

Economic Impact Statement

LSA Document #17-337

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The proposed rule is intended to repeal [105 IAC 7-3](#), which has caused some confusion to the Indiana Department of Transportation (INDOT) and the outdoor advertising industry, and to add [105 IAC 7-4](#), which will clarify regulatory requirements concerning outdoor advertising. The current rules have caused confusion to both INDOT staff and the outdoor advertising industry, thus creating ambiguity in the permitting process and maintenance of existing signs. INDOT's Legal Division and Statewide Permits Section, numerous members of the Outdoor Advertising Association of Indiana (OAAI), and the Federal Highway Administration (FHWA) have collaborated to produce the proposed rule over the last few years.

Impact on Small Businesses**1. Estimate of the number of small businesses, classified by industry sector, which will be subject to the proposed rule:**

INDOT estimates there are approximately one hundred (100) small outdoor advertising companies that will be subject to this proposed rule.

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule:

The proposed rule revisions impose de minimis additional reporting responsibilities for outdoor advertising companies. The estimated administrative costs would range from one dollar and sixty cents (\$1.60) to twenty dollars (\$20) annually. There are no differences in reporting, record keeping, and other administrative costs between small businesses and large businesses.

3. Estimate of the total annual economic impact that compliance will have on small businesses subject to the rule:

The total annual economic impact upon each small business for compliance with the rule is estimated to be one dollar and sixty cents (\$1.60) to twenty dollars (\$20). It is unlikely that there would be any economic impact on a regular, annual basis once the sign is erected. It is unusual for sign owners or property owners to change annually. It is not anticipated that any significant costs will be passed on to small businesses in order for the outdoor advertising industry to remain competitive with other forms of advertising media available to small businesses.

4. Statement justifying any requirement or cost that is imposed by the rule and not expressly required by law. The statement must reference any data, studies, or analyses relied upon by the agency in determining imposition of the requirement or cost is necessary:

The proposed rule revisions impose de minimis reporting requirements or costs on the industry. The purpose of the rule is meant to eliminate confusion and clarify regulatory requirements. The current rules are particularly confusing to small business owners who own only a few signs and do not frequently process permits for outdoor advertising signs on a regular basis. It will allow INDOT to have more effective control over the outdoor advertising and fulfill requirements imposed by existing federal law.

The proposed rule would eliminate unneeded regulatory requirements and unnecessarily vague provisions in the current version of [105 IAC 7-3](#), and would add an entire section dedicated to defining terms used in the rules with respect to outdoor advertising structures and related matters, including scenic byways in [105 IAC 7-4-2](#) (an essential element that is missing from the current rule). Moreover, the lack of definitions in [105 IAC 7-3](#) creates confusion and vague interpretations of exactly what is meant by certain words used in different sections of the rule. Many of the sections of the current rule that purport to enumerate the responsibilities of sign applicants or current sign owners lack specific explanations as to what those responsibilities are, leaving sign owners uncertain how to stay in compliance with the law. The proposed addition of [105 IAC 7-4](#) outlines the permit application requirements and procedure, including providing processes for incomplete applications, conflicting permit applications, addendums for nonconforming signs, and appeals. The addition of these sections will help clarify the requirements and procedures for approval of permit applications for the outdoor advertising industry.

In an effort to eliminate confusion regarding permitted signs on scenic byways, the proposed rule also clarifies the scenic byway program and creates a procedure to nominate and/or designate scenic byways. Further, the proposed rule allows for segmentation of scenic byways where the necessary aesthetic requirements could not be met for an entire, contiguous route. This clarification is necessary to ensure compliance with federal law.

Additionally, [105 IAC 7-4](#) requires sign owners to maintain permit tags on the outdoor advertising signs at all

times and delineates the necessary requirements to maintain a legal sign. [IC 8-23-20](#) requires INDOT to define and elaborate on definitions and criteria needed to adequately control signs. This proposed rule is intended to fulfill this statutory requirement.

5. Regulatory flexibility analysis to consider less intrusive or costly methods of achieving the same purpose:

A. Less stringent compliance or reporting requirements:

Federal laws and regulations do not allow for states to require less stringent regulations than those imposed by the federal regulations. The rule does not require any additional compliance or reporting than what already existed in INDOT policy manuals or federal law. The department has allowed for the required information to be provided by whatever means is most convenient for each business, including telephonically, electronic mail, regular mail, and direct entry online into the electronic permitting system.

B. Establishment of less stringent schedules or deadlines:

Federal laws and regulations do not allow for states to require less stringent regulations than those imposed by the federal regulations. Additional time was given to the industry to provide documentation to the department prior to any revocation of a permit.

C. Consolidation or simplification of compliance or reporting requirements:

The rule revision specifically sets forth the reporting requirements to eliminate any confusion. The rule does not require any additional compliance or reporting than what already existed in INDOT policy manuals or federal law. The existing reporting requirements that will be set forth in the rule are not onerous or anything beyond the basic types of data that businesses are generally expected to provide in order to receive a service or benefit from any government agency (i.e., updated name and contact information). The department has allowed for the required information to be provided by whatever means is most convenient for each business, including telephonically, electronic mail, regular mail, and direct entry online into the electronic permitting system.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule:

The proposed rule revisions are of a regulatory nature and not based on performance or design standards that are not already mandated by federal and state laws.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule:

Federal laws and regulations do not allow for states to require less stringent regulations than those imposed by the federal regulations. Any costs imposed by the rule are miniscule.

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