~~ (25) "Purchased limited access" means rights-of-way:
- (A) along any highway designated by the department to be limited access facility; and
 - (B) whose access rights have been acquired by the department.
- ~~(24)~~ (26) "Right-of-way" means all land:
- (A) under the jurisdiction of; and
 - (B) whose use is controlled by;
- the department.
- ~~(25)~~ (27) "Shoulder" means that portion of the highway right-of-way contiguous with the traveled way for:
- (A) accommodation of stopped vehicles; ~~for~~
 - (B) emergency use; and ~~for~~
 - (C) lateral support of roadway base and surface courses.
- It is measured from the edge of pavement for traveled way or, if present, auxiliary lane to the intersection of the shoulder and fill or ditch slopes.
- (28) "Sign":
- (A) has the meaning set forth in [IC 8-23-1-38](#); and
 - (B) includes a changeable message sign.
- ~~(26)~~ (29) "Street peak hour" means the hour within a selected period of time, such as the "AM street peak (weekday)", in which there is a maximum flow of traffic on the roadway system adjacent to a development or proposed development.
- ~~(27)~~ (30) "Title evidence" means documentation in the form of a certified search covering a period of twenty (20) years, current title insurance or certified letter from abstractor or title insurance agent certifying fee simple ownership of property.
- ~~(28)~~ (31) "Traffic" means:

- (A) pedestrians;
- (B) ridden or herded animals;
- (C) vehicles; and
- (D) other conveyances;

either singly or together, while using any highway for purposes of travel.

~~(29)~~ **(32)** "Traffic control" means devices, such as:

- (A) signs;
- (B) barricades;
- (C) pavement markings; and
- (D) signalization;

used to direct traffic in safe orderly use of the highway.

~~(30)~~ **(33)** "Traffic impact analysis study" means a specialized study of the impact a given type and size of new land use has or will have on a nearby public transportation system, that is prepared by or under the supervision of a registered professional engineer with experience in traffic engineering operations.

~~(31)~~ **(34)** "Traffic operations analysis study" means a specialized study of the possible traffic safety and operational problems a proposed development may have in the immediate vicinity of the development site due to a compromise in existing design standards caused by the development, that is prepared by or under the supervision of a registered professional engineer with experience in traffic engineering operations.

~~(32)~~ **(35)** "Transportation improvement program" means identified projects in the program of future projects for Indiana or political subdivisions throughout the state.

~~(33)~~ **(36)** "Traveled way" means the portion of roadway used for the movement of traffic, excluding shoulders and auxiliary lanes.

~~(34)~~ **(37)** "Unauthorized approach" means an approach that:

- (A) has been constructed, reconstructed, altered, or modified;
- (B) remains incomplete or has become substandard for any reason, such as a change in land use; and
- (C) is not approved nor authorized to exist in its present condition, under present traffic pattern, by the department.

~~(35)~~ **(38)** "Vehicle trip generation rate" means the actual or estimated number of vehicle trips that a specific land use or development generates or is anticipated to generate.

*Highway Capacity Manual Special Report 209, 3rd **Third** Edition (1994) is hereby incorporated by reference. Copies of the Highway Capacity Manual may be obtained by writing to the Transportation Research Board, National Research Council, 2101 Constitution Avenue, NW, Washington D.C. 20418. Copies may also be obtained from the Indiana Department of Transportation, 100 N. **North** Senate Avenue, Room N730, Indianapolis, Indiana 46204.

(Indiana Department of Transportation; [105 IAC 7-1-2](#); filed Aug 2, 1985, 3:39 p.m.: 8 IR 1703; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3358; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: [20070627-IR-105070237RFA](#)) NOTE: Transferred from Department of Highways ([120 IAC 2-1-2.1](#)) to Indiana Department of Transportation ([105 IAC 7-1-2](#)) by P.L.112-1989, SECTION 5, effective July 1, 1989.

SECTION 2. [105 IAC 7-3-1.5](#) IS ADDED TO READ AS FOLLOWS:

[105 IAC 7-3-1.5](#) Changeable message signs

Authority: [IC 8-23-2-6](#); [IC 9-21-19-2](#)

Affected: [IC 8-23-2-6](#)

Sec. 1.5. (a) A permit holder shall not convert a conforming sign to a changeable sign without the approval of the department. Approval may be sought by filing an application under section 7.5 of this rule.

(b) Only a conforming sign structure may be converted to a changeable message sign upon approval from the department. A nonconforming sign structure may not be modified to a changeable message sign under any circumstances.

(c) A changeable message sign shall only be constructed as one (1) of the following:

(1) A single face sign.

- (2) A "V"- shaped structure.
- (3) A back to back structure.

A stacked or side by side sign is not allowed under this section.

(d) The permit holder shall provide the department with a contact person and phone number for every permitted changeable message sign. The contact person must have the ability and authority to make modifications to the display and lighting levels should the need arise. The department may direct the permit holder to disable the changeable message sign:

- (1) in cases of emergency; or
- (2) when the contact is not responsive within a reasonable period of time.

(e) If the department determines that the changeable message sign:

- (1) impairs the vision of the driver of any motor vehicle; or
- (2) otherwise interferes with the operation of a motor vehicle;

then upon request from the department the permit holder of the changeable message sign shall take appropriate corrective action within twelve (12) hours. Failure to remedy the problem within twelve (12) hours may be cause for revocation of the permit under section 8 of this rule.

(f) A changeable message sign shall contain a default design that will freeze the sign in a dark or blank position if a malfunction occurs.

(g) No changeable message sign shall be located within three hundred (300) feet of any building used primarily as a residence, unless the owner of the building consents in writing to the location of the changeable message sign.

(Indiana Department of Transportation; [105 IAC 7-3-1.5](#))

SECTION 3. [105 IAC 7-3-5](#) IS AMENDED TO READ AS FOLLOWS:

[105 IAC 7-3-5](#) Territory to which article applies; entries for examinations and surveys

Authority: [IC 8-23-2-6](#); [IC 8-23-20-25](#)

Affected: [IC 8-23-20](#)

Sec. 5. (a) The territory under the jurisdiction of the department for the purposes of this article shall include all ~~interstates and~~ **the following:**

(1) The Interstate Highway System.

(2) The Federal-Aid Primary System as defined it existed on June 1, 1991. and

(3) Any other highways where control of outdoor advertising is required by 23 U.S.C. 131 in effect on December 18, 1991. that are on the National Highway System.

Where additional roadways become subject to the requirements of 23 U.S.C. 131, as effective on December 18, 1991, such are deemed added to the control areas contained in subsection (c), sixty (60) days after publishing notice of the additions in the Indiana Register. In the event an additional roadway is added, sign owners shall have one hundred and eighty (180) days after the date of publication to comply with this rule.

(b) The submission of a permit application is deemed permission to enter into and upon any land which advertising signs are standing or proposed, or upon which displays or devices are exhibited and make such examinations and surveys as may be relevant and reasonable under this rule.

(c) **The following is a list of control areas:**

I-64	All
I-65	All
I-69	All
I-70	All
I-74	All
I-80	All

I-90	All
I-94	All
I-164	All
I-265	All
I-275	All
I-465	All
I-469	All
I-865	All
S.R. 1	from S.R. 469 I-469 south Jct. intersection to S.R. 18
S.R. 1	from U.S. 35 36 to S.R. 1/U.S. U.S. 52 south intersection
S.R. 1	from I-74 to U.S. 50
S.R. 2	from U.S. 41 to U.S. 231
S.R. 2	from U.S. 30 east Jct. to U.S. 31
S.R. 3	from U.S. 6 to I-69
S.R. 3	from S.R. 18 to the Kentucky state line S.R. 62
U.S. 6	All
S.R. 7	from S.R. 46 to S.R. 56 All
S.R. 8	from U.S. 231 S.R. 2 to U.S. 41 421
S.R. 9	from the Michigan state line to S.R. 9/S.R. 109 intersection in Madison County All
S.R. 9	from I-69 to S.R. 46
S.R. 10	from the Illinois state line to U.S. 421
U.S. 12	from the Michigan state line to S.R. 212
U.S. 12	from Bridge Street to Vermont Street in Hammond
S.R. 13	from the Michigan state line to I-80/I-90
S.R. 14	from U.S. 421 to S.R. 114 19
S.R. 15	from U.S. 33 to S.R. 15 and S.R. 9 north intersection
S.R. 18	from S.R. 18/U.S. U.S. 421 and S.R. 39 intersection to S.R. 29 south intersection
S.R. 18	from S.R. 18/S.R. S.R. 19 intersection to the Ohio state line
S.R. 19	from U.S. 24 to S.R. 18
S.R. 19	from the Michigan state line to U.S. 6
U.S. 20	All
S.R. 22	from S.R. 29 to I-69
S.R. 23	from U.S. 6 to 20 and U.S. 31 to U.S. 6
U.S. 24	from the Illinois state line to S.R. 329 right/ S.R. 17 left intersection
U.S. 24	from U.S. 31 north Jct. to east Jct. of U.S. 30
U.S. 24	From S.R. 469 to the Ohio state line All
S.R. 25	from S.R. 28 to S.R. 526 U.S. 231
S.R. 25	from I-65 to U.S. 24
S.R. 25	from S.R. 17 to S.R. 14
S.R. 26	from the Illinois state line to U.S. 41
S.R. 26	from U.S. 231 to U.S. 31
U.S. 27	from I-69 S.R. 3 to the Ohio state line
S.R. 28	from the Illinois state line to S.R. 28/ S.R. 67/S.R. 167 intersection 67
S.R. 29	from U.S. 35 to S.R. 28/U.S. 421 intersection All
U.S. 30	All
U.S. 31	from the Michigan state line to I-465 on south north side of Indianapolis
S.R. 32	from U.S. 231 to S.R. 109 the Ohio state line
S.R. 32	from S.R. 3 to the Ohio state line
U.S. 33	from U.S. 33/S.R. 23/U.S. 20 intersection to the Ohio state line All
U.S. 35	from S.R. 39 to the north junction of the intersection of S.R. 29
U.S. 35	from S.R. 435 2 to I-70
U.S. 36	from the Illinois state line to I-465 on the west side of Indianapolis
U.S. 36	from I-465 on the east side of Indianapolis to S.R. 38
U.S. 36	from U.S. 27 to the Ohio state line
S.R. 37	from I-465 on the south side of Indianapolis to I-64 S.R. 66
S.R. 37	from I-64 to S.R. 66

S.R. 37	from I-69 to S.R. 9 to U.S. 34
S.R. 39	from the Michigan state line to Jct. of S.R. 39 and S.R. 2
S.R. 39	from S.R. 28 to S.R. 32
S.R. 39	between S.R. 67 and S.R. 37
S.R. 39	from U.S. 24 to S.R. 32
U.S. 40	from I-465 west to Hendricks County line
U.S. 41	All
S.R. 43	from west Jct. of S.R. 43/S.R. 46/S.R. 67 to S.R. 43/S.R. 25/U.S. 231 intersection
S.R. 43	from I-65 to U.S. 24/U.S. 421 Jct. 24
S.R. 44	from S.R. 135 (Johnson County) to U.S. 27
S.R. 45	from S.R. 445 to S.R. 37
S.R. 46	from S.R. 59 to the eastern junction with S.R. 3 east intersection
S.R. 47	from U.S. 41 to S.R. 32
S.R. 49	from U.S. 12 to U.S. 30
U.S. 50	All
U.S. 52	from the Illinois state line to S.R. 443 U.S. 231 north
U.S. 52	from I-465 on the east side of Indianapolis to I-74
S.R. 54	from U.S. 41/ U.S. 150 41 to S.R. 43
S.R. 56	from S.R. 61 and S.R. 57 south intersection to U.S. 50 and S.R. 350 (Dearborn County)
S.R. 57	from S.R. 54 to U.S. 41
S.R. 58	from U.S. 231 to S.R. 37
S.R. 59	from U.S. 36 to S.R. 54/S.R. 59 south Jct. 54 east intersection
S.R. 60	from S.R. 37 U.S. 50 to I-65
S.R. 61	from U.S. 41 to S.R. 56/S.R. S.R. 57 intersection
S.R. 61	from I-64 S.R. 68 to S.R. 66
S.R. 62	from the Illinois state line to S.R. 62/U.S. U.S. 231 north split
S.R. 62	from S.R. 56 to I-65
S.R. 63	from U.S. 41 north Jct. Carbondale to U.S. 41 south Jct. Terre Haute
S.R. 64	from the Illinois state line to U.S. 231
S.R. 66	from the Illinois state line to U.S. 41 S.R. 37
S.R. 66	from U.S. 41 to S.R. 37
S.R. 67	from I-465 on the east side of Indianapolis to U.S. 27
S.R. 67	from I-465 on the southwest side of Indianapolis to U.S. 41 to the Ohio state line
S.R. 69	from I-64 to S.R. 62
S.R. 101	from S.R. 44 to U.S. 52
S.R. 101	from I-74 to U.S. 50
S.R. 109	from S.R. 9 to I-70
S.R. 114	from U.S. 41 to U.S. 421
S.R. 114	from S.R. 14 to U.S. 24
U.S. 131	from the Michigan state line to I-80 and I-90
S.R. 135	from S.R. 44 to the Kentucky state line
S.R. 144	from S.R. 42 to S.R. 67
S.R. 145	from S.R. 56 to I-64
U.S. 150	From the Illinois state line to I-70 All
U.S. 150	from U.S. 50 to I-64
U.S. 152	All
S.R. 154	from the Illinois state line to U.S. 41 All
S.R. 161	from the Kentucky state line to I-64
S.R. 212	All in Michigan City
U.S. 224	from U.S. 24 to the Ohio state line All
U.S. 231	from S.R. 2 to S.R. 8 south intersection to U.S. 41
U.S. 231	from U.S. 231/S.R. 10 east junction to U.S. 231/S.R. 10 west junction
U.S. 231	from the S.R. 25 U.S. 52 south junction intersection to the Kentucky state line
S.R. 237	from S.R. 37 to S.R. 66 the Kentucky state line
S.R. 249	All
S.R. 252	from S.R. 37 to S.R. 135

S.R. 265	All
S.R. 267	from I-65 to S.R. 144/ S.R. 42 intersection
S.R. 312	from U.S. 20 to Hohmann Avenue in Hammond
U.S. 421	all except I-74 to S.R. 46 in Decatur County from U.S. 20 to I-465
U.S. 421	from S.R. 46 to the Kentucky state line
S.R. 441	All in Vincennes
S.R. 443	All in West Lafayette
S.R. 445	All
S.R. 469	all
S.R. 526	All
S.R. 912	All
S.R. 930	from I-69 to I-469

(Indiana Department of Transportation; [105 IAC 7-3-5](#); filed Apr 28, 1994, 9:30 a.m.: 17 IR 2043; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: [20070627-IR-105070237RFA](#))

SECTION 4. [105 IAC 7-3-7.5](#) IS ADDED TO READ AS FOLLOWS:

[105 IAC 7-3-7.5](#) Modification of sign structure; addendum to permit

Authority: [IC 8-23-1-14.3](#); [IC 8-23-1-42.5](#)

Affected: [IC 8-23-20-25.5](#)

Sec. 7.5. Before modifying a conforming sign, other than changing the advertising copy, the permit holder shall submit a completed application to the department on a form to be provided by the department. The department may then issue an addendum to the permit allowing such change, provided the sign otherwise complies with any state or federal law.

(Indiana Department of Transportation; [105 IAC 7-3-7.5](#))

[Notice of Public Hearing](#)

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