

Proposed Rule
LSA Document #14-336

DIGEST

Amends [105 IAC 9-4-4](#), [105 IAC 9-4-10](#), and [105 IAC 9-4-13](#), which regulate business signs on information panels within highway right-of-way. Effective 30 days after filing with the Publisher.

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

[105 IAC 9-4-4](#); [105 IAC 9-4-10](#); [105 IAC 9-4-13](#)

SECTION 1. [105 IAC 9-4-4](#) IS AMENDED TO READ AS FOLLOWS:

[105 IAC 9-4-4](#) Definitions

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

Affected: [IC 9-21-4-5](#)

Sec. 4. The following definitions apply throughout this rule:

- (1) "Business facility" means a business operating in one (1) or more of the areas of service permitted for installation of specific service signs and meeting the criteria for installation of a logo panel.
- (2) "CLOSED panel" means a panel imprinted with the word CLOSED that may be installed over a logo panel to indicate the seasonal closing of a business.
- (3) "Contractor" means the:
 - (A) individual;
 - (B) partnership;
 - (C) firm;
 - (D) corporation; or
 - (E) combination of same;contracting with the department for performance of prescribed work.
- (4) "Department" means the Indiana department of transportation.
- (5) "Freeway" means a divided highway for through traffic with full control of access, **or the segments of an express highway or limited access highway with one (1) or more grade separated interchanges.**
- (6) "Full control of access" means the condition where the right of owners or occupants of abutting land or other persons to access light, air, or view in connection with a highway is fully controlled. Full control is exercised to give preference to through traffic by:
 - (A) providing access connections only with selected public roads; and
 - (B) prohibiting crossings at grade or direct private driveway connections.
- (7) "Interstate system" means the federally designated system of interstate highways with full control of access.
- (8) "Logo panel" means a:
 - (A) business sign; and
 - (B) separately attached sign mounted on specific service signs to show the:
 - (i) brand;
 - (ii) symbol;
 - (iii) trademark;
 - (iv) name; or
 - (v) combination of these;for a motorist service available at or near an interchange.
- (9) "Miniature logo panel" means a reduced size duplicate of the logo panel installed on the specific service sign in advance of the interchange, which is installed on the specific service ramp sign, or a trail-blazing sign.
- (10) "Primary applicant" means a business facility requesting a logo panel that meets the highest standard for the specific service.
- (11) "Secondary applicant" means a business facility requesting a logo panel that meets a reduced standard for the specific service. Contracts for secondary applicants may be for a shorter period than for primary applicants.
- (12) "Specific service ramp sign" means a reduced size specific service sign installed on an interchange ramp to indicate distance and direction to a business facility not readily visible from the intersection of the ramp and

the crossing roadway.

(13) "Specific service sign" means a specific information panel and means a rectangular sign panel with the following:

- (A) The words "GAS", "FOOD", "LODGING", "CAMPING", or "ATTRACTION".
- (B) Directional information.
- (C) One (1) or more logo panels.

(14) "Supplemental guide sign" means a large panel sign with a brown, or green retroreflective background, and a white retroreflective legend and border, that provides direction to one (1) or two (2) supplemental destinations, which can be reached from the interchange.

(15) "Tourist" means a person who travels over fifty (50) miles one-way from home.

(16) "Trail-blazing" means guiding a motorist from a specific service ramp sign to an eligible business facility through the use of trail-blazing sign or signs.

(17) "Trail-blazing sign" means a reduced size specific service sign installed on or near a crossroad to indicate a distance and direction to a business facility not readily visible from the interchange ramp.

(Indiana Department of Transportation; [105 IAC 9-4-4](#); filed Aug 13, 1984, 2:54 p.m.: 7 IR 2326; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2330; filed Jan 8, 1992, 12:00 p.m.: 15 IR 698; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; filed Mar 21, 2002, 4:40 p.m.: 25 IR 2438; readopted filed Jun 14, 2007, 2:45 p.m.: [20070627-IR-105070237RFA](#); filed Sep 24, 2010, 1:43 p.m.: [20101020-IR-105100004FRA](#); readopted filed Oct 2, 2013, 11:39 a.m.: [20131030-IR-105130295RFA](#)) NOTE: Transferred from Department of Highways ([120 IAC 4-5-4](#)) to Indiana Department of Transportation ([105 IAC 9-4-4](#)) by P.L.112-1989, SECTION 5, effective July 1, 1989.

SECTION 2. [105 IAC 9-4-10](#) IS AMENDED TO READ AS FOLLOWS:

[105 IAC 9-4-10](#) Location of signs; special requirements

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

Affected: [IC 9-21-2](#); [IC 9-21-4-5](#)

Sec. 10. (a) Except as provided in section 11(c) of this rule, a separate specific service sign must be provided for each type of service upon which logo panels are displayed.

(b) The specific service signs shall be erected between ~~eight hundred (800) feet beyond the end of the last entrance taper of~~ the previous interchange and eight hundred (800) feet minimum in advance of the exit lane taper, or the general motorist service sign if present, at the interchange from which the services are available. ~~When longitudinal space permits, all specific service signs should be installed before the one (1) mile exit panel. There should normally~~ **shall** be at least ~~eight~~ **seven** hundred ~~(800)~~ **(720)** feet spacing between the signs and at least ~~eight five~~ **(500)** feet visibility to a sign installed beyond a sight obstruction. ~~Excessive spacing should be avoided.~~

(c) Specific service signs existing at the time this rule is adopted and not meeting these spacing requirements may remain in place for the remainder of their normal service life or until April 1, ~~2017~~, **2027**, whichever is sooner. At the end of the normal service life, or at some time before April 2, ~~2017~~, **2027**, specific service signs not complying with these spacing requirements shall be removed or relocated in compliance with these requirements.

(d) The order of preference for choosing services to be displayed shall be as follows:

- (1) "GAS".
- (2) "FOOD".
- (3) "LODGING".
- (4) "CAMPING".
- (5) "ATTRACTION".

In the event a higher priority business replaces a lower priority business, distance from the center point of the exit ramp terminus shall govern which lower priority business is removed. Secondary applicants, as determined by section 13 of this rule, will be removed before primary applicants.

(e) At single-exit interchanges, where service facilities having a logo panel are not visible from the ramp terminal, specific service ramp signs must be installed at the ramp terminal as follows:

- (1) Specific service ramp signs must include the distance and the directional arrow to the service facility.
- (2) The installation of specific service ramp signs shall be at the expense of the business facility.

- (3) The miniature logo panels installed on specific service ramp signs must be eighteen (18) inches high by twenty-four (24) inches wide.
- (4) The miniature logo panel on the specific service ramp sign will be installed after receipt of the miniature logo panel from the business facility.
- (5) Miniature logo panels, if required, must accompany the specific logo panel before any installations are made.

(Indiana Department of Transportation; [105 IAC 9-4-10](#); filed Aug 13, 1984, 2:54 p.m.: 7 IR 2328; errata, 7 IR 2546; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2332; filed Jan 8, 1992, 12:00 p.m.: 15 IR 700; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; filed Mar 21, 2002, 4:40 p.m.: 25 IR 2440; readopted filed Jun 14, 2007, 2:45 p.m.: [20070627-IR-105070237RFA](#); filed Sep 24, 2010, 1:43 p.m.: [20101020-IR-105100004FRA](#); readopted filed Oct 2, 2013, 11:39 a.m.: [20131030-IR-105130295RFA](#)) NOTE: Transferred from Department of Highways ([120 IAC 4-5-10](#)) to Indiana Department of Transportation ([105 IAC 9-4-10](#)) by P.L.112-1989, SECTION 5, effective July 1, 1989.

SECTION 3. [105 IAC 9-4-13](#) IS AMENDED TO READ AS FOLLOWS:

[105 IAC 9-4-13](#) Qualification for logo panels

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

Affected: [IC 6-8.1-3-16](#); [IC 9-21-4](#)

Sec. 13. (a) In addition to the specific requirements in this section, each applicant must hold valid licenses, permits, or approvals required of the facility by any appropriate governmental agency. Each business identified on a specific service sign must:

- (1) give written assurance to the state, or the contractor, of its conforming with all applicable laws concerning the provisions of public accommodations without regard to:
 - (A) race;
 - (B) religion;
 - (C) color;
 - (D) age;
 - (E) sex;
 - (F) disability; or
 - (G) ancestry; and
- (2) not be in breach of that assurance; and
- (3) not appear on the outstanding tax warrant list prepared by the state department of revenue under [IC 6-8.1-3-16](#) because of delinquent retail sales tax debts.**

(b) To qualify as an applicant for a "GAS" logo panel, a business facility must establish the following:

- (1) Provide vehicle services, including ~~fuel~~, gasoline, oil, and water. Tire repair must be provided on-site, or information about tire repair off-site must be conspicuously posted. Tire repair shall be:
 - (A) sixteen (16) hours a day for seven (7) days a week for a primary applicant or twelve (12) hours a day for seven (7) days a week for a secondary applicant; and
 - (B) performed on-site by employees or a subcontractor within one (1) hour or off-site within a reasonable driving distance by another provider, with a list of off-site tire repair providers and copies of written directions to the provider available to motorists at the applicant's establishment.
- (2) Provide modern public restroom facilities and drinking water.
- (3) Be in continuous operation with a minimum of the following:
 - (A) Sixteen (16) hours a day for seven (7) days a week for a primary applicant.
 - (B) Twelve (12) hours a day for seven (7) days a week for a secondary applicant.
- (4) Provide a public telephone.
- (5) Be located within two (2) miles of the interchange and either:
 - (A) be on, or readily visible from, the intersecting crossroad; or
 - (B) provide trail-blazing for a maximum of one (1) turn after the interchange ramp to the business facility. The turn from the interchange ramp and the turn into the business facility shall not count as turns.

(c) To qualify as an applicant for a "FOOD" logo panel, a business facility must establish the following:

- (1) Provide modern public restroom facilities.
- (2) Provide a public telephone.
- (3) Be located within three (3) miles of the interchange and either:

- (A) be on, or readily visible from, the intersecting crossroad; or
 - (B) provide trail-blazing for a maximum of two (2) turns after the interchange ramp to the business facility. The turn from the interchange ramp and the turn into the business facility shall not count as turns.
- (4) Provide a minimum seating capacity of twenty-five (25) persons.
 - (5) Provide meals a minimum of six (6) days per week. If applicable, the day of the week the business facility is not in operation shall be shown on or below the logo panel.
 - (6) Provide meal services a minimum of the following:
 - (A) Twelve (12) hours operation for three (3) meals a day opening at or before 8:30 a.m. for a primary applicant.
 - (B) Two (2) meals per day for a secondary applicant.
 - (7) Provide meals to customers of all ages.**

- (d) To qualify as an applicant for a "LODGING" logo panel, a business must establish the following:
 - (1) Provide a minimum of ten (10) separate sleeping units with modern sanitary facilities.
 - (2) Provide a public telephone.
 - (3) Have gasoline and food available within one (1) mile of the facility, between the facility and the interchange, or within the respective limits stipulated in subsections (b) and (c).
 - (4) Be located within three (3) miles of the interchange for a primary applicant and either:
 - (A) be on, or readily visible from, the intersecting crossroad; or
 - (B) provide trail-blazing for a maximum of two (2) turns after the interchange ramp to the business facility. The turn from the interchange ramp and the turn into the business facility shall not count as turns.
 - (5) Be located within four (4) miles of the interchange for a secondary applicant and either:
 - (A) be on, or readily visible from, the intersecting crossroad; or
 - (B) provide trail-blazing for a maximum of two (2) turns after the interchange ramp to the business facility. The turn from the interchange ramp and the turn into the business facility shall not count as turns.

- (e) To qualify as an applicant for a "CAMPING" logo panel, a business facility must establish the following:
 - (1) Provide adequate waste disposal.
 - (2) Provide modern sanitary facilities, including an adequate number of:
 - (A) toilets;
 - (B) lavatories; and
 - (C) showers;for camping sites' capacity.
 - (3) Provide the following:
 - (A) Running water.
 - (B) Drinking water.
 - (C) Electricity.
 - (4) Provide the following minimum number of camping sites:
 - (A) Fifty (50) for a primary applicant.
 - (B) Twenty-five (25) for a secondary applicant.
 - (5) Be located within fifteen (15) miles of the interchange.
 - (6) Provide a public telephone.
 - (7) Provide continuous months of operation as follows:
 - (A) Twelve (12) months for a primary applicant.
 - (B) Six (6) months for a secondary applicant. The secondary applicant shall provide for "CLOSED" panels during the months of closure. Posting of the closed panel, and subsequent removal, will be limited to one (1) time per year. Alternatively, the months of operation may be posted on or below the logo panel.
 - (8) Provide adequate trail-blazing from the interchange to the facility. There is no limit to the number of turns allowed for trail-blazing signs. The last trail-blazing sign on a state road or United States highway may also include a trail-blazing sign for traffic coming in the opposite direction.

- (f) To qualify as an applicant for an "ATTRACTION" logo panel, a business must establish the following:
 - (1) Be of regional significance and be able to demonstrate the following:
 - (A) A substantial portion of its visitors are tourists.
 - (B) It has no supplemental guide signs on the interstate or freeway directing motorists to its site.
 - (2) Have adequate off-street parking for normal visitor demand.
 - (3) Provide modern public restroom facilities and drinking water.
 - (4) Provide a public telephone.
 - (5) Be located within fifteen (15) miles of the interchange.
 - (6) Provide adequate trail-blazing from the interchange to the facility. There is no limit to the number of turns

allowed for trail-blazing signs. The last trail-blazing sign on a state road or United States highway may also include a trail-blazing sign for traffic coming in the opposite direction.

(7) Be one (1) or more of the following:

(A) Agritourism. An established location where customers can interact with Indiana agricultural producers for the purpose of tours, education, or other rural experiences, recreation, and purchase of products. The facility must satisfy the additional requirements of at least one (1) of the following agritourism categories:

(i) Agri-educational venue. A producing farm that offers educational, tourist entertainment, or farm related activities. Activities may include the following:

(AA) Horseback riding.

(BB) Corn mazes.

(CC) Farm animal petting zoos.

(DD) Hayrides.

(EE) Other similar out-of-doors farm related activities.

The facility may offer on-site lodging opportunities such as a working guest ranch or bed and breakfast.

(ii) Agriculture production or processing, or both, venue. Offers product creation tours on a regular basis throughout the year and is located on a producing farm or in a manufacturing setting.

This category is considered a seasonal attraction, and the months of operation in subdivision (8) do not apply.

(B) Amusement park. A commercially operated park enterprise that supplies refreshments and various devices for entertainment, such as:

(i) Roller coasters.

(ii) Water rides.

(iii) Musical entertainment.

(iv) Carnival games.

This category is considered a seasonal attraction, and the months of operation in subdivision (8) do not apply.

(C) Antique shopping/artisan destination district. An area located in a city or urban area offering multiple vendor locations for the purchasing of antiques or handmade crafts. There must be at least five (5) shops (or any combination of antique and handmade craft shops) in the antique shopping/artisan destination district and it must show that:

(i) marketing efforts are as a district; and

(ii) it works with the local visitors bureau.

(D) Business district/main street community. The central business district of a community or an area within a community that has been officially designated as a main street community by the Indiana main street program within the office of community and rural affairs, or its successor organization. To qualify for this type of signage at an exit, there must be more than one (1) exit from the highway to access the community.

(E) Cultural center. A center for exhibits and presentations that are designed to teach visitors about the culture of current or past residents of the area.

(F) Education center. A facility that:

(i) is of outstanding educational value;

(ii) conducts tours on a regularly scheduled basis throughout the year; and

(iii) is not a school or postsecondary educational facility.

(G) Golf course. Eighteen (18) hole minimum United States Golf Association regulation governed.

Secondary applicant is the only applicant status available for golf course regardless of operation times outlined in subdivision (8).

(H) Historical site. A structure, district, or site:

(i) listed on the Indiana register of historic sites and structures or the National Register of Historic Places as being of historical significance; and

(ii) that is open to the public.

(I) "Made in Indiana" production facility. A facility that educates the public about a production process and can be considered as either a "Food & Beverage" or "Goods" production facility. The facility must offer tours into the production area and consist of one (1) of the following categories:

(i) Food & Beverage production - These are manufacturing facilities where food products are produced from raw ingredients such as the following:

(AA) Canning facilities.

(BB) Candy factories.

(CC) Breweries.

(DD) Wineries.

The facility must offer product creation tours on a regular basis, samples of product, and actively market to tourists. Fifty percent (50%) of the facility's production must be for retail sales for consumption off site. This category does not include restaurants or similar facilities that prepare meals for consumption on-site or

off-site.

(ii) Goods production. These are manufacturing facilities where raw materials are transformed into finished product for retail sale. The facility must offer product creation tours on a regular basis and actively market to tourists.

(J) Large tourist traffic generator. A tourist attraction that attracts at least ten thousand (10,000) visitors annually. The facility must also have a:

(i) marketing plan in place where at least forty percent (40%) of the advertising budget is spent on markets at least fifty (50) miles away; and

(ii) working relationship with the local chamber of commerce or the convention and visitors bureau if such an entity is present in the community.

(K) Marina. A sheltered harbor adjacent to a navigable waterway where boats are kept in the water and recreational boating services are provided. This category is considered a seasonal attraction, and the months of operation in subdivision (8) do not apply.

(L) Museum. An organized and permanent institution, with professional staff, essentially educational or aesthetic in purpose, which owns or utilizes tangible objects, cares for them, and exhibits them to the public on some regular schedule.

(M) Outlet mall. A shopping facility that:

(i) offers a grouping of name brand outlet stores; and

(ii) has a national or international marketing plan.

This category does not include local or regional shopping centers which typically offer normal retail sales of products.

(N) Regional shopping center. A shopping facility that satisfies the following requirements:

(i) Consists of a group of fifty (50) or more retail shops and other commercial establishments with common access to all establishments.

(ii) Contains a total gross leasable area of not less than five hundred thousand (500,000) square feet.

(iii) Is operated and managed by a unified management and marketing plan.

(iv) Is identified as a tourist or shopping attraction by:

(AA) the current version of the Indiana Travel Guide published by the Indiana Office of Tourism Development; or

(BB) a national publisher of travel guides.

(v) Has a working relationship with the local chamber of commerce and the local convention and visitors bureau if such an entity is present in the community.

(vi) Targets population centers greater than fifty (50) miles away with an annual marketing plan that includes media such as:

(AA) TV commercials.

(BB) Newspaper advertisements.

(CC) Radio advertisements.

(DD) Billboards.

This category may only be considered for secondary applicant status.

(O) Religious site. A shrine, grotto, or similar type site that is of a unique religious nature.

(P) Resort area. A facility with those recreational amenities normally present at a facility that is:

(i) the main focal point of a vacation;

(ii) situated to take advantage of a natural, historic, or recreational attraction.

(Q) Snow ski area. A facility with those recreational amenities normally present at a snow ski facility, such as:

(i) mechanical lifts;

(ii) downhill skiing;

(iii) tubing; or

(iv) snowboarding.

This category is considered a seasonal attraction, and the months of operation in subdivision (8) do not apply.

(R) Transportation tourist attraction. A mobile facility that attracts at least one thousand (1,000) visitors annually and is of one (1) of the following types:

(i) Riverboat.

(ii) Canal boat.

(iii) Trolley.

(iv) Train.

The mobile facility must offer regular tours of a navigable waterway or a railway or streetcar line. The dock or station where visitors board the mobile facility must contain information about the attraction for when the mobile facility is away from the dock or station. This category is considered a seasonal attraction, and the months of operation in subdivision (8) do not apply.

(S) U-pick/orchard/farmer's market. An established area or facility where consumers can purchase pre-picked or pick-it-yourself fresh Indiana products directly from Indiana producers. This category is considered a seasonal attraction, and the months of operation in subdivision (8) do not apply.

(T) Water park. A commercially operated park enterprise:

- (i) with multiple permanently erected water features, rides, and devices providing aquatic family entertainment; and
- (ii) offering food and other refreshments for visitor consumption.

If the water park is located on the premises of a lodging facility, an overnight stay at the lodging facility shall not be required for admission to the water park. This category is considered a seasonal attraction, and the months of operation in subdivision (8) do not apply.

(U) Winery. A facility that produces wine from grapes or other fruit and maintains a tasting room, sales, and tours.

(V) Botanical/zoological facility. A facility that:

- (i) houses and maintains a collection of unique living animals or plants; and
- (ii) is open to the public.

(8) Have regularly scheduled operation for a minimum of the following:

(A) Eight (8) hours per day, seven (7) days per week all year for a primary applicant.

(B) Six (6) hours per day for five (5) days per week for six (6) continuous months per year for a secondary applicant, unless otherwise stated in subdivision (7). If applicable, the day or days of the week the business facility is not in operation shall be shown on or below the logo panel. The secondary applicant shall provide for "CLOSED" panels during the months of closure. Posting of the closed panel, and subsequent removal, will be limited to one (1) time per year. Alternatively, the months of operation may be posted on or below the logo panel.

(g) The department or its contractor will enter into contracts with primary applicants for the use of space on specific service signs. If space remains available on specific service signs after primary applicants have been contracted, the department or its contractor may enter into contracts with secondary applicants for use of the remaining space.

(Indiana Department of Transportation; [105 IAC 9-4-13](#); filed Aug 13, 1984, 2:54 p.m.: 7 IR 2329; errata, 7 IR 2546; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2333; filed Oct 5, 1993, 5:00 p.m.: 17 IR 173; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; filed Mar 21, 2002, 4:40 p.m.: 25 IR 2442; readopted filed Jun 14, 2007, 2:45 p.m.: [20070627-IR-105070237RFA](#); filed Sep 24, 2010, 1:43 p.m.: [20101020-IR-105100004FRA](#); readopted filed Oct 2, 2013, 11:39 a.m.: [20131030-IR-105130295RFA](#)) NOTE: Transferred from Department of Highways ([120 IAC 4-5-13](#)) to Indiana Department of Transportation ([105 IAC 9-4-13](#)) by P.L.112-1989, SECTION 5, effective July 1, 1989.

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