
TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION**Emergency Rule**
LSA Document #22-243(E)**DIGEST**

Amends [105 IAC 7-4-2](#) concerning definitions. Amends [105 IAC 7-4-13](#) concerning conditional permits. Amends [105 IAC 7-4-15](#) concerning revocation of a permit. Adds [105 IAC 7-4-24](#) regarding relocation of sign requirements and criteria. Adds [105 IAC 17](#) to implement rules providing for relocation assistance for those displaced as a direct result of a department project. Statutory authority: [IC 8-23-20-25.7](#); [IC 8-23-20.5-6](#). Effective August 15, 2022.

[105 IAC 7-4-2](#); [105 IAC 7-4-13](#); [105 IAC 7-4-15](#); [105 IAC 7-4-24](#); [105 IAC 17](#)

SECTION 1. [105 IAC 7-4-2](#) IS AMENDED TO READ AS FOLLOWS:

[105 IAC 7-4-2](#) Definitions

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

Affected: [IC 8-23-1-14.3](#); [IC 8-23-1-20](#); [IC 8-23-1-38](#); [IC 8-23-2-1](#); [IC 8-23-20-25.6](#)

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

- (1) "Abandoned" means the cessation of use of a sign face on a nonconforming sign for a period of at least twelve (12) continuous months.
- (2) "Adjacent area" means any area that is:
 - (A) adjacent to and within six hundred sixty (660) feet of the nearest edge of the right-of-way of a control route; or
 - (B) beyond six hundred sixty (660) feet of the nearest edge of the right-of-way of a control route, if a sign would be:
 - (i) outside of an incorporated municipality;
 - (ii) visible from the main-traveled way of the control route; and
 - (iii) erected with the purpose of being read from such main-traveled way.
- (3) "Applicant" means a person or entity submitting an application to receive a permit for a sign.
- (4) "Back-to-back sign" means a sign with two (2) sign faces, attached on each side of the structure and facing opposite directions of travel at a single location.
- (5) "Changeable message sign" has the meaning set forth in [IC 8-23-1-14.3](#).
- (6) "Commissioner" means the commissioner of the department or the commissioner's designee.
- (7) "Comprehensive zoning plan" means a zoning plan or ordinance adopted by a local governmental entity in accordance with state law that covers the entire area under that entity's jurisdiction.
- (8) "Conforming sign" means a sign that meets all of the current criteria in 23 U.S.C. 131* as effective July 1, 2018, 23 CFR 750.708* as effective July 1, 2018, [IC 8-23-20](#), and this rule for erection of a new sign.
- (9) "Control route" means any road in Indiana that is:
 - (A) part of the interstate system;
 - (B) part of the federal-aid primary system as of June 1, 1991;
 - (C) a scenic byway; or
 - (D) part of the national highway system to include intermodal connectors.

The list of control routes is set forth in section 9(a) of this rule.

- (10) "Customary maintenance or repair on a nonconforming sign" means any activity or maintenance of twenty-five percent (25%) or less of the nonconforming sign performed within twelve (12) months, for the purpose of the nonconforming sign remaining in its existing approved physical configuration and size dimensions at the specific location in the records of the department, but only if such activity is not intended to prolong the duration of the nonconforming sign's normal life.
- (11) "Damaged" means a nonconforming sign that, to be structurally restored to its existing approved physical configuration and size dimensions, requires substantial repair beyond customary maintenance or repair on a nonconforming sign, but which sign is not destroyed.
- (12) "Department" refers to the Indiana department of transportation established by [IC 8-23-2-1](#).
- (13) "Destroyed" means a nonconforming sign is physically damaged to the point that, to be structurally restored to its existing physical configuration and size dimensions, requires the following:
 - (A) In the case of wooden supports, replacement or structural repair using normal repair practices of fifty percent (50%) or more by item count of the supports during the repair period. Wooden supports must be

replaced with wooden supports.

(B) In the case of metal supports, repair or replacement under normal repair practices during the repair period of:

(i) fifty percent (50%) or more of the supports by item count; or

(ii) replacing thirty percent (30%) or more of the total length above ground of each broken, bent, or twisted support being repaired or replaced;

or both items (i) and (ii). Replacing a metal support with a larger or thicker metal support is prohibited.

(C) In the case of the face or structure, repair or replacement under normal repair practices during the repair period of fifty percent (50%) or more of the face or structure by area. The repaired sign must remain at the original location.

(14) "Directional and other official signs and notices" has the meaning set forth in [IC 8-23-1-20](#).

(15) "Discontinued" means the lack of advertising (other than obsolete or blank advertising, or advertising of the permittee or indicating that the sign is for rent) on a sign face of a nonconforming sign for a period of at least twelve (12) continuous months.

(16) "Electronic permitting system" means the electronic means for submitting and evaluating a permit application that is used by the department.

(17) "Federal-aid primary system as of June 1, 1991" has the meaning set forth in 23 CFR 658.5* as effective on July 1, 2018.

(18) "Historic Michigan Road Scenic Byway" means the designated state scenic byway consisting of the series of highways within Indiana that begins in Jefferson County at the Madison-Milton Street, West Street, and Michigan Road, proceeding left off West Street onto Michigan Road, then north through the S.R. 62 intersection to the U.S. 421 intersection and turn left (north) onto U.S. 421 and continue north to Ripley County. In Ripley County, there is a divergence of original Michigan Road route and early 1900s Michigan Road "auto trail" route - both part of the state designation. To follow the original route, at the intersection with Old Michigan Road turn left, straight through New Marion, straight through at U.S. 50, straight through at Dabney until route ends at County Road 850 N. and then turn right and then immediately left onto U.S. 421, proceeding until at Napoleon cross S.R. 229 continuing straight through. To follow the "auto trail" route, at S.R. 129 go straight through, then in Versailles at U.S. 50 turn left to stay on U.S. 421 and where U.S. 50 and U.S. 421 diverge, stay on U.S. 421, then at Osgood continue straight through and at Napoleon and S.R. 229 continue straight through until, in either case, reaching Decatur County. In Decatur County, turn left where road ends at S.R. 46, then in Greensburg at the courthouse square, turn right onto Franklin Street, then at North Street, turn left, then at Jackson Street turn right and then immediately make a slight left onto Michigan Street where U.S. 421 rejoins the route, then at S.R. 3 continue straight through, then U.S. 421 exits to follow I-74, stay on Michigan Street, then at St. Omer continue straight through, then at Middletown continue straight through until reaching Shelby County. In Shelby County, at E. County Road 425 S., slight right onto this original one-lane alignment of the road, then Old U.S. 421, slight left, then turn left when road ends at S.R. 44, then in Shelbyville at S.R. 9 turn right and drive around the Public Square, staying on S.R. 9, then at Michigan Road turn left and pass over I-74 and then turn left on Michigan Road, then turn left when road ends at London Road (County Road 700 West), and immediately left again onto I-74 West (I-74 was built on top of Michigan Road for a few miles starting here) until reaching Marion County. In Marion County, at Acton Road exit, follow it and turn left onto Acton Road, then at Southeastern Avenue, turn right, then at Wanamaker go straight through and then pass over I-465, then turn left when road ends to stay on Southeastern Avenue, then at Washington Street turn left and continue west past Meridian Street and at West Street turn right, then at Indiana Avenue, West Street becomes Dr. Martin Luther King, Jr. Street and continue through, then follow left-hand exit to stay on Dr. Martin Luther King, Jr. Street and at 38th Street it becomes Michigan Road, so continue on Michigan Road straight through, then at Augusta continue straight through, pass under I-465 and roadway becomes U.S. 421 until reaching Hamilton County. In Hamilton County, continue on U.S. 421 through Hamilton County for less than two (2) miles and then enter Boone County. In Boone County, at former S.R. 334 and 116th Street continue through on U.S. 421, then at S.R. 32 continue through on U.S. 421, then at S.R. 47 continue through on U.S. 421 until reaching Clinton County. In Clinton County, in Kirklin at S.R. 38 continue straight through on U.S. 421, then at S.R. 28 continue straight through, then at S.R. 29 continue north on S.R. 29, which follows Michigan Road alignment, then at Boyleston continue straight through, at Michigantown continue straight through, at Middlefork cross S.R. 26 and continue straight through on S.R. 29 until reaching Carroll County. In Carroll County, from Burlington at S.R. 22 continue straight through on S.R. 29, then in Wheeling at S.R. 18 continue straight through, then at Sycamore Row the original alignment is on the left of S.R. 29, so continue straight through on S.R. 29 at S.R. 218, then at Deer Creek continue straight through until reaching Cass County. In Cass County, S.R. 29 exits left and continue straight onto Burlington Avenue, then in Logansport, Third Street at S.R. 25 (Market Street) turn right, then at Sixth Street turn left, then at Michigan Avenue (S.R. 25), immediately following bridge over Eel River turn right, then at Metea continue straight through on S.R. 25 until reaching Fulton County. In Fulton County, in Fulton at S.R. 114 continue straight through and pass under U.S. 31, then at S.R. 14 continue straight through on S.R. 25, then in

Rochester, at courthouse, Main Street (Old U.S. 31) at Ninth Street, S.R. 25 turns right, then continue straight onto Main Street and continue north on Old U.S. 31 until reaching Marshall County. In Marshall County, at S.R. 110 continue straight through, then in Argos at S.R. 10 continue straight through until road ends at U.S. 31, then turn right onto U.S. 31, then at Michigan Road turn left off of U.S. 31, then at S.R. 17 continue straight through, then in Plymouth on Michigan Street at Jefferson Street continue straight through on Michigan Street (S.R. 17) and follow ramp onto U.S. 31 North, then at LaPaz continue straight through on U.S. 31 until reaching St. Joseph County. In St. Joseph County, at Quinn Trail (original road alignment) turn left off of U.S. 31, then continue until road ends at Magnus Drive and turn right and then immediately left onto U.S. 31, then in Lakeville continue straight through on U.S. 31, then at S.R. 4 continue straight through and U.S. 31 exits right under St. Joseph Valley Parkway (U.S. 31 and U.S. 20) so continue north into South Bend, then at S.R. 23 and S.R. 933 continue straight through, then at Western Avenue, where Michigan Street curves and becomes St. Joseph Avenue, turn left and immediately right back onto Michigan Street, then at Michigan Street and Washington Street continue straight through on Michigan Street, then at Colfax Avenue, turn right and then immediately left onto St. Joseph Street and then left again onto LaSalle Avenue, then bear right onto Lincolnway West, then at the roundabout follow it and stay on Lincolnway West, then at the second roundabout bear right onto S.R. 123 (Mayflower Road) which becomes Lincolnway West, then pass under the St. Joseph Valley Parkway and the roadway then becomes U.S. 20, then at New Carlisle continue straight through on U.S. 20 until reaching LaPorte County. In LaPorte County, at the fork follow Boot Jack Road on the right leaving U.S. 20 behind, then road ends at Wiley Road so turn right, then road ends at Michigan Street so turn left, then in Rolling Prairie continue straight through, then road ends at U.S. 20 so turn right onto U.S. 20, then pass over the Indiana Toll Road (I-80 and I-90), then at Wilhelm Road turn left and follow the original alignment, then at fork follow Springville Road on the right, then Springville Road ends at U.S. 20 so turn left onto U.S. 20, then U.S. 35 enters from the left, so continue straight through on U.S. 20 and pass under I-94, then U.S. 20 exits at S.R. 212, so pass under and continue on Michigan Boulevard (former U.S. 35) into Michigan City, then at U.S. 12 turn left onto U.S. 12, until the end of Historic Michigan Road at Fourth Street and Willard Avenue.

(19) "Historic National Road" means the designated national scenic byway consisting of the series of highways within Indiana that begins at the Indiana-Ohio border on U.S. 40 and continuing to the Indiana-Illinois border. Within Indianapolis, the Historic National Road is called Washington Street.

(20) "Illegal sign" means a sign that was erected, repaired, or maintained in violation of any provision of federal law or any provision of state law. A sign that is an illegal sign because of erection, repair, or maintenance shall not be classified as a nonconforming sign.

(21) "Indiana's Historic Pathways" means the designated national scenic byway consisting of the series of highways within Indiana that begins at the Indiana-Illinois border on U.S. 50/U.S. 150, proceeding east through Shoals and continuing northeast on U.S. 50 through Lawrenceburg to the Indiana-Ohio border. This term also refers to the series of highways within Indiana that begins at the U.S. 50/U.S. 150 at Shoals, proceeding southeast on U.S. 150 into New Albany, then proceeding east on local roads to the Falls of the Ohio State Park in Clarksville, Indiana.

(22) "Interchange" means a junction of two (2) or more roads that allows for the movement of traffic between such roads, typically by means of one (1) or more entrance or exit ramps.

(23) "Interstate system" has the meaning set forth in 23 CFR 750.101(a)(1)* as effective on July 1, 2018.

(24) "Lincoln Highway Scenic Byway" means the designated state scenic byway consisting of the series of highways within Indiana that includes the original 1913 route, as well as the alternate 1924 and 1928 route, and that begins, for the 1913 route, in Allen County from the Indiana/Ohio state line and then west on U.S. 30, then exit north onto Lincoln Highway East (east of Simmer Road), then reconnect with U.S. 30 West, just west of Girard Road, then U.S. 30 becomes S.R. 930 beyond I-469/U.S. 24/U.S. 30, then north (right) on Green Street, then west (left) on Lincoln Highway East in New Haven, which becomes Lincoln Highway West/S.R. 930 and then becomes East Washington Boulevard, then north (right) on Harrison Street. At this intersection the 1928 route continues west on Washington Boulevard, right on Van Buren Street, right on Sherman Boulevard, left on Goshen Avenue (original route), then west (left) on Putnam, then north (right) on North Wells Street, then west (left) on West State Boulevard, then right on Goshen Avenue/Road/U.S. 33 to the intersection of Goshen Road/U.S. 33 and West Washington Center Road is 1928 Alignment until reaching Whitley County. In Whitley County, continue northwest on U.S. 33 (Note: Pony truss bridge east side of road (north of Chase Road), and old road alignment north of Churubusco, at E. 600 N. partially abandoned) until reaching Noble County. In Noble County, continue northwest on U.S. 33/Lincolnway South (Merriam), then right on County Road S. 50 W., then left on South Oak Street and reconnect with U.S. 33/Lincolnway South (Wolf Lake), then right on North Clark Street/North 650 W. (Kimmel), then reconnect with U.S. 33/Lincolnway South, then U.S. 33 joins with S.R. 5, then north (right) on Old U.S. 33 (original brick section/old road alignment) until reconnect with U.S. 33/S.R. 5/Lincolnway South, then continue north on S.R. 5/Lincolnway South (Note: Abandoned alignment at S.R. 5/U.S. 33 at Stone's Trace), then continue north on S.R. 5/U.S. 33, leaving U.S. 33 north of U.S. 6 (Ligonier), then S.R. 5/Lincolnway South becomes South Cavin Street, then left

on Lincolnway West until reaching Elkhart County. In Elkhart County, Lincolnway West becomes County Road 50 at the Elkhart County Line, then west to the intersection of County Road 50/S.R. 13, then west to S.R. 13/U.S. 33, then right (north) on U.S. 33, then right on Old U.S. 33 (old road alignment), then left on County Road 148 (old road alignment), then right on U.S. 33 (Benton and Goshen), then U.S. 33 becomes Lincolnway East, then U.S. 33/Lincolnway East becomes East Madison Street, then west (right) on U.S. 33/S.R. 15, then left on U.S. 33/West at Pike Street. For the Alternate Route, turn right on 1st Street, then left on River Avenue, then left on Indiana Avenue, then right on Chicago Avenue to connect with U.S. 33, then right on Beaver Lane, then left on Wilden Avenue, then left on County Road 28 (Kundred Road), then right on U.S. 33/Elkhart Road (Dunlap and Elkhart), then U.S. 33 becomes South Main Street, then left on East Indiana Avenue. For the Alternate 1924 Route, continue on South Main Street, then left on Jackson Boulevard, then left on Vistula Street, then right on Franklin Street, then north on 26111 Street, then left on LaRue Street to reconnect with Old U.S. 33/Lincolnway East, then right at St. Joseph county line, it becomes S.R. 933. In St. Joseph County, continue west on S.R. 933/Lincolnway (Osceola), then continue on S.R. 933/Lincolnway East/West (Mishawaka and South Bend), then S.R. 933/Lincolnway becomes East Monroe Street, then right on S.R. 933 northbound (Michigan Street becomes St. Joseph Street), then left on West LaSalle Avenue, then right on Lincolnway West, then continue through roundabout (becomes Lynn Street), then right on Mayflower on roundabout, then left on Lincolnway West/U.S. 20 (New Carlisle) until reaching LaPorte County. In LaPorte County, continue west on U.S. 20, then right on East Oak Knoll Road (Note: Old road alignments abandoned) (Rolling Prairie), then left on County Road N. 450 E., then right on S.R. 2, then S.R. 2 becomes East Lincolnway (LaPorte), then East Lincolnway/S.R. 2 combines with S.R. 39 Northbound, then left on Colfax Avenue, then right on Eggebrecht Road, then right on 4th Street, then left on S.R. 39/S.R. 2, then S.R. 39 departs, so continue west/south on S.R. 2 (Pinhook), then S.R. 2 combines with U.S. 421, then left (south) (Westville), then continue south on U.S. 421 (S.R. 2 departs), becomes N. Flynn Road, then right on West Main Street, then left on S.R. 2, then right on Coulter Road, then left on Old S.R. 2 (original alignment) to reconnect with S.R. 2, then right on Old S.R. 2 (original alignment) until reaching Porter County. In Porter County, continue on Old S.R. 2, then south, crossing S.R. 2, then continue on Old S.R. 2 until reconnecting with S.R. 2, then left on Old S.R. 2 to reconnect with S.R. 2 (which becomes LaPorte Avenue) (Valparaiso), then north on Garfield Avenue, then left on Lincolnway/S.R. 2/S.R. 130. The original (1913) and 1928 routes rejoin at this intersection, then continue west on S.R. 130, then left on Joliet Road, then right on U.S. 30 (westbound), then right on Joliet Road until reaching Lake County. In Lake County, Joliet Road becomes Old Lincoln Highway/E. 73rd Avenue (Deep River and Merrillville), then becomes W. Old Lincoln Highway/E. Highway 330 at Burr Street, then Lincoln Highway becomes East Joliet Street at Edison Street (Schererville), then right on U.S. 30/Joliet Street/W. Lincoln Highway (Note: Interrupted section of highway (Old Lincoln Highway) south of U.S. 30), then left on U.S. 41, then right on Old Lincoln Highway, then reconnect with U.S. 30/Joliet Street/W. Lincoln Highway, then turn left (Dyer) and finish at the Indiana/Illinois state line. For the 1928 route, in Allen County, begin at the intersection of U.S. 33/Goshen Road (original 1913 route) and West Washington Center Road (1928 route), then continue west on West Washington Center Road, then right on Lake Center Road/East Lincolnway until reaching Whitley County. In Whitley County, Lake Center Road becomes East Lincolnway (Note: Old Road alignment through Coesse Corners), then left on East Business 30 (Columbia City), then right on East Business 30, which combines with Chicago Street, then right on S.R. 205/S.R. 9, then left on Business 30/Van Buren Street, then right on North Walnut Street, then left on Jolly Street, which becomes Park Street, then right on North Lincolnway, then left on Schuman Road, then right on Lincolnway Road until reaching Kosciusko County. In Kosciusko County, Lincolnway Road becomes West Lincolnway/Old Road 30 (Warsaw), then right on East Kosciusko Drive, then left on East Center Street, then right on North Lake Street, which becomes W. Old Road 30 and then becomes East Main Street (Atwood), then W. Old Road 30 becomes East State Street/West State Street/Lincoln Highway (Etna Green) until reaching Marshall County. In Marshall County, Old U.S. Highway 30 becomes E. Lincoln Highway and then becomes Old U.S. Highway 30 East/becomes E. Center Street/W. Center Street (Bourbon), then right on Lincoln Highway (Inwood) and continue on Lincoln Highway/Plymouth Street (Plymouth) and Lincolnway East becomes Jefferson Street, then left until W. Jefferson Street becomes West Lincoln Highway, then left to remain on Lincoln Highway (before U.S. 30) becomes Lincoln Highway/Old U.S. Highway 30 (Donaldson), then left on U.S. 30 until reaching Starke County. In Starke County, continue west on U.S. 30 (Grovertown) (Note: old road alignments on north side of U.S. 30, interrupted), then left at Old U.S. Hwy 30/Frontage Road, then Old U.S. 30 becomes Plymouth Street (Hamlet), then Old U.S. Highway 30 reconnects with U.S. 30, left/west until reaching LaPorte County. In LaPorte County, continue on U.S. 30, then west (left) on U.S. 30 Alternate Route (Hanna), then right on County Road S. 700 W., then left on U.S. 30 (Wanatah) until reaching Porter County. In Porter County, continue on U.S. 30, then west (left) on Comeford Road, then right on County Road 150 (Valparaiso), then County Road 150 becomes S.R. 2/S.R. 130 and S.R. 2/S.R. 130 becomes East Lincolnway. At the intersection of Lincolnway and Garfield Avenue, the 1928 and original (1913) routes join.

(25) "Main-traveled way" means the traveled way of the highway on which through traffic is carried. For a divided highway, the traveled way of each of the separate roads for traffic in opposite directions is a

main-traveled way. This term does not include frontage roads, turning roadways, parking areas, or shoulders.

(26) "Market area" means a point within the same county as the prior location of a sign.

~~(26)~~ **(27) "National highway system" has the meaning set forth in 23 CFR 470.107(b)* as effective on July 1, 2018.**

~~(27)~~ **(28) "Nonconforming sign" means a sign that was lawfully erected, but does not comply with the provisions of federal law or state law adopted at a later date, or which later does not comply with federal law or state law due to changed conditions.**

~~(28)~~ **(29) "Obsolete" means a sign face of a nonconforming sign for a period of twelve (12) continuous months:**

(A) that does not contain advertising matter;

(B) that contains an available for lease or similar message that concerns the availability of the sign itself; or

(C) that is in need of substantial repair.

~~(29)~~ **(30) "Ohio River Scenic Byway" means the designated national scenic byway consisting of the series of highways within Indiana that begins at the Indiana-Ohio border, then U.S. 50 west to Oberting Road, then follow Oberting Road to Greendale, then turn left onto Ridge Avenue, which becomes Main Street in Lawrenceburg, then turn right on U.S. 50 to Aurora, then turn left on George Street, then left on Second Street, then south on S.R. 56 to S.R. 156, then southwest on S.R. 156 to S.R. 56, then west on S.R. 56 to S.R. 62, west on S.R. 62 to Allison Lane in Jeffersonville, then right onto Market Street, then left on Walnut Street, then right on Riverside Drive, then right on Sherwood, then left on South Clark Boulevard, then right on Harrison Avenue, then left on Randolph Avenue, then west on S.R. 62 (Spring Street in New Albany), then follow S.R. 62 and turn left onto Vincennes Street, then right onto Main Street in New Albany, which turns into the Corydon Pike, then when the Corydon Pike dead-ends at S.R. 62, turn left and follow S.R. 62 west to Sulphur, then turn west on S.R. 66, follow S.R. 66 west to S.R. 662 in Newburgh, take S.R. 662 west to I-69 west, which turns into Veterans Memorial Parkway and then Riverside Drive in Evansville, then turn left (west) on S.R. 62 (Lloyd Expressway) in Evansville and proceed west through Mt. Vernon to the Indiana-Illinois border.**

~~(30)~~ **(31) "Permittee" means the applicant or any subsequent transferee that is listed in the department's records as being the owner of the permit to erect and maintain a specific sign.**

~~(31)~~ **(32) "Property owner" means, as the context requires, the fee simple owner of the real estate upon which the sign is or would be located, or the lessee or other person with an appropriate real property interest (such as an easement) who is in control of the possession and use of such real estate. For purposes of this rule, the property owner is the person with a real estate ownership interest sufficient to validly contract with the permittee for the erection or maintenance of a particular sign on that real estate.**

~~(32)~~ **(33) "Reerect" means the erection or rebuilding of any sign in a vertical position subsequent to its initial erection.**

(34) "Relocation addendum" means a modified permit issued for a sign in a conforming location to be elevated, angled, or modified in accordance with the *[sic]* [IC 8-23-20-25.6\(f\)](#).

(35) "Relocation permit" means a new permit issued for a sign to be relocated within the market area due to any of the transportation purposes listed in [IC 8-23-20-25.6\(c\)](#) and complies with all requirements in section 3(a) *[sic, of this rule]*.

~~(33)~~ **(36) "Repair date" means the earliest of:**

(A) the date on which a weather-related occurrence or other specific action caused the nonconforming sign to become damaged or destroyed;

(B) the date on which the permittee submitted the modification request to the department under section 13(5) of this rule for an addendum to allow the activities for the sign that might exceed customary maintenance or repair on a nonconforming sign; or

(C) the date on which the department sent the written notice to the permittee that the sign appears to be damaged or destroyed.

~~(34)~~ **(37) "Repair period" means the twenty-four (24) month period immediately preceding the repair date.**

~~(35)~~ **(38) "Scenic byway" means any highway that has been nominated and designated in accordance with the state of Indiana's procedures as a scenic byway as referred to in 23 U.S.C. 131(s)*, effective July 1, 2018.**

~~(36)~~ **(39) "Side-by-side sign" means two (2) sign faces on the same supporting structure and facing one (1) direction. A single pipe, beam, conduit, or pole between two (2) adjacent sign faces is not considered a supporting structure.**

~~(37)~~ **(40) "Sign" has the meaning set forth in [IC 8-23-1-38](#), and also includes a changeable message sign. This term does not include directional and other official signs and notices.**

~~(38)~~ **(41) "Sign face" means the portion of the total surface area of the sign that contains an advertising message viewable by the motoring public, and which portion shall not exceed an area of one thousand (1,000) square feet, regardless of the type of sign. A sign face for a changeable message sign may display only one (1) advertisement at any one (1) time, but a sign face for any other sign may display up to two (2) advertisements at any one (1) time.**

~~(39)~~ **(42) "Sign type" means back-to-back sign, changeable message sign, side-by-side sign, single face sign,**

stacked sign, or V-shaped sign, as the context requires.

~~(40)~~ **(43)** "Single face sign" means a sign with one (1) sign face, facing one (1) direction of travel at a single location.

~~(41)~~ **(44)** "Spot zoning" means:

(A) the process of singling out a parcel of land or portion thereof through a rezoning of the parcel of land or portion thereof from a noncommercial or nonindustrial zoning classification for the express reason of making the use different from, and less restrictive than, the actual use of parcels in the surrounding area;

(B) the parcel of land or portion thereof was created solely for the erection and permitting of a sign;

(C) the use of the parcel of land or portion thereof is not part of the plans for a commercial and industrial development, as found in the comprehensive zoning plan, including any amendments or variances approved by the local unit of government; or

(D) the parcel of land or portion thereof is not appropriate for commerce, industry, or trade to take place.

~~(42)~~ **(45)** "Stacked sign" means two (2) or more sign faces stacked above and below each other on the same supporting structure and facing one (1) direction of travel, or two (2) or more sign faces on two (2) structures side-by-side or otherwise immediately adjacent to one another facing one (1) direction of travel at a single location.

~~(43)~~ **(46)** "Strip zoning" means:

(A) the process of singling out a narrow strip of land no more than five hundred (500) feet wide, measured perpendicular to the right-of-way, consisting of either a single parcel or contiguous parcels, through a rezoning of the parcel of land or portion thereof from a noncommercial or nonindustrial zoning classification for the express reason for making use different from, and less restrictive than, the actual use of parcels in the surrounding area;

(B) the parcel of land or portion thereof was created solely for the erection and permitting of a sign;

(C) the use of the parcel of land or portion thereof is not part of the plans for commercial and industrial development, as found in the comprehensive zoning plan, including any amendments or variances approved by the local unit of government; or

(D) the parcel of land or portion thereof is not appropriate for commerce, industry, or trade to take place.

~~(44)~~ **(47)** "Visible" means capable of being seen (whether or not legibly) without visual aid by a person of normal visual acuity.

~~(45)~~ **(48)** "V-shaped sign" means a sign with a single structure having two (2) sign faces in the shape of the letter "V" when viewed from above, with the sign faces oriented in different directions.

~~(46)~~ **(49)** "Wabash River Scenic Byway" means the designated state scenic byway consisting of the series of highways within Indiana that begins, for Section 1, at Ross Hills County Park and traveling north on Tippecanoe C.R. 875 West to the intersection with Division Road and then proceeding east to South River Road and following South River Road to its intersection with State Street. For Section 2, begin at the intersection of South River Road at State Street and proceeding on North River Road (former S.R. 43) to the interchange with I-65 and S.R. 43 North where it will terminate.

~~(47)~~ **(50)** "Whitewater Canal Scenic Byway" means the designated state scenic byway consisting of the series of highways within Indiana that begins in Wayne County on S.R. 38 at the stone monument in Hagerstown and proceeding east on S.R. 38 to S.R. 1 before continuing south on S.R. 1 to Delaware Street in Cambridge City, then traveling west Delaware Street to Green Street before turning south on Green Street to meet U.S. 40, then east on U.S. 40 in Cambridge City to the intersection with Boyd Road before proceeding south on Boyd Road to meet S.R. 1 between Cambridge City and Milton, then south on S.R. 1 through Milton and Connersville in Fayette County to Western Avenue, then proceeding south on Western Avenue to meet S.R. 121 at the south edge of Connersville, then south on S.R. 121 through Nulltown and Alpine before entering Franklin County, then south through Laurel and continuing south to the intersection of S.R. 121 and U.S. 52 west of Metamora, then east on U.S. 52 from the intersection with S.R. 121 and proceeding southeast through Brookville passing S.R. 252 and proceeding southeast on U.S. 52 through Cedar Grove and New Trenton to meet I-74 before proceeding onto Old U.S. 52 to the Indiana-Ohio state line. In addition, from the Indiana-Ohio state line on U.S. 50 entering Dearborn County and traveling on U.S. 50 and a small section of S.R. 1 through Greendale and on U.S. 50 to Lawrenceburg and ending at Walnut Street in Lawrenceburg.

~~(48)~~ **(51)** "Whitewater Canal Scenic Byway Loop Routes" means the state national scenic byway consisting of the series of highways within Indiana that are three (3) loops added to the designated Whitewater Canal Scenic Byway, and begins for Loop One (East Fork Loop) at the intersection of U.S. 40 and S.R. 1 and continues east of U.S. 40 to Richmond, Indiana and the intersection of U.S. 40 and U.S. 27, then Loop One continues south on U.S. 27 to Liberty, Indiana and the intersection of U.S. 27 and S.R. 101, then south of S.R. 101 to Brookville and to U.S. 52 where Loop One ends. Loop Two (Oldenburg - Batesville Loop) begins near the west edge of Metamora, at the intersection of U.S. 52 and S.R. 229 and then travels south on S.R. 229 to Batesville and the intersection with S.R. 46, then east on S.R. 46 to St. Leon and the intersection of S.R. 1, then north on S.R. 1 to U.S. 52 where Loop Two ends. Loop Three (Dearborn - Ripley Loop) begins in Lawrenceburg at the intersection of U.S. 50 and Walnut Street, then southwest on U.S. 50 to Aurora and the

intersection of U.S. 50 and S.R. 350, then west on S.R. 350 to Milan and the intersection with S.R. 101, then north on S.R. 101 to Sunman and the intersection of S.R. 101 and Eastern Avenue/East County Road 1100 North, then east on Eastern Avenue to County Line Road, then south on County Line Road to North Dearborn Road, then east on North Dearborn Road to Dover and the intersection with S.R. 1, then travels south on S.R. 1 to Lawrenceburg at U.S. 50 where Loop Three ends.

*These documents are incorporated by reference and refer to the laws or regulations, or both, effective as of July 1, 2018. Copies may be obtained from the Government Publishing Office, www.govinfo.gov, or are available for review at the Indiana Department of Transportation, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Seventh Floor, Indianapolis, Indiana 46204.

(Indiana Department of Transportation; [105 IAC 7-4-2](#); filed Jul 24, 2019, 8:08 a.m.: [20190821-IR-105170337FRA](#); emergency rule filed Aug 2, 2022, 12:55 p.m.: [20220810-IR-105220243ERA](#), eff Aug 15, 2022)

SECTION 2. [105 IAC 7-4-13](#) IS AMENDED TO READ AS FOLLOWS:

[105 IAC 7-4-13](#) Conditional permit

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

Affected: [IC 8-23-20-25.6](#)

Sec. 13. A conditional permit may be granted to any nonconforming sign, provided that the sign has not been substantially changed after the date upon which it became a nonconforming sign, and as follows:

(1) A nonconforming sign with a conditional permit must remain substantially the same as it was on the date that its status became nonconforming. A permittee may make customary maintenance or repair on a nonconforming sign. However, a nonconforming sign may not be the object of any activity after which the sign did not remain substantially the same as it was on the date that its status initially became a nonconforming sign, except for activities performed after the occurrence of an event described in subdivision (7)(A) through (7)(C). Any such activity prohibited by the immediately preceding sentence shall automatically and permanently transform the nonconforming sign's status to that of an illegal sign, with the permit for any such sign subject to revocation and which sign is subject to removal by the department.

(2) Customary maintenance or repair on a nonconforming sign includes any of the following permissible activities, all of which shall not require any addendum to a permit for such sign:

- (A) Nailing, cleaning, and painting.
- (B) Replacement of nuts and bolts.
- (C) Replacement of structural components, including vertical supports and sign faces, with the same material so long as the sign is not destroyed.
- (D) Changes in the advertising message.
- (E) Upgrading existing lighting for energy efficiency or worker safety.
- (F) Addition of catwalks, safety cables, or handrails when required to resolve safety concerns by the Occupational Safety and Health Administration or the Indiana department of labor.
- (G) The sale, lease, or transfer of the sign or its permit.

(3) Customary maintenance or repair on a nonconforming sign does not include any of the following prohibited activities (all of which are considered a substantial change that automatically and permanently transforms the nonconforming sign into an illegal sign):

- (A) Increasing the number of vertical supports or changing the vertical support materials, such as replacing wooden supports with metal, or replacing I-beams with a monopole.
- (B) Increasing the height of the sign.
- (C) Changing the physical location.
- (D) Changing the configuration of a sign structure, including changing a V-shaped sign to a stacked sign, a side-by-side sign, or a back-to-back sign, or changing a single face sign to a V-shaped sign, a stacked sign, a side-by-side sign, or a back-to-back sign.
- (E) Increasing the overall size or dimensions of the sign face, or any other addition of a sign face.
- (F) Adding bracing (whether temporary or permanent), guy wires, concrete, or other reinforcing devices.
- (G) Adding variable or changeable message capability.
- (H) Adding lighting, either attached or unattached, to a sign that previously did not have lights, or adding more intense lighting to an illuminated sign, except if done in accordance with subdivision (2)(E).
- (I) Rebuilding, repair of (other than customary maintenance or repair on a nonconforming sign), or reerecting a sign structure after substantial damage from wear and tear, or other natural causes, unless the

department has given its approval to do so by granting an addendum to the sign's permit in accordance with subdivision (5).

(J) Relocating all or a portion of a sign, **unless relocating pursuant to [IC 8-23-20-25.6\(c\)\(2\)](#) and section 24 of this rule.**

(K) Turning the direction of a sign face.

(L) Any repair, maintenance, or improvement that causes the sign to be erected or maintained in a manner contrary to its conditional permit.

(4) The list of permitted activities in subdivision (2) and the list of prohibited activities in subdivision (3) are not exclusive lists of those respective activities and the department shall determine in each other situation whether:

(A) the sign remained substantially the same as it was on the date the sign became a nonconforming sign after the completion of any specific activity performed for the nonconforming sign; and

(B) the specific activity performed had the effect of substantially changing the nonconforming sign or materially extending the life of the nonconforming sign beyond its normal life.

It shall be presumed that any additional activities otherwise permitted involving the replacement of materials will materially extend the life of a nonconforming sign beyond its normal life, if the sign was destroyed when such activity was performed.

(5) In the event that a permittee wishes to perform activities on a nonconforming sign in a manner that might exceed customary maintenance or repair on a nonconforming sign, the permittee shall submit a completed modification request for an addendum to the sign permit on a form to be provided by the department, or through the electronic permitting system, together with an addendum fee of one hundred dollars (\$100). In the event of a damaged or destroyed sign, the modification request shall contain, at a minimum, the following:

(A) An explanation of the extent of the damage to the sign and the scope of repairs needed.

(B) Whether the sign was damaged by normal wear and tear, weather, or by other natural causes, or whether the sign was damaged or destroyed by some act covered by subdivision (7)(A) through (7)(C).

(C) Clear color on-site photographs of the sign and all salvageable parts thereof.

(D) A specific description of the work to be undertaken on the nonconforming sign.

After receiving the modification request, the department will promptly consider the modification request and determine, in accordance with the standards in this section, whether the requested activity should be permitted or prohibited, and within sixty (60) days give a written notice of its decision to the permittee. If the permittee or its representative performs activities not specifically listed in subdivision (2) on a nonconforming sign without submitting a modification request under this subdivision and receiving an authorization for the addendum from the department, or if the permittee or its representative performs any such activity after the department issued its decision that any such activity was prohibited, then the performance of such activity automatically and permanently transforms the nonconforming sign into an illegal sign subject to revocation of its permit and removal in accordance with subdivision (1).

(6) Any modification approved by the addendum under this section must be completed within three hundred sixty-five (365) days of the date of issuance of the addendum, or the department's approval under the addendum expires without further action needed on the part of the department. No extension of time shall be granted by the department.

(7) A conditional permit for a nonconforming sign shall be revoked by the department if the sign is destroyed, abandoned, obsolete, or discontinued, provided that the sign may be reerected or otherwise fixed if the department so approves and the sign was destroyed by:

(A) vandalism;

(B) another criminal act; or

(C) a tortious act.

(8) Proof of an act described in subdivision (7)(A) through (7)(C) can be shown by timely reports or complaints to the appropriate county sheriff or police department. Any such act, for purposes of this rule, must:

(A) not involve the carelessness or negligence of the permittee, the property owner, or business that is advertised on the sign (collectively, the "sign parties"), or any owner, officer, employee, agent, representative, or independent contractor of any of the sign parties; and

(B) involve the damage or destruction by one (1) or more persons not connected, directly or indirectly, to any of the sign parties.

(9) The permittee has the burden of proof that:

(A) the nonconforming sign was damaged or destroyed by an act described in subdivision (7)(A) through (7)(C); and

(B) each of the conditions precedent in subdivision (8) are true.

(10) If a nonconforming sign was destroyed or the sign was damaged to the extent that the sign is illegal and subject to removal, the permittee has the obligation to perform any repair or other activity on the sign that will preserve the safety of persons who might otherwise be subject to injury or damage to their property from the remnants of the sign prior to the sign's removal. Any such repair or other activity will not change the illegal

status of the nonconforming sign.

(Indiana Department of Transportation; [105 IAC 7-4-13](#); filed Jul 24, 2019, 8:08 a.m.: [20190821-IR-105170337FRA](#); emergency rule filed Aug 2, 2022, 12:55 p.m.: [20220810-IR-105220243ERA](#), eff Aug 15, 2022)

SECTION 3. [105 IAC 7-4-15](#) IS AMENDED TO READ AS FOLLOWS:

[105 IAC 7-4-15](#) Revocation of permit; appeal of revocation; removal of illegal signs as public nuisances

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

Affected: [IC 4-21.5](#); [IC 8-23-20](#)

Sec. 15. (a) A permit for a sign may be revoked for the following:

- (1) Pursuant to this rule.
- (2) If the sign has been altered such that it is no longer in compliance with:
 - (A) the size and configuration restrictions in section 16 of this rule;
 - (B) the spacing criteria in section 17 of this rule;
 - (C) the lighting criteria in section 18 of this rule; or
 - (D) the miscellaneous criteria in section 19 of this rule.
- (3) Mistake of material facts by the issuing authority for which had the correct facts been made known, the outdoor advertising permit in question would not have been issued.
- (4) Misrepresentation of material facts made by the permit holder or sign owner and on which the issuing authority was found to have relied upon in approving the outdoor advertising permit application.
- (5) Misrepresentation of facts made by the applicant to any regulatory authority with jurisdiction over the sign by the permit holder or sign owner.
- (6) Failure to complete construction of a structure within three hundred sixty-five (365) days from the date of issuance of the outdoor advertising permit.
- (7) Any alteration of an outdoor advertising structure for which a permit has previously been issued that would cause the outdoor advertising structure to fail to comply with the provisions of 23 U.S.C. 131*, as effective July 1, 2018.
- (8) A determination upon initial inspection of a newly erected outdoor advertising structure that fails to comply with 23 U.S.C. 131*, as effective July 1, 2018, or this section.
- (9) Alterations to a nonconforming sign that would cause it to be other than substantially the same as it was on the date the sign became nonconforming. For purposes of this subsection, alterations include:
 - (A) enlarging a dimension of the sign facing, or raising the height of the sign;
 - (B) changing the material of the sign structure's support;
 - (C) adding a pole or poles;
 - (D) adding illumination; or
 - (E) moving a sign, **unless the sign is relocated in accordance with [IC 8-23-20-25.6\(c\)\(2\)](#) and section 24 of this rule.**
- (10) Failure to affix a permanent plate within sixty (60) days after the erection of the outdoor advertising structure that must be visible and readable from the main-traveled way or control route.
- (11) Unlawful destruction or cutting of trees, shrubs, or other vegetation located on the state-owned or controlled right-of-way to increase the visibility of an outdoor advertising structure.
- (12) Failure to possess lawful access to repair, construct, maintain, or service an outdoor advertising sign on interstate, state highway, or other controlled access facilities. Direct access to a sign from any state highway, interstate, or limited access control route is strictly prohibited.
- (13) Failure to maintain a nonconforming sign such that it remains blank for a period of twelve (12) consecutive months.
- (14) Maintaining an abandoned, damaged, or discontinued nonconforming sign.
- (15) Failure to notify the department of transfer of ownership within one hundred eighty (180) days from the effective date of transfer.
- (16) Failure to obtain and maintain all required permits from a federal, state, or local agency.
- (17) Any alteration of an outdoor advertising structure for which a permit has previously been issued that alters the structure (size, material, supports, lighting, or modification to changeable message sign) without having an approved addendum by the department.
- (18) Failure to erect, maintain, or alter an outdoor advertising sign structure in accordance with the permit.
- (19) If inconsistent with other federal law or state law.

(b) If revocation of the permit is appropriate, the department shall issue a written notice of revocation, accompanied by an explanation of the rationale for the revocation, which shall be sent to the permittee and the property owner by U.S. certified mail. The permittee or the property owner may appeal this revocation by delivering a written notice of the appeal to the department and is received by the department in accordance with the applicable time period set forth in [IC 4-21.5](#). If the appellant's appeal letter is timely received by the department and complies with the requirements in section 12(c) of this rule, the permittee or the property owner so appealing shall be afforded the opportunity for a hearing under [IC 4-21.5](#) and [IC 8-23-20](#).

(c) A conforming sign issued a permit under this rule may have such permit modified to a conditional permit for a nonconforming sign, if the department determines that changed circumstances would preclude the issuance of a permit for a conforming sign under section 13(1) of this rule. Notice of this modification shall be given as provided in subsection (b). If the permit is so modified, the requirements of section 13 of this rule thereafter apply to that sign.

(d) All signs that were erected, repaired, maintained, or exist in violation of any provision of federal law or state law (including this rule) are illegal signs and public nuisances. The permit for any illegal sign may be revoked at any time by the department in accordance with this rule and state law.

(e) If the permit for any sign is revoked by the department, that sign shall thereafter be removed in accordance with this rule and state law without payment of any compensation to the permittee, to the property owner, or to any other party, except as provided in [IC 8-23-20-26](#).

*These documents are incorporated by reference and refer to the laws or regulations, or both, effective as of July 1, 2018. Copies may be obtained from the Government Publishing Office, www.govinfo.gov, or are available for review at the Indiana Department of Transportation, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Seventh Floor, Indianapolis, Indiana 46204.

(Indiana Department of Transportation; [105 IAC 7-4-15](#); filed Jul 24, 2019, 8:08 a.m.: [20190821-IR-105170337FRA](#); emergency rule filed Aug 2, 2022, 12:55 p.m.: [20220810-IR-105220243ERA](#), eff Aug 15, 2022)

SECTION 4. [105 IAC 7-4-24](#) IS ADDED TO READ AS FOLLOWS:

[105 IAC 7-4-24](#) Relocation

Authority: [IC 8-23-2-6](#); [IC 8-23-20-25](#); [IC 8-23-20-25.6](#); [IC 8-23-20.5](#)

Affected: [IC 8-23-1-47](#); [IC 8-23-20](#); [IC 8-23-20.5](#); [IC 32-24](#)

Sec. 24. (a) A sign may be relocated within the market area if the new location meets all state and federal requirements, is established as a conforming use, and erected in compliance with the relocation permit or relocation addendum in the electronic permitting system.

(b) A relocation permit application must be submitted when a sign is to be relocated within the market area. No application fee shall be assessed for a relocation permit. The relocation permit application must include all information required in section 3(a) [sic, of this rule].

(c) A complete relocation permit application shall be processed by the department within fifteen (15) business days of submission. An incomplete relocation application will not be considered by the department, but minor deficiencies may be cured promptly after the department requires the applicant to provide additional information or documentation within five (5) business days. Otherwise, the relocation application shall be cancelled, and all documents included with an incomplete relocation application shall be returned to the applicant (but not sooner than ten (10) days after the date upon which it was submitted) without being processed, along with a written explanation of the reason for its cancellation. The cancellation and return of an incomplete relocation application and any accompanying materials without processing in accordance with this rule is not a final administrative action subject to appeal. If a relocation application is cancelled for any reason, and the applicant chooses to resubmit the relocation application, the subsequently filed relocation application shall be processed as a new relocation application as of the date it is received by the department with a new relocation application number.

(d) If a conforming sign is to be elevated, angled, or the size or material is modified pursuant to [IC 8-23-20-25.6\(f\)](#), but the sign is not moving to a new location, the permittee must apply for a relocation addendum. The relocation addendum application must include all information required in section 3(a) [*sic, of this rule*]. No application fee shall be assessed for the relocation addendum. The permittee may include a request to modify or alter the sign, the sign face, or the sign type at the time of its submission for a relocation addendum. If a sign is moving more than one (1) foot from its original location, but within the market area, the sign is not eligible for a relocation addendum and must file a relocation permit application.

(e) Documentation of actions taken to relocate a sign in good faith shall be provided to the department upon the department's request. Documentation shall discuss all relevant details about the process taken for the search for relocation options, and may include the following:

- (1) zoning requirements of unzoned and zoned commercial and industrial areas pursuant to 23 U.S.C. 131(d)*, as effective July 1, 2018, [IC 8-23-20-5](#), and [IC 8-23-1-47](#);
- (2) access requirements in accordance with section 15(a)(12) [*sic, of this rule*];
- (3) spacing requirements as outlined in section 17 [*sic, of this rule*]; or
- (4) inability to obtain a property interest or agreement from property owners inside the market area in accordance with section 3(a) [*sic, of this rule*].

The above information can be provided to the department through a written statement, if available supporting documentation would not sufficiently explain actions taken. The permittee shall also provide supporting documentation of searching expenses as provided in 49 CFR 24.301(g)(17)*, as effective July 1, 2018, upon the department's request.

(f) If a sign is relocating for reasons listed in [IC 8-23-20-25.6\(c\)](#), and the permittee chooses to relocate the sign outside the market area within less than one (1) year following the filing of an action under [IC 32-24](#), or relocates without an action being filed under [IC 32-24](#), the permittee must sign an affidavit that it does not intend to seek damages under [IC 8-23-20-27](#) for the application to be considered complete. If the permittee chooses to relocate the sign outside the market area, the permittee must submit a new permit application, advise it is a relocation, identify the permit number for the previous sign location, and include all information required in section 3(a) [*sic, of this rule*] accompanied by the one hundred dollars [*sic, dollar*] (\$100) application fee. If the permittee fails to include in the application that it is a relocation and provide the affidavit, the permit may be revoked.

(g) If the permittee chooses to relocate the sign to a location where a new construction project is programmed in the future which may affect the spacing or location requirements for an outdoor advertising sign, the application shall not be approved unless the permittee and the department enter into an agreement which will allow for a permit to be issued.

*These documents are incorporated by reference and refer to the laws or regulations, or both, effective as of July 1, 2018. Copies may be obtained from the Government Publishing Office, www.govinfo.gov, or are available for review at the Indiana Department of Transportation, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Seventh Floor, Indianapolis, Indiana 46204.

(Indiana Department of Transportation; [105 IAC 7-4-24](#); emergency rule filed Aug 2, 2022, 12:55 p.m.: [20220810-IR-105220243ERA](#), eff Aug 15, 2022)

SECTION 5. [105 IAC 17](#) IS ADDED TO READ AS FOLLOWS:

ARTICLE 17. RELOCATION ASSISTANCE

Rule 1. Applications; Purpose; General Provisions

[105 IAC 17-1-1](#) Purpose of rule

Authority: [IC 8-23-20-25.7](#); [IC 8-23-20.5-6](#)

Affected: [IC 8-23-17-30](#); [IC 8-23-20-25.6](#), [IC 8-23-20-27](#); [IC 8-23-20.5](#)

Sec. 1. The purpose of the rules of this article is to implement the objectives of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (40 U.S.C. 4601-4655), [IC 8-23-20-25.6](#), [IC 8-23-20-27](#), and [IC 8-23-20.5](#). The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and federal regulations promulgated to meet the Uniform Act's objectives, including 49 CFR Part 24, as amended, shall together be referred to as the "Uniform Act". Except as expressly enumerated within this article, or as otherwise provided for in Indiana or federal law, the Uniform Act shall apply to owners and displaced persons for the determination of eligibility of relocation payments and the amount of those payments. Definitions in the Uniform Act apply throughout this article.

(Indiana Department of Transportation; [105 IAC 17-1-1](#); emergency rule filed Aug 2, 2022, 12:55 p.m.: [20220810-IR-105220243ERA](#), eff Aug 15, 2022)

[105 IAC 17-1-2](#) Moving expenses for building code compliance

Authority: [IC 8-23-20-25.7](#); [IC 8-23-20.5-6](#)

Affected: [IC 8-23-17-30](#); [IC 8-23-20-25.6](#), [IC 8-23-20-27](#); [IC 8-23-20.5](#); [IC 22-13-2](#)

Sec. 2. The actual, reasonable costs to modify an outdoor advertising sign that are necessary for a sign to comply with [IC 22-13-2](#), other state law, local law, or federal law are eligible moving expenses. The eligible costs for modifying a sign structure shall not exceed the cost of a substitute sign structure that complies with [IC 22-13-2](#), minus proceeds from the sale or trade in of the replaced item. This section does not prohibit the displaced person from receiving additional applicable moving expenses under the Uniform Act.

(Indiana Department of Transportation; [105 IAC 17-1-2](#); emergency rule filed Aug 2, 2022, 12:55 p.m.: [20220810-IR-105220243ERA](#), eff Aug 15, 2022)

[105 IAC 17-1-3](#) Duplication in payment

Authority: [IC 8-23-20-25.7](#); [IC 8-23-20.5-6](#)

Affected: [IC 8-23-17-30](#); [IC 8-23-20-25.6](#), [IC 8-23-20-27](#); [IC 8-23-20.5](#)

Sec. 3. (a) If a sign owner who has been displaced has not waived their right to pursue compensation under [IC 8-23-20-27](#) in an eminent domain proceeding associated with their sign, but submits a claim with the department for a relocation payment for moving expenses associated with that sign, to receive the relocation payment, the sign owner must affirm in an agreement with the department that the owner will repay to the department:

- (1) payments made to the owner that are determined to be duplicative of other payments paid by the department to the owner; and
- (2) payments the owner was not entitled to receive because of a later opinion of a court with jurisdiction to enter a judgment on the issue of compensation under [IC 8-23-20-27](#).

(b) This agreement shall authorize the department to set off payments owed to it under this section against compensation the department may owe to the displaced person pursuant to [IC 8-23-20-27](#). The department may exercise set off rights through the filing of a request with the court with jurisdiction over the eminent domain proceeding. The department is not prohibited from using other means to obtain repayment of duplicative payments.

(c) The department's determination of whether a payment is duplicative shall be based on the Uniform Act.

(Indiana Department of Transportation; [105 IAC 17-1-3](#); emergency rule filed Aug 2, 2022, 12:55 p.m.: [20220810-IR-105220243ERA](#), eff Aug 15, 2022)

[105 IAC 17-1-4](#) Appeals

Authority: [IC 8-23-20-25.7](#); [IC 8-23-20.5-6](#)

Affected: [IC 4-21.5](#); [IC 8-23-17-30](#); [IC 8-23-20-25.6](#), [IC 8-23-20-27](#); [IC 8-23-20.5](#)

Sec. 4. If a displaced person has applied for relocation assistance under the Uniform Act or applicable state law, the department shall issue a written notification of its determination on the displaced person's eligibility for assistance. A displaced person is entitled to appeal this determination pursuant to the procedures outlined in the Uniform Act and [IC 4-21.5](#).

(Indiana Department of Transportation; [105 IAC 17-1-4](#); emergency rule filed Aug 2, 2022, 12:55 p.m.: [20220810-IR-105220243ERA](#), eff Aug 15, 2022)

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