

Federal Law

23 USC § 131. Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to

(1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section,

(2) signs, displays, and devices advertising the sale or lease of property upon which they are located,

(3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located,

(4) signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and

(5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the

Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State transportation departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system. A State may permit the installation of signs that acknowledge the sponsorship of rest areas within such rest areas or along the main traveled way of the system, provided that such signs shall not affect the safe and efficient utilization of the Interstate System and the primary system. The Secretary shall establish criteria for the installation of such signs on the main traveled way, including criteria pertaining to the placement of rest area sponsorship acknowledgment signs in relation to the placement of advance guide signs for rest areas.

(j) Any State transportation department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State transportation department shall be entitled to such payments unless the State maintains the control required under such agreement: *Provided*, That permission by a State to erect and maintain

information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(l) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed \$20,000,000 for the fiscal year ending June 30, 1966, not to exceed \$20,000,000 for the fiscal year ending June 30, 1967, not to exceed \$2,000,000 for the fiscal year ending June 30, 1970, not to exceed \$27,000,000 for the fiscal year ending June 30, 1971, not to exceed \$20,500,000 for the fiscal year ending June 30, 1972, and not to exceed \$50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967. A State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation to be paid upon removal of such sign, display, or device is not available to make such payment. Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment.

(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices

(1) provide directional information about goods and services in the interest of the traveling public, and

(2) are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q)

(1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

(r) REMOVAL OF ILLEGAL SIGNS.—

(1) BY OWNERS.—Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

(2) BY STATES.—If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.

(s) SCENIC BYWAY PROHIBITION.—If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section. In designating a scenic byway for purposes of this section and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, a State may exclude from such designation any segment of a highway that is inconsistent with the State's criteria for designating State scenic byways. Nothing in the preceding sentence shall preclude a State from signing any such excluded segment, including such segment on a map, or carrying out similar activities, solely for purposes of system continuity.

(t) PRIMARY SYSTEM DEFINED.—For purposes of this section, the terms “primary system” and “Federal-aid primary system” mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 904; Pub. L. 86–342, title I, § 106, Sept. 21, 1959, 73 Stat. 612; Pub. L. 87–61, title I, § 106, June 29, 1961, 75 Stat. 123; Pub. L. 88–157, § 5, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89–285, title I, § 101, Oct. 22, 1965, 79 Stat. 1028; Pub. L. 89–574, § 8(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90–495, § 6(a)–(d), Aug. 23, 1968, 82 Stat. 817; Pub. L. 91–605, title I, § 122(a), Dec. 31, 1970, 84 Stat. 1726; Pub. L. 93–643, § 109, Jan. 4, 1975, 88 Stat. 2284; Pub. L. 94–280, title I, § 122, May 5, 1976, 90 Stat. 438; Pub. L. 95–599, title I, §§ 121, 122, Nov. 6, 1978, 92 Stat. 2700, 2701; Pub. L. 96–106, § 6, Nov. 9, 1979, 93 Stat. 797; Pub. L. 102–240, title I, § 1046(a)–(c), Dec. 18, 1991, 105 Stat. 1995, 1996; Pub. L. 102–302, § 104, June 22, 1992, 106 Stat. 253; Pub. L. 104–59, title III, § 314, Nov. 28, 1995, 109 Stat. 586; Pub. L. 105–178, title I, § 1212(a)(2)(A), June 9, 1998, 112 Stat. 193; Pub. L. 112–141, div. A, title I, §§ 1519(c)(6), formerly 1519(c)(7), 1539(b), July 6, 2012, 126 Stat. 576, 587, renumbered § 1519(c)(6), Pub. L. 114–94, div. A, title I, § 1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438.)

23 USC § 140. Nondiscrimination

(a) Prior to approving any programs for projects as provided for in section 135, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. The Secretary shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary¹ if necessary to ensure equal employment opportunity, shall require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program. The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary of Transportation shall deem necessary to carry out the equal employment opportunity program required hereunder. (b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer surface transportation and technology training, including skill improvement programs, and to develop and fund summer transportation institutes. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed \$10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary. Notwithstanding any other provision of law, not to exceed 1/2 of 1 percent of funds apportioned to a State for the surface transportation block grant program under section 104(b) may be available to carry out this subsection upon request of the State transportation department to the Secretary. (c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. From administrative funds made available under section 104(a), the Secretary shall deduct such sums as necessary, not to exceed \$10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 6101(b) to (d) of title 41 shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of section 3106 of title 41. (d) INDIAN EMPLOYMENT.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

Added Pub. L. 90–495, §22(a), Aug. 23, 1968, 82 Stat. 826; amended Pub. L. 91–605, title I, §110, Dec. 31, 1970, 84 Stat. 1719; Pub. L. 93–87, title I, §120, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, §126, May 5, 1976, 90 Stat. 440; Pub. L. 97–424, title I, §119, Jan. 6, 1983, 96 Stat. 2110;

Pub. L. 100–17, title I, §122, Apr. 2, 1987, 101 Stat. 160; Pub. L. 102–240, title I, §1026, Dec. 18, 1991, 105 Stat. 1965; Pub. L. 102–388, title IV, §412, Oct. 6, 1992, 106 Stat. 1565; Pub. L. 105–178, title I, §§1208, 1212(a)(2)(A), June 9, 1998, 112 Stat. 186, 193; Pub. L. 109–59, title I, §1922, Aug. 10, 2005, 119 Stat. 1481; Pub. L. 111–350, §5(e)(1), Jan. 4, 2011, 124 Stat. 3847; Pub. L. 112–141, div. A, title I, §1109, July 6, 2012, 126 Stat. 444; Pub. L. 114–94, div. A, title I, §§1109(c)(5), 1446(d)(1), Dec. 4, 2015, 129 Stat. 1343, 1438.

23 USC § 319. Landscaping and scenic enhancement

(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.— The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty (including the enhancement of habitat and forage for pollinators) adjacent to such highways.

(b) PLANTING OF WILDFLOWERS.—

(1) GENERAL RULE.—The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping project under this section. At least 1/4 of 1 percent of the funds expended for such landscaping project shall be used for such plantings.

(2) WAIVER.—The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

(3) GIFTS.—Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.

(c) ENCOURAGEMENT OF POLLINATOR HABITAT AND FORAGE DEVELOPMENT AND PROTECTION ON TRANSPORTATION RIGHTS-OF-WAY.—In carrying out any program administered by the Secretary under this title, the Secretary shall, in conjunction with willing States, as appropriate—

(1) encourage integrated vegetation management practices on roadsides and other transportation rights-of-way, including reduced mowing; and

(2) encourage the development of habitat and forage for Monarch butterflies, other native pollinators, and honey bees through plantings of native forbs and grasses, including noninvasive, native milkweed species that can serve as migratory way stations for butterflies and facilitate migrations of other pollinators.

Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 89–285, title III, §301(a), Oct. 22, 1965, 79 Stat. 1032; Pub. L. 89–574, §8(b), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90–495, §6(f), Aug. 23, 1968, 82 Stat. 818; Pub. L. 94–280, title I, §136(a), May 5, 1976, 90 Stat. 442; Pub. L. 100–17, title I, §130, Apr. 2, 1987, 101 Stat. 169; Pub. L. 114–94, div. A, title I, §1415(a), Dec. 4, 2015, 129 Stat. 1421.

Federal Regulations

23 CFR 1.23 Rights-of-way.

(a) Interest to be acquired. The State shall acquire rights-of-way of such nature and extent as are adequate for the construction, operation and maintenance of a project.

(b) Use for highway purposes. Except as provided under paragraph (c) of this section, all real property, including air space, within the right-of-way boundaries of a project shall be devoted exclusively to public highway purposes. No project shall be accepted as complete until this requirement has been satisfied. The State highway department shall be responsible for preserving such right-of-way free of all public and private installations, facilities or encroachments, except (1) those approved under paragraph (c) of this section; (2) those which the Administrator approves as constituting a part of a highway or as necessary for its operation, use or maintenance for public highway purposes and (3) informational sites established and maintained in accordance with §1.35 of the regulations in this part.

(c) Other use or occupancy. Subject to 23 U.S.C. 111, the temporary or permanent occupancy or use of right-of-way, including air space, for nonhighway purposes and the reservation of subsurface mineral rights within the boundaries of the rights-of-way of Federal-aid highways, may be approved by the Administrator, if he determines that such occupancy, use or reservation is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic thereon.

23 CFR 710.105 Definitions [for Title 23, Subchapter H, Part 710 “Right-of-way and real estate”]

(a) Terms defined in 23 U.S.C. 101(a) and 49 CFR part 24 have the same meaning where used in this part, except as modified in this section.

(b) The following terms where used in this part have the following meaning:

Access rights mean the right of ingress to and egress from a property to a public way.

Acquiring agency means a State agency, other entity, or person acquiring real property for title 23, United States Code, purposes. When an acquiring agency acquires real property interests that will be incorporated into a project eligible for title 23 grant funds, the acquiring agency must comply with Federal real estate and ROW requirements applicable to the grant.

Acquisition means activities to obtain an interest in, and possession of, real property.

Damages means the loss in the value attributable to remainder property due to the severance or consequential damages, as limited by State law, that arise when only part of an owner's real property is acquired.

Disposal means the transfer by sale or other conveyance of permanent rights in excess real property, when the real property interest is not currently or in the foreseeable future needed for highway ROW or other uses eligible for funding under title 23 of the United States Code. A disposal must meet the requirements contained in §710.403(b) of this part. The term “disposal” includes actions by a grantee, or its subgrantees, in the nature of relinquishment, abandonment, vacation, discontinuance, and disclaimer of real property or any rights therein.

Donation means the voluntary transfer of privately owned real property, by a property owner who has been informed in writing by the acquiring agency of rights and benefits available to owners under the Uniform Act and this section, for the benefit of a public transportation project without compensation or with compensation at less than fair market value.

Early acquisition means acquisition of real property interests by an acquiring agency prior to completion of the environmental review process for a proposed transportation project, as provided under 23 CFR 710.501 and 23 U.S.C. 108.

Early Acquisition Project means a project for the acquisition of real property interests prior to the completion of the environmental review process for the transportation project into which the acquired property will be incorporated, as authorized under 23 U.S.C. 108 and implemented under §710.501 of this part. It may consist of the acquisition of real property interests in a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.

Easement means an interest in real property that conveys a right to use or control a portion of an owner's property or a portion of an owner's rights in the property either temporarily or permanently.

Excess real property means a real property interest not needed currently or in the foreseeable future for transportation purposes or other uses eligible for funding under title 23, United States Code.

Federal-aid project means a project funded in whole or in part under, or requiring an FHWA approval pursuant to provisions in chapter 1 of title 23, United States Code.

Federally assisted means a project or program that receives grant funds under title 23, United States Code.

Grantee means the party that is the direct recipient of title 23 funds and is accountable to FHWA for the use of the funds and for compliance with applicable Federal requirements.

Mitigation property means real property interests acquired to mitigate for impacts of a project eligible for funding under title 23.

Option means the purchase of a right to acquire real property within an agreed-to period of time for an agreed-to amount of compensation or through an agreed-to method by which compensation will be calculated.

Person means any individual, family, partnership, corporation, or association.

Real Estate Acquisition Management Plan (RAMP) means a written document that details how a non-State department of transportation grantee, subgrantee, or design-build contractor will administer the title 23 ROW and real estate requirements for its project or program of projects. The document must be approved by the SDOT, or by the funding agency in the case of a non-SDOT grantee, before any acquisition work may begin. It must lay out in detail how the acquisition and relocation assistance programs will be accomplished and any anticipated issues that may arise during the process. If relocations are reasonably expected as part of the title 23 projects or program, the Real Estate Acquisition Management Plan (RAMP) must address relocation assistance and related procedures.

Real property or real property interest means any interest in land and any improvements thereto, including fee and less-than-fee interests such as: temporary and permanent easements, air or access rights, access control, options, and other contractual rights to acquire an interest in land, rights to control use or development, leases, and licenses, and any other similar action to acquire or preserve ROW for a transportation facility. As used in this part, the terms "real property" and "real property interest" are synonymous unless otherwise specified.

Relinquishment means the conveyance of a portion of a highway ROW or facility by a grantee under title 23, United States Code, or its subgrantee, to another government agency for continued transportation use. (See part 620, subpart B of this chapter.)

Right-of-way (ROW) means real property and rights therein obtained for the construction, operation, maintenance, or mitigation of a transportation or related facility funded under title 23, United States Code.

ROW manual means an operations manual that establishes a grantee's acquisition, valuation, relocation, and property management and disposal requirements and procedures, and has been approved in accordance with §710.201(c).

ROW use agreement means real property interests, defined by an agreement, as evidenced by instruments such as a lease, license, or permit, for use of real property interests for non-highway purposes where the use is in the public interest, consistent with the continued operation, maintenance, and safety of the facility, and such use will not impair the highway or interfere with the free and safe flow of traffic (see also 23 CFR 1.23). These rights may be granted only for a specified period of time because the real property interest may be needed in the future for highway purposes or other purposes eligible for funding under title 23.

Settlement means the result of negotiations based on fair market value in which the amount of just compensation is agreed upon for the purchase of real property or an interest therein. This term includes the following:

- (1) An administrative settlement is a settlement reached prior to filing a condemnation proceeding based on value related evidence, administrative consideration, or other factors approved by an authorized agency official.
- (2) A legal settlement is a settlement reached by an authorized legal representative or a responsible official of the acquiring agency who has the legal power vested in him by State law, after filing a condemnation proceeding, including agreements resulting from mediation and stipulated settlements approved by the court in which the condemnation action had been filed.
- (3) A court settlement or court award is any decision by a court that follows a contested trial or hearing before a jury, commission, judge, or other legal entity having the authority to establish the amount of just compensation for a taking under the laws of eminent domain.

State agency means: A department, agency, or instrumentality of a State or of a political subdivision of a State; any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States; or any person who has the authority to acquire property by eminent domain, for public purposes, under State law.

State department of transportation (SDOT) means the State highway department, transportation department, or other State transportation agency or commission to which title 23, United States Code, funds are apportioned.

Stewardship/Oversight Agreement means the written agreement between the SDOT and FHWA that defines the respective roles and responsibilities of FHWA and the State for carrying out certain project review, approval, and oversight responsibilities under title 23, including those activities specified by 23 U.S.C. 106(c)(3).

Subgrantee means a government agency or legal entity that enters into an agreement with a grantee to carry out part or all of the activity funded by title 23 grant funds. A subgrantee is accountable to the grantee for the use of the funds and for compliance with applicable Federal requirements.

Temporary development restriction means the purchase of a right to temporarily control or restrict development or redevelopment of real property. This right is for an agreed to time period, defines specifically what is restricted or controlled, and is for an agreed to amount of compensation.

Transportation project means any highway project, public transportation capital project, multimodal project, or other project that requires the approval of the Secretary. As used in this part, the term “transportation project” does not include an Early Acquisition Project as defined in this section.

Uneconomic remnant means a remainder property which the acquiring agency has determined has little or no utility or value to the owner.

Uniform Act means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Pub. L. 91-646, 84 Stat. 1894; primarily codified in 42 U.S.C. 4601 et seq.), and the implementing regulations at 49 CFR part 24.

23 CFR PART 750—HIGHWAY BEAUTIFICATION

Subpart A—National Standards for Regulation by States of Outdoor Advertising

§ 750.101 Purpose.

(a) In section 12 of the Federal-Aid Highway Act of 1958, Pub. L. 85–381, 72 Stat. 95, hereinafter called the act, the Congress declared that:

(1) To promote the safety, convenience, and enjoyment of public travel and the free flow of interstate commerce and to protect the public investment in the National System of Interstate and Defense Highways, hereinafter called the Interstate System, it is in the public interest to encourage and assist the States to control the use of and to improve areas adjacent to such system by controlling the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to that system.

(2) It is a national policy that the erection and maintenance of outdoor advertising signs, displays, or devices within 660 feet of the edge of the right-of-way and visible from the main-traveled way of all portions of the Interstate System constructed upon any part of right-of-way, the entire width of which is acquired subsequent to July 1, 1956, should be regulated, consistent with national standards to be prepared and promulgated by the Secretary of Transportation.

(b) The standards in this part are hereby promulgated as provided in the act.

[38 FR 16044, June 20, 1973, as amended at 39 FR 28629, Aug. 9, 1974]

§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) **Acquired for right-of-way** means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or

otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) **Centerline of the highway** means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into an agreement with the Secretary of Transportation as provided in the act; and

(3) Is not excluded under the terms of the act which provide that agreements entered into between the Secretary of Transportation and the State highway department shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use as of September 21, 1959, was clearly established by State law as industrial or commercial.

(d) **Entrance roadway** means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of an Interstate Highway from the general road system within a State, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

(e) **Erect** means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) **Exit roadway** means any public road or turning roadway including deceleration lanes, by which traffic may leave the main-traveled way of an Interstate Highway to reach the general road system within a State, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

(g) **Informational site** means an area or site established and maintained within or adjacent to the right-of-way of a highway on the Interstate System by or under the supervision or control of a State highway department, wherein panels for the display of advertising and informational signs may be erected and maintained.

(h) **Legible** means capable of being read without visual aid by a person of normal visual acuity.

(i) **Maintain** means to allow to exist.

(j) **Main-traveled way** means the traveled way of an Interstate Highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(k) **Protected areas** means all areas inside the boundaries of a State which are adjacent to and within 660 feet of the edge of the right-of-way of all controlled portions of the Interstate System within that State. Where a controlled portion of the Interstate System terminates at a State boundary which is not perpendicular or normal to the centerline of the highway, protected areas also means all areas inside the boundary of such State which are within 660 feet of the edge of the right-of-way of the Interstate Highway in the adjoining State.

(l) **Scenic area** means any public park or area of particular scenic beauty or historical significance designated by or pursuant to State law as a scenic area.

(m) **Sign** means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of a controlled portion of the Interstate System.

(n) **State** means the District of Columbia and any State of the United States within the boundaries of which a portion of the Interstate System is located.

(o) **State law** means a State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to State constitution or statute.

(p) **Trade name** shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(q) **Traveled way** means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(r) **Turning roadway** means a connecting roadway for traffic turning between two intersection legs of an interchange.

(s) **Visible** means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

§ 750.103 Measurements of distance.

(a) Distance from the edge of a right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway.

(b) All distances under § 750.107 (a)(2) and (b) shall be measured along the centerline of the highway between two vertical planes which are normal or perpendicular to and intersect the centerline of the highway, and which pass through the termini of the measured distance.

[38 FR 16044, June 20, 1973, as amended at 41 FR 9321, Mar. 4, 1976]

§ 750.104 Signs that may not be permitted in protected areas.

Erection or maintenance of the following signs may not be permitted in protected areas:

(a) Signs advertising activities that are illegal under State or Federal laws or regulations in effect at the location of such signs or at the location of such activities.

(b) Obsolete signs.

(c) Signs that are not clean and in good repair.

(d) Signs that are not securely affixed to a substantial structure, and

(e) Signs that are not consistent with the standards in this part.

§ 750.105 Signs that may be permitted in protected areas.

(a) Erection or maintenance of the following signs may be permitted in protected areas:

Class 1—Official signs. Directional or other official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with direction or authorization contained in State or Federal law, for the purpose of carrying out an official duty or responsibility.

Class 2—On-premise signs. Signs not prohibited by State law which are consistent with the applicable provisions of this section and § 750.108 and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

Not more than one such sign advertising the sale or lease of the same property may be permitted under this class in such manner as to be visible to traffic proceeding in any one direction on any one Interstate Highway.

Not more than one such sign, visible to traffic proceeding in any one direction on any one Interstate Highway and advertising activities being conducted upon the real property where the sign is located, may be permitted under this class more than 50 feet from the advertised activity.

Class 3—Signs within 12 miles of advertised activities. Signs not prohibited by State law which are consistent with the applicable provisions of this section and §§ 750.106, 750.107, and 750.108 and which advertise activities being conducted within 12 air miles of such signs.

Class 4—Signs in the specific interest of the traveling public. Signs authorized to be erected or maintained by State law which are consistent with the applicable provisions of this section and §§ 750.106, 750.107, and 750.108 and which are designed to give information in the specific interest of the traveling public.

(b) A Class 2 or 3 sign, except a Class 2 sign not more than 50 feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold, used, or otherwise handled more than 12 air miles from such sign may not be permitted unless the name of the advertised activity which is within 12 air miles of such sign is displayed as conspicuously as such trade name.

(c) Only information about public places operated by Federal, State, or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation and places for camping, lodging, eating, and vehicle service and repair is deemed to be in the specific interest of the traveling public. For the purposes of the standards in this part, a trade name is deemed to be information in the specific interest of the traveling public only if it identifies or characterizes such a place or identifies vehicle service, equipment, parts, accessories, fuels, oils, or lubricants being offered for sale at such a place. Signs displaying any other trade name may not be permitted under Class 4.

(d) Notwithstanding the provisions of paragraph (b) of this section, Class 2 or Class 3 signs which also qualify as Class 4 signs may display trade names in accordance with the provisions of paragraph (c) of this section.

§ 750.106 Class 3 and 4 signs within informational sites.

(a) Informational sites for the erection and maintenance of Class 3 and 4 advertising and informational signs may be established in accordance with § 1.35 of this chapter. The location and frequency of such sites shall be as determined by agreements between the Secretary of Transportation and the State highway departments.

(b) Class 3 and 4 signs may be permitted within such informational sites in protected areas in a manner consistent with the following provisions:

(1) No sign may be permitted which is not placed upon a panel.

(2) No panel may be permitted to exceed 13 feet in height or 25 feet in length, including border and trim, but excluding supports.

(3) No sign may be permitted to exceed 12 square feet in area, and nothing on such sign may be permitted to be legible from any place on the main traveled way or a turning roadway.

(4) Not more than one sign concerning a single activity or place may be permitted within any one informational site.

(5) Signs concerning a single activity or place may be permitted within more than one informational site, but no Class 3 sign which does not also qualify as a Class 4 sign may be permitted within any informational site more than 12 air miles from the advertised activity.

(6) No sign may be permitted which moves or has any animated or moving parts.

(7) Illumination of panels by other than white lights may not be permitted, and no sign placed on any panel may be permitted to contain, include, or be illuminated by any other lights, or any flashing, intermittent, or moving lights.

(8) No lighting may be permitted to be used in any way in connection with any panel unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

[23 FR 8793, Nov. 13, 1958, as amended at 35 FR 18719, Dec. 10, 1970; 41 FR 9321, Mar. 4, 1976]

§ 750.107 Class 3 and 4 signs outside informational sites.

(a) The erection or maintenance of the following signs may be permitted within protected areas, outside informational sites:

(1) Class 3 signs which are visible only to Interstate highway traffic not served by an informational site within 12 air miles of the advertised activity;

(2) Class 4 signs which are more than 12 miles from the nearest panel within an informational site serving Interstate highway traffic to which such signs are visible.

(3) Signs that qualify both as Class 3 and 4 signs may be permitted in accordance with either paragraph (a)(1) or (2) of this section.

(b) The erection or maintenance of signs permitted under paragraph (a) of this section may not be permitted in any manner inconsistent with the following:

(1) In protected areas in advance of an intersection of the main-traveled way of an Interstate highway and an exit roadway, such signs visible to Interstate highway traffic approaching such intersection may not be permitted to exceed the following number:

Distance from intersection	Number of signs
0–2 miles	0.
2–5 miles	6.
More than 5 miles	Average of one sign per mile.

The specified distances shall be measured to the nearest point of the intersection of the traveled way of the exit roadway and the main-traveled way of the Interstate highway.

(2) Subject to the other provisions of this paragraph, not more than two such signs may be permitted within any mile distance measured from any point, and no such signs may be permitted to be less than 1,000 feet apart.

(3) Such signs may not be permitted in protected areas adjacent to any Interstate highway right-of-way upon any part of the width of which is constructed an entrance or exit roadway.

(4) Such signs visible to Interstate highway traffic which is approaching or has passed an entrance roadway may not be permitted in protected areas for 1,000 feet beyond the furthest point of the intersection between the traveled way of such entrance roadway and the main-traveled way of the Interstate highway.

(5) No such signs may be permitted in scenic areas.

(6) Not more than one such sign advertising activities being conducted as a single enterprise or giving information about a single place may be permitted to be erected or maintained in such manner as to be visible to traffic moving in any one direction on any one Interstate highway.

(c) No Class 3 or 4 signs other than those permitted by this section may be permitted to be erected or maintained within protected areas, outside informational sites.

§ 750.108 General provisions.

No Class 3 or 4 signs may be permitted to be erected or maintained pursuant to § 750.107, and no Class 2 sign may be permitted to be erected or maintained, in any manner inconsistent with the following:

(a) No sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.

(b) No sign may be permitted which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(c) No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.

(d) No lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(e) No sign may be permitted which moves or has any animated or moving parts.

(f) No sign may be permitted to be erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(g) No sign may be permitted to exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conducted upon, the real property where the sign is located.

§ 750.109 Exclusions.

The standards in this part shall not apply to markers, signs and plaques in appreciation of sites of historical significance for the erection of which provisions are made in an agreement between a State and the Secretary of Transportation, as provided in the Act, unless such agreement expressly makes all or any part of the standards applicable.

§ 750.110 State regulations.

A State may elect to prohibit signs permissible under the standards in this part without forfeiting its rights to any benefits provided for in the act.

Subpart B—National Standards for Directional and Official Signs

AUTHORITY: 23 U.S.C. 131, 315, 49 U.S.C. 1651; 49 CFR 1.48(b).

§ 750.151 Purpose.

(a) In section 131 of title 23 U.S.C., Congress has declared that:

(1) The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote safety and recreational value of public travel, and to preserve natural beauty.

(2) Directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, shall conform to national standards authorized to be promulgated by the Secretary, which standards shall contain provisions concerning the lighting, size, number and spacing of signs, and such other requirements as may be appropriate to implement the section.

(b) The standards in this part are issued as provided in section 131 of title 23 U.S.C.

[38 FR 16044, June 30, 1973, as amended at 40 FR 21934, May 20, 1975]

§ 750.152 Application.

The following standards apply to directional and official signs and notices located within six hundred and sixty (660) feet of the right-of-way of the Interstate and Federal-aid primary systems and to those located beyond six hundred and sixty (660) feet of the right-of-way of such systems, outside of urban areas, visible from the main traveled way of such systems and erected with the purpose of their message being read from such main traveled way. These standards do not apply to directional and official signs erected on the highway right-of-way.

[40 FR 21934, May 20, 1975]

§ 750.153 Definitions.

For the purpose of this part:

(a) **Sign** means an outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Federal-aid primary highway.

(b) **Main traveled way** means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes, and ramps.

(c) **Interstate System** means the National System of Interstate and Defence Highways described in section 103(d) of title 23 U.S.C.

(d) **Primary system** means the Federal-aid highway system described in section 103(b) of title 23 U.S.C.

(e) **Erect** means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) **Maintain** means to allow to exist.

(g) **Scenic area** means any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(h) **Parkland** means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(i) **Federal or State law** means a Federal or State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to a Federal or State constitution or statute.

(j) **Visible** means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(k) **Freeway** means a divided arterial highway for through traffic with full control of access.

(l) **Rest area** means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

(m) **Directional and official signs and notices** includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(n) **Official signs and notices** means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.

(o) **Public utility signs** means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(p) **Service club and religious notices** means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.

(q) **Public service signs** means signs located on school bus stop shelters, which signs:

- (1) Identify the donor, sponsor, or contributor of said shelters;
- (2) Contain public service messages, which shall occupy not less than 50 percent of the area of the sign;
- (3) Contain no other message;
- (4) Are located on school bus shelters which are authorized or approved by city, county, or State law, regulation, or ordinance, and at places approved by the city, county, or State agency controlling the highway involved; and
- (5) May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

(r) **Directional signs** means signs containing directional information about public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(s) **State** means any one of the 50 States, the District of Columbia, or Puerto Rico.

(t) **Urban area** means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

[38 FR 16044, June 30, 1973, as amended at 40 FR 21934, May 20, 1975]

§ 750.154 Standards for directional signs.

The following apply only to directional signs:

(a) **General.** The following signs are prohibited:

- (1) Signs advertising activities that are illegal under Federal or State laws or regulations in effect at the location of those signs or at the location of those activities.

(2) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

(3) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(4) Obsolete signs.

(5) Signs which are structurally unsafe or in disrepair.

(6) Signs which move or have any animated or moving parts.

(7) Signs located in rest areas, parklands or scenic areas.

(b) Size.

(1) No sign shall exceed the following limits:

(i) Maximum area—150 square feet.

(ii) Maximum height—20 feet.

(iii) Maximum length—20 feet.

(2) All dimensions include border and trim, but exclude supports.

(c) Lighting. Signs may be illuminated, subject to the following:

(1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

(2) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(3) No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(d) Spacing.

(1) Each location of a directional sign must be approved by the State highway department.

(2) No directional sign may be located within 2,000 feet of an interchange, or intersection at grade along the Interstate System or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

(3) No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.

(4)

(i) No two directional signs facing the same direction of travel shall be spaced less than 1 mile apart;

(ii) Not more than three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;

(iii) Signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and

(iv) Signs located adjacent to the primary system shall be within 50 air miles of the activity.

(e) **Message content.** The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

(f) Selection method and criteria.

(1) Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas.

(2) To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

(3) Each State shall develop specific selection methods and criteria to be used in determining whether or not an activity qualifies for this type of signing. A statement as to selection methods and criteria shall be furnished to the Secretary of Transportation before the State permits the erection of any such signs under section 131(c) of title 23 U.S.C., and this part.

§ 750.155 State standards.

This part does not prohibit a State from establishing and maintaining standards which are more restrictive with respect to directional and official signs and notices along the Federal-aid highway systems than these national standards.

[38 FR 16044, June 20, 1973, as amended at 40 FR 21934, May 20, 1975]

Subpart D—Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

AUTHORITY: 23 U.S.C. 131 and 315; 23 CFR 1.32 and 1.48(b).

SOURCE: 39 FR 27436, July 29, 1974, unless otherwise noted.

§ 750.301 Purpose.

To prescribe the Federal Highway Administration (FHWA) policies relating to Federal participation in the costs of acquiring the property interests necessary for removal of nonconforming advertising signs, displays and devices on the Federal-aid Primary and Interstate Systems, including toll sections on such systems, regardless of whether Federal funds participated in the construction thereof. This regulation should not be construed to authorize any additional rights in eminent domain not already existing under State law or under 23 U.S.C. 131(g).

§ 750.302 Policy.

(a) Just compensation shall be paid for the rights and interests of the sign and site owner in those outdoor advertising signs, displays, or devices which are lawfully existing under State law, in conformance with the terms of 23 U.S.C. 131.

(b)

(1) Federal reimbursement will be made on the basis of 75 percent of the acquisition, removal and incidental costs legally incurred or obligated by the State.

(2) Federal funds will participate in 100 percent of the costs of removal of those signs which were removed prior to January 4, 1975, by relocation, pursuant to the provisions of 23 CFR § 750.305(a)(2), and which are required to be removed as a result of the amendments made to 23 U.S.C. 131 by the Federal-Aid Highway Amendments of 1974, Pub. L. 93-643, section 109, January 4, 1975. Such signs must have been relocated to a legal site, must have been legally maintained since the relocation, and must not have been substantially changed, as defined by the State maintenance standards, issued pursuant to 23 CFR 750.707(b).

(c) Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651, et seq.) applies except where complete conformity would defeat the purposes set forth in 42 U.S.C. 4651, would impede the expeditious implementation of the sign removal program or would increase administrative costs out of proportion to the cost of the interests being acquired or extinguished.

(d) Projects for the removal of outdoor advertising signs including hardship acquisitions should be programed and authorized in accordance with normal program procedures for right-of-way projects.

[39 FR 27436, July 29, 1974; 39 FR 30349, Aug. 22, 1974, as amended at 41 FR 31198, July 27, 1976]

§ 750.303 Definitions.

(a) **Sign.** An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(b) **Lease (license, permit, agreement, contract or easement).** An agreement, oral or in writing, by which possession or use of land or interests therein is given by the owner or other person to another person for a specified purpose.

(c) **Leasehold value.** The leasehold value is the present worth of the difference between the contractual rent and the current market rent at the time of the appraisal.

(d) **Illegal sign.** One which was erected and/or maintained in violation of State law.

(e) **Nonconforming sign.** One which was lawfully erected, but which does not comply with the provisions of State law or State regulations passed at a later date or which later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(f) **1966 inventory.** The record of the survey of advertising signs and junkyards compiled by the State highway department.

(g) **Abandoned sign.** One in which no one has an interest, or as defined by State law.

§ 750.304 State policies and procedures.

The State's written policies and operating procedures for implementing its sign removal program under State law and complying with 23 U.S.C. 131 and its proposed time schedule for sign removal and procedure for reporting its accomplishments shall be submitted to the FHWA for approval within 90 days of the date of this regulation. This statement should be supported by the State's regulations implementing its program. Revisions to the State's policies and procedures shall be submitted to the FHWA for approval. The statement should contain provisions for the review of its policies and procedure to meet changing conditions, adoption of improved procedures, and for internal review to assure compliance. The statement shall include as a minimum the following:

(a) Project priorities. The following order of priorities is recommended.

- (1) Illegal and abandoned signs.
- (2) Hardship situations.
- (3) Nominal value signs.
- (4) Signs in areas which have been designated as scenic under authority of State law.
- (5) Product advertising on:
 - (i) Rural interstate highway.
 - (ii) Rural primary highway.
 - (iii) Urban areas.
- (6) Nontourist-oriented directional advertising.
- (7) Tourist-oriented directional advertising.

(b) Programing.

- (1) A sign removal project may consist of any group of proposed sign removals. The signs maybe those belonging to one company or those located along a single route, all of the signs in a single county or other locality, hardship situations, individually or grouped, such as those involving vandalized signs, or all of a sign owner's signs in a given State or area, or any similar grouping.
- (2) A project for sign removal on other than a Federal-aid primary route basis e.g., a countywide project or a project involving only signs owned by one company, should be identified as CAF-000B(), continuing the numbering sequence which began with the sign inventory project in 1966.
- (3) Where it would not interfere with the State's operations, the State should program sign removal projects to minimize disruption of business.

(c) Valuation and review methods—

- (1) **Schedules**—formulas. Schedules, formulas or other methods to simplify valuation of signs and sites are recommended for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation. They do not purport to be a basis for the determination of just compensation under eminent domain.

(2) **Appraisals.** Where appropriate, the State may use its approved appraisal report forms including those for abbreviated or short form appraisals. Where a sign or site owner does not accept the amount computed under an approved schedule, formula, or other simplified method, an appraisal shall be utilized.

(3) **Leaseholds.** When outdoor advertising signs and sign sites involve a leasehold value, the State's procedures should provide for determining value in the same manner as any other real estate leasehold that has value to the lessee.

(4) **Severance damages.** The State has the responsibility of justifying the recognition of severance damages pursuant to 23 CFR 710.304(h), and the law of the State before Federal participation will be allowed. Generally, Federal participation will not be allowed in the payment of severance damages to remaining signs, or other property of a sign company alleged to be due to the taking of certain of the company's signs. Unity of use of the separate properties, as required by applicable principles of eminent domain law, must be shown to exist before participation in severance damages will be allowed. Moreover, the value of the remaining signs or other real property must be diminished by virtue of the taking of such signs. Payments for severance damages to economic plants or loss of business profits are not compensable. Severance damage cases must be submitted to the FHWA for prior concurrence, together with complete legal and appraisal justification for payment of these damages. To assist the FHWA in its evaluation, the following data will accompany any submission regarding severance:

(i) One copy of each appraisal in which this was analyzed. One copy of the State's review appraiser analysis and determination of market value.

(ii) A plan or map showing the location of each sign.

(iii) An opinion by the State highway department's chief legal officer that severance is appropriate in accordance with State law together with a legal opinion that, in the instant case, the damages constitute severance as opposed to consequential damage as a matter of law. The opinion shall include a determination, and the basis therefor, that the specific taking of some of an outdoor advertiser's signs constitutes a distinct economic unit, and that unity of use of the separate properties in conformity with applicable principles of eminent domain law had been satisfactorily established. A legal memorandum must be furnished citing and discussing cases and other authorities supporting the State's position.

(5) **Review of value estimates.** All estimates of value shall be reviewed by a person other than the one who made the estimate. Appraisal reports shall be reviewed and approved prior to initiation of negotiations. All other estimates shall be reviewed before the agreement becomes final.

(d) Nominal value plan.

(1) This plan may provide for the removal costs of eligible nominal value signs and for payments up to \$250 for each nonconforming sign, and up to \$100 for each nonconforming sign site.

(2) The State's procedures may provide for negotiations for sign sites and sign removals to be accomplished simultaneously without prior review.

(3) Releases or agreements executed by the sign and/or site owner should include the identification of the sign, statement of ownership, price to be paid, interest acquired, and removal rights.

(4) It is not expected that salvage value will be a consideration in most acquisitions; however, the State's procedures may provide that the sign may be turned over to the sign owner, site owner, contractor, or individual as all or a part of the consideration for its removal, without any project credits.

(5) Programing and authorizations will be in accord with § 750.308 of this regulation. A detailed estimate of value of each individual sign is not necessary. The project may be programed and authorized as one project.

(e) **Sign removal.** The State's procedural statement should include provision for:

(1) Owner retention.

(2) Salvage value.

(3) State removal.

[39 FR 27436, July 29, 1974; 42 FR 30835, June 17, 1977, as amended at 50 FR 34093, Aug. 23, 1985]

§ 750.305 Federal participation.

(a) Federal funds may participate in:

(1) Payments made to a sign owner for his right, title and interest in a sign, and where applicable, his leasehold value in a sign site, and to a site owner for his right and interest in a site, which is his right to erect and maintain the existing nonconforming sign on such site.

(2) The cost of relocating a sign to the extent of the cost to acquire the sign, less salvage value if any.

(3) A duplicate payment for the site owner's interest of \$2,500 or less because of a bona fide error in ownership, provided the State has followed its title search procedures as set forth in its policy and procedure submission.

(4) The cost of removal of signs, partially completed sign structures, supporting poles, abandoned signs and those which are illegal under State law within the controlled areas, provided such costs are incurred in accordance with State law. Removal may be by State personnel on a force account basis or by contract. Documentation for Federal participation in such removal projects should be in accord with the State's normal force account and contractual reimbursement procedures. The State should maintain a record of the number of signs removed. These data should be retained in project records and reported on the periodic report required under § 750.308 of this regulation.

(5) Signs materially damaged by vandals. Federal funds shall be limited to the Federal pro-rata share of the fair market value of the sign immediately before the vandalism occurred minus the estimated cost of repairing and reerecting the sign. If the State chooses, it may use its FHWA approved nominal value plan procedure to acquire these signs.

(6) The cost of acquiring and removing completed sign structures which have been blank or painted out beyond the period of time established by the State for normal maintenance and change of message, provided the sign owner can establish that his nonconforming use was not abandoned or discontinued, and provided such costs are incurred in accordance with State law, or regulation. The evidence considered by the State as acceptable for establishing or showing that the nonconforming use has not been abandoned or voluntarily discontinued shall be set forth in the State's policy and procedures.

(7) In the event a sign was omitted in the 1966 inventory, and the State supports a determination that the sign was in existence prior to October 22, 1965, the costs are eligible for Federal participation.

(b) Federal funds may not participate in:

(1) Cost of title certificates, title insurance, title opinion or similar evidence or proof of title in connection with the acquisition of a landowner's right to erect and maintain a sign or signs when the amount of payment to the landowner for his interest is \$2,500 or less, unless required by State law. However, Federal funds may participate in the costs of securing some lesser evidence or proof of title such as searches and investigations by State highway department personnel to the extent necessary to determine ownership, affidavit of ownership by the owner, bill of sale, etc. The State's procedure for determining evidence of title should be set forth in the State's policy and procedure submission.

(2) Payments to a sign owner where the sign was erected without permission of the property owner unless the sign owner can establish his legal right to erect and maintain the sign. However, such signs may be removed by State personnel on a force account basis or by contract with Federal participation except where the sign owner reimburses the State for removal.

(3) Acquisition costs paid for abandoned or illegal signs, potential sign sites, or signs which were built during a period of time which makes them ineligible for compensation under 23 U.S.C. 131, or for rights in sites on which signs have been abandoned or illegally erected by a sign owner.

(4) The acquisition cost of supporting poles or partially completed sign structures in nonconforming areas which do not have advertising or informative content thereon unless the owner can show to the State's satisfaction he has not abandoned the structure. When the State has determined the sign structure has not been abandoned, Federal funds will participate in the acquisition of the structure, provided the cost are incurred in accordance with State law.

§ 750.306 Documentation for Federal participation.

The following information concerning each sign must be available in the State's files to be eligible for Federal participation.

(a) Payment to sign owner.

(1) A photograph of the sign in place. Exceptions may be made in cases where in one transaction the State has acquired a number of a company's nominal value signs similar in size, condition and shape. In such cases, only a sample of representative photographs need be provided to document the type and condition of the signs.

(2) Evidence showing the sign was nonconforming as of the date of taking.

(3) Value documentation and proof of obligation of funds.

(4) Satisfactory indication of ownership of the sign and compensable interest therein (e.g., lease or other agreement with the property owner, or an affidavit, certification, or other such evidence of ownership).

(5) Evidence that the sign falls within one of the three categories shown in § 750.302 of this regulation. The specific category should be identified.

(6) Evidence that the right, title, or interest pertaining to the sign has passed to the State, or that the sign has been removed.

(b) Payment to the site owner.

(1) Evidence that an agreement has been reached between the State and owner.

(2) Value documentation and proof of obligation of funds.

(3) Satisfactory indication of ownership or compensable interest.

(c) In those cases where Federal funds participate in 100 percent of the cost of removal, the State file shall contain the records of the relocation made prior to January 4, 1975.

[39 FR 27436, July 29, 1974, as amended at 41 FR 31198, July 27, 1976]

§ 750.307 FHWA project approval.

Authorization to proceed with acquisitions on a sign removal project shall not be issued until such time as the State has submitted to FHWA the following:

(a) A general description of the project.

(b) The total number of signs to be acquired.

(c) The total estimated cost of the sign removal project, including a breakdown of incidental, acquisition and removal costs.

§ 750.308 Reports.

Periodic reports on site acquisitions and actual sign removals shall be submitted on FHWA Form 1424 and as prescribed.

Forms are available at FHWA Division Offices located in each State.

[39 FR 27436, July 29, 1974, as amended at 41 FR 9321, Mar. 4, 1976]

Subpart G—Outdoor Advertising Control

AUTHORITY: 23 U.S.C. 131 and 315; 49 CFR 1.48.

SOURCE: 40 FR 42844, Sept. 16, 1975, unless otherwise noted.

§ 750.701 Purpose.

This subpart prescribes the Federal Highway Administration (FHWA) policies and requirements relating to the effective control of outdoor advertising under 23 U.S.C. 131. The purpose of these policies and requirements is to assure that there is effective State control of outdoor advertising in areas adjacent to Interstate and Federal-aid primary highways. Nothing in this subpart shall be construed to prevent a State from establishing more stringent outdoor advertising control requirements along Interstate and Primary Systems than provided herein.

§ 750.702 Applicability.

The provisions of this subpart are applicable to all areas adjacent to the Federal-aid Interstate and Primary Systems, including toll sections thereof, except that within urban areas, these provisions apply only within 660 feet of the nearest edge of the right-of-way. These provisions apply regardless of whether Federal funds participated in the costs of such highways. The provisions of this subpart do not apply to the Federal-aid Secondary or Urban Highway System.

§ 750.703 Definitions.

The terms as used in this subpart are defined as follows:

- (a) **Commercial and industrial zones** are those districts established by the zoning authorities as being most appropriate for commerce, industry, or trade, regardless of how labeled. They are commonly categorized as commercial, industrial, business, manufacturing, highway service or highway business (when these latter are intended for highway-oriented business), retail, trade, warehouse, and similar classifications.
- (b) **Erect** means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.
- (c) **Federal-aid Primary Highway** means any highway on the system designated pursuant to 23 U.S.C. 103(b).
- (d) **Interstate Highway** means any highway on the system defined in and designated, pursuant to 23 U.S.C. 103(e).
- (e) **Illegal sign** means one which was erected or maintained in violation of State law or local law or ordinance.
- (f) **Lease** means an agreement, license, permit, or easement, oral or in writing, by which possession or use of land or interests therein is given for a specified purpose, and which is a valid contract under the laws of a State.
- (g) **Maintain** means to allow to exist.
- (h) **Main-traveled way** means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(i) **Sign, display or device**, hereinafter referred to as “sign,” means an outdoor advertising sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(j) **State law** means a State constitutional provision or statute, or an ordinance, rule or regulation, enacted or adopted by a State.

(k) **Unzoned area** means an area where there is no zoning in effect. It does not include areas which have a rural zoning classification or land uses established by zoning variances or special exceptions.

(l) **Unzoned commercial or industrial areas** are unzoned areas actually used for commercial or industrial purposes as defined in the agreements made between the Secretary, U.S. Department of Transportation (Secretary), and each State pursuant to 23 U.S.C. 131(d).

(m) **Urban area** is as defined in 23 U.S.C. 101(a).

(n) **Visible** means capable of being seen, whether or not readable, without visual aid by a person of normal visual acuity.

§ 750.704 Statutory requirements.

(a) 23 U.S.C. 131 provides that signs adjacent to the Interstate and Federal aid Primary Systems which are visible from the main-traveled way and within 660 feet of the nearest edge of the right-of-way, and those additional signs beyond 660 feet outside of urban areas which are visible from the main-traveled way and erected with the purpose of their message being read from such main-traveled way, shall be limited to the following:

(1) Directional and official signs and notice which shall conform to national standards promulgated by the Secretary in subpart B, part 750, chapter I, 23 CFR, National Standards for Directional and Official Signs;

(2) Signs advertising the sale or lease of property upon which they are located;

(3) Signs advertising activities conducted on the property on which they are located;

(4) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are zoned industrial or commercial under the authority of State law;

(5) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are unzoned commercial or industrial areas, which areas are determined by agreement between the State and the Secretary; and

(6) Signs lawfully in existence on October 22, 1965, which are determined to be landmark signs.

(b) 23 U.S.C. 131(d) provides that signs in § 750.704(a) (4) and (5) must comply with size, lighting, and spacing requirements, to be determined by agreement between the State and the Secretary.

(c) 23 U.S.C. 131 does not permit signs to be located within zoned or unzoned commercial or industrial areas beyond 660 feet of the right-of-way adjacent to the Interstate or Federal-aid Primary System, outside of urban areas.

(d) 23 U.S.C. 131 provides that signs not permitted under § 750.704 of this regulation must be removed by the State.

§ 750.705 Effective control.

In order to provide effective control of outdoor advertising, the State must:

- (a) Prohibit the erection of new signs other than those which fall under § 750.704(a)(1) through (6);
- (b) Assure that signs erected under § 750.704(a)(4) and (5) comply, at a minimum, with size, lighting, and spacing criteria contained in the agreement between the Secretary and the State;
- (c) Assure that signs erected under § 750.704(a)(1) comply with the national standards contained in subpart B, part 750, chapter I, 23 CFR;
- (d) Remove illegal signs expeditiously;
- (e) Remove nonconforming signs with just compensation within the time period set by 23 U.S.C. 131 (subpart D, part 750, chapter I, 23 CFR, sets forth policies for the acquisition and compensation for such signs);
- (f) Assure that signs erected under § 750.704(a)(6) comply with § 750.710, Landmark Signs, if landmark signs are allowed;
- (g) Establish criteria for determining which signs have been erected with the purpose of their message being read from the main-traveled way of an Interstate or primary highway, except where State law makes such criteria unnecessary. Where a sign is erected with the purpose of its message being read from two or more highways, one or more of which is a controlled highway, the more stringent of applicable control requirements will apply;
- (h) Develop laws, regulations, and procedures to accomplish the requirements of this subpart;
- (i) Establish enforcement procedures sufficient to discover illegally erected or maintained signs shortly after such occurrence and cause their prompt removal; and
- (j) Submit regulations and enforcement procedures to FHWA for approval.

[40 FR 42844, Sept. 16, 1975; 40 FR 49777, Oct. 24, 1975]

§ 750.706 Sign control in zoned and unzoned commercial and industrial areas.

The following requirements apply to signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way adjacent to the Interstate and Federal-aid primary highways.

- (a) The State by law or regulation shall, in conformity with its agreement with the Secretary, set criteria for size, lighting, and spacing of outdoor advertising signs located in commercial or industrial zoned or unzoned areas, as defined in the agreement, adjacent to Interstate and Federal-aid primary highways. If the agreement between the Secretary and the State includes a grandfather clause, the criteria for size, lighting, and spacing will govern only those signs erected subsequent to the date specified in the agreement. The States may adopt more restrictive criteria than are presently contained in agreements with the Secretary.
- (b) Agreement criteria which permit multiple sign structures to be considered as one sign for spacing purposes must limit multiple sign structures to signs which are physically contiguous, or connected by the same structure or cross-bracing, or located not more than 15 feet apart at their nearest point in the case of back-to-back or "V" type signs.
- (c) Where the agreement and State law permits control by local zoning authorities, these controls may govern in lieu of the size, lighting, and spacing controls set forth in the agreement, subject to the following:

(1) The local zoning authority's controls must include the regulation of size, of lighting and of spacing of outdoor advertising signs, in all commercial and industrial zones.

(2) The regulations established by local zoning authority may be either more restrictive or less restrictive than the criteria contained in the agreement, unless State law or regulations require equivalent or more restrictive local controls.

(3) If the zoning authority has been delegated, extraterritorial, jurisdiction under State law, and exercises control of outdoor advertising in commercial and industrial zones within this extraterritorial jurisdiction, control by the zoning authority may be accepted in lieu of agreement controls in such areas.

(4) The State shall notify the FHWA in writing of those zoning jurisdictions wherein local control applies. It will not be necessary to furnish a copy of the zoning ordinance. The State shall periodically assure itself that the size, lighting, and spacing control provisions of zoning ordinances accepted under this section are actually being enforced by the local authorities.

(5) Nothing contained herein shall relieve the State of the responsibility of limiting signs within controlled areas to commercial and industrial zones.

§ 750.707 Nonconforming signs.

(a) **General.** The provisions of § 750.707 apply to nonconforming signs which must be removed under State laws and regulations implementing 23 U.S.C. 131. These provisions also apply to nonconforming signs located in commercial and industrial areas within 660 feet of the nearest edge of the right-of-way which come under the so-called grandfather clause contained in State-Federal agreements. These provisions do not apply to conforming signs regardless of when or where they are erected.

(b) **Nonconforming signs.** A nonconforming sign is a sign which was lawfully erected but does not comply with the provisions of State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Changed conditions include, for example, signs lawfully in existence in commercial areas which at a later date become noncommercial, or signs lawfully erected on a secondary highway later classified as a primary highway.

(c) **Grandfather clause.** At the option of the State, the agreement may contain a grandfather clause under which criteria relative to size, lighting, and spacing of signs in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way apply only to new signs to be erected after the date specified in the agreement. Any sign lawfully in existence in a commercial or industrial area on such date may remain even though it may not comply with the size, lighting, or spacing criteria. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. Preexisting signs covered by a grandfather clause, which do not comply with the agreement criteria have the status of nonconforming signs.

(d) **Maintenance and continuance.** In order to maintain and continue a nonconforming sign, the following conditions apply:

(1) The sign must have been actually in existence at the time the applicable State law or regulations became effective as distinguished from a contemplated use such as a lease or agreement with the property owner. There are two exceptions to actual existence as follows:

(i) Where a permit or similar specific State governmental action was granted for the construction of a sign prior to the effective date of the State law or regulations and the sign owner acted in good faith and expended sums in reliance thereon. This exception shall not apply in instances where large numbers of permits were applied for and issued to a single sign owner, obviously in anticipation of the passage of a State control law.

(ii) Where the State outdoor advertising control law or the Federal-State agreement provides that signs in commercial and industrial areas may be erected within six (6) months after the effective date of the law or agreement provided a lease dated prior to such effective date was filed with the State and recorded within thirty (30) days following such effective date.

(2) There must be existing property rights in the sign affected by the State law or regulations. For example, paper signs nailed to trees, abandoned signs and the like are not protected.

(3) The sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming sign removed as a result of a right-of-way taking or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use.

(4) The sign must have been lawful on the effective date of the State law or regulations, and must continue to be lawfully maintained.

(5) The sign must remain substantially the same as it was on the effective date of the State law or regulations. Reasonable repair and maintenance of the sign, including a change of advertising message, is not a change which would terminate nonconforming rights. Each State shall develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights.

(6) The sign may continue as long as it is not destroyed, abandoned, or discontinued. If permitted by State law and reerected in kind, exception may be made for signs destroyed due to vandalism and other criminal or tortious acts.

(i) Each state shall develop criteria to define destruction, abandonment and discontinuance. These criteria may provide that a sign which for a designated period of time has obsolete advertising matter or is without advertising matter or is in need of substantial repair may constitute abandonment or discontinuance. Similarly, a sign damaged in excess of a certain percentage of its replacement cost may be considered destroyed.

(ii) Where an existing nonconforming sign ceases to display advertising matter, a reasonable period of time to replace advertising content must be established by each State. Where new content is not put on a structure within the established period, the use of the structure as a nonconforming outdoor advertising sign is terminated and shall constitute an abandonment or discontinuance. Where a State establishes a period of more than one (1) year as a reasonable period for change of message, it shall justify that period as a customary enforcement practice within the State. This established period may be waived for an involuntary discontinuance such as the closing of a highway for repair in front of the sign.

(e) *Just compensation.* The States are required to pay just compensation for the removal of nonconforming lawfully existing signs in accordance with the terms of 23 U.S.C. 131 and the provisions of subpart D, part 750, chapter I, 23

CFR. The conditions which establish a right to maintain a nonconforming sign and therefore the right to compensation must pertain at the time it is acquired or removed.

§ 750.708 Acceptance of state zoning.

(a) 23 U.S.C. 131(d) provide that signs “may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas . . . which are zoned industrial or commercial under authority of State law.” Section 131(d) further provides, “The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act.”

(b) State and local zoning actions must be taken pursuant to the State’s zoning enabling statute or constitutional authority and in accordance therewith. Action which is not a part of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for outdoor advertising control purposes.

(c) Where a unit of government has not zoned in accordance with statutory authority or is not authorized to zone, the definition of an unzoned commercial or industrial area in the State-Federal agreement will apply within that political subdivision or area.

(d) A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising control purposes.

§ 750.709 On-property or on-premise advertising.

(a) A sign which consists solely of the name of the establishment or which identifies the establishment’s principal or accessory products or services offered on the property is an on-property sign.

(b) When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if it brings rental income to the property owner, it shall be considered the business of outdoor advertising and not an on-property sign.

(c) A sale or lease sign which also advertises any product or service not conducted upon and unrelated to the business or selling or leasing the land on which the sign is located is not an on-property sign.

(d) Signs are exempt from control under 23 U.S.C. 131 if they solely advertise the sale or lease of property on which they are located or advertise activities conducted on the property on which they are located. These signs are subject to regulation (subpart A, part 750, chapter I, 23 CFR) in those States which have executed a bonus agreement, 23 U.S.C. 131(j). State laws or regulations shall contain criteria for determining exemptions. These criteria may include:

(1) A property test for determining whether a sign is located on the same property as the activity or property advertised; and

(2) A purpose test for determining whether a sign has as its sole purpose the identification of the activity located on the property or its products or services, or the sale or lease of the property on which the sign is located.

(3) The criteria must be sufficiently specific to curb attempts to improperly qualify outdoor advertising as “on-property” signs, such as signs on narrow strips of land contiguous to the advertised activity when the purpose is clearly to circumvent 23 U.S.C. 131.

§ 750.710 Landmark signs.

(a) 23 U.S.C. 131(c) permits the existence of signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which is consistent with the purpose of 23 U.S.C. 131.

(b) States electing to permit landmark signs under 23 U.S.C. 131(c) shall submit a one-time list to the Federal Highway Administration for approval. The list should identify each sign as being in the original 1966 inventory. In the event a sign was omitted in the 1966 inventory, the State may submit other evidence to support a determination that the sign was in existence on October 22, 1965.

(c) Reasonable maintenance, repair, and restoration of a landmark sign is permitted. Substantial change in size, lighting, or message content will terminate its exempt status.

§ 750.711 Structures which have never displayed advertising material.

Structures, including poles, which have never displayed advertising or informative content are subject to control or removal when advertising content visible from the main-traveled way is added or affixed. When this is done, an "outdoor advertising sign" has then been erected which must comply with the State law in effect on that date.

§ 750.712 Reclassification of signs.

Any sign lawfully erected after the effective date of a State outdoor advertising control law which is reclassified from legal-conforming to nonconforming and subject to removal under revised State statutes or regulations and policy pursuant to this regulation is eligible for Federal participation in just compensation payments and other eligible costs.

State/Federal Agreement

AGREEMENT FOR CONTROL OF OUTDOOR ADVERTISING

Agreement between the State of Indiana and the United States of America concerning the Control of Outdoor Advertising in Areas Adjacent to the Interstate and Federal-Aid Primary System was signed by Governor Whitcomb, and Secretary of Transportation Volpe on August 4, 1971. The following is the text of the Agreement.

INDIANA

Agreement for Carrying Out National Policy Relative to Control of Outdoor Advertising in Areas Adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System.

This agreement made and entered into this 4th day of August 1971, by and between the United States of America represented by the Secretary of Transportation, hereinafter referred to as the Secretary, and the State of Indiana, represented by the Governor, hereinafter referred to as the State. Witnesseth:

Whereas, Congress has declared that outdoor advertising in areas adjacent to the Interstate and Federal Primary System should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty; and

Whereas, Section 131(d) of Title 23, United States Code, provides for agreement between the Secretary and the several States to determine the size, lighting, and spacing of signs, displays, and devices, consistent with customary use, which may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal- Aid Primary Systems which are zoned commercial or industrial areas, under authority of State law or in unzoned commercial or industrial areas, also to be determined by agreement, and where no bona fide State, County, or local zoning authority has made and determination of customary use; and

Whereas, IC 1971, 8-12-2 authorizes the Governor of the State of Indiana to enter into an agreement with the Secretary with respect to the regulation and control of outdoor advertising; and

Whereas, the purpose of said agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the national policy to protect the public investment in the Interstate and Primary highways, to promote the safety and recreational value of public travel, and to preserve natural beauty; and

Whereas, the State of Indiana elects to implement and carry out the provisions of Section 131 of Title 23, United States Code, and the national policy in order to remain eligible to receive the full amount of all Federal-Aid highway funds to be apportioned to such State on or after January 1, 1968, under Section 104 of Title 23, United States Code.

Now therefore, the parties hereto do mutually agree as follows:

I. DEFINITIONS

- A. **"Act"** means Section 131 of Title 23, United States Code, as amended, commonly referred to as Title I of the Highway Beautification Act of 1965, as amended.
- B. **"Commercial or industrial activities"** means, for purposes of establishing unzoned commercial or industrial areas, those activities generally recognized as commercial or industrial by zoning authorities in the State, but excludes the following activities:

1. Outdoor advertising structures.
 2. Agricultural forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
 3. Transient or temporary activities.
 4. Activities not visible from the main-traveled way.
 5. Activities more than 660 feet from the nearest edge of the right-of-way.
 6. Activities conducted in a building principally used as a residence.
 7. Railroad tracks and minor sidings.
- C. ***“Zoned commercial or industrial areas”*** means those areas which are zoned for business, industry, commerce, or trade pursuant to a State or local zoning ordinance or regulation.
- D. ***“Unzoned commercial or industrial areas”*** means those areas which are not zoned by State or local law, regulation, or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 600 feet from and beyond the edge of such activity on both sides of the highway. Provided however, the unzoned area shall not include land on the opposite side of an Interstate or dual-laned limited access Primary highway from the commercial or industrial activity establishing the unzoned commercial or industrial area or land on the opposite side of other Federal-Aid Primary highways which land is deemed scenic by an appropriate agency of the State.

All measurement shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge of pavement of the highway. Such an area shall not include any area which is:

1. Within 300 feet of any building used primarily as a residence, unless the owner of the building consents in writing to that particular commercial use or uses to be made of such lands;
 2. Within 500 feet of any of the following: public park garden recreation area or forest preserve, church, school, and officially designated historical battlefield, any museum or historical monument and any safety rest or recreation area, publicly owned, controlled, and maintained pursuant to Section 319 of Title 23 of the United States Code, any sanitary or other facility for the accommodation of the motorist, publicly owned, controlled, and maintained pursuant to Section 319 of Title 23 of the United States Code; or
 3. Within 750 feet of any strip of land, an interest in which has been acquired by this State for the restoration, preservation, or enhancement of scenic beauty, and which is publicly controlled and maintained, pursuant to Section 319 of Title 23 of the United States Code.
- E. ***“Local zoning authority”*** means a county or municipality authorized by law to zone areas under their respective jurisdiction which has an active zoning authority, as defined and certified by the Planning Division of the Department of Commerce of the State of Indiana.

- F. **“Sign”** means any outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is located within an adjacent area and is visible from any place on the main- traveled way of any portion of an Interstate or Primary highway.
- G. **“Traveled way”** means the portion of the roadway for the movement of vehicles exclusive of shoulders and auxiliary lanes.
- H. **“Erect”** means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or normal maintenance or repair of a sign structure.
- I. **“Safety rest area”** means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.
- J. **“Information center”** means an area or site established and maintained at safety rest areas for the purpose of informing the public of places of interest within the State and providing such other information as the Indiana State Highway Commission may consider desirable.
- K. **“Main-traveled way”** means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- L. **“Visible”** means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

II. SCOPE OF AGREEMENT

This agreement shall apply to all zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way or the Interstate and Federal-Aid Primary Systems, in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of either or both of said systems.

III. STATE CONTROL

The State hereby agrees that, in all areas within the scope of this Agreement, the State shall effectively control, or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays, and devices erected subsequent to the effective date of this Agreement, other than those advertising the sale or lease of the property on which they are located, or activities conducted thereon, in accordance with the following:

- A. In zoned commercial and industrial areas, the State may notify the Secretary as notice of effective control that there has been established within such areas comprehensive zoning which regulates the size, lighting, and spacing of outdoor advertising signs consistent with the intent of the Act and with customary use.
- B. In all other zoned and unzoned commercial and industrial areas, within the scope of this agreement, the criteria set forth below shall apply.

Size of Signs

1. The maximum area for any one sign shall be 1,000 square feet and the maximum height of 25 feet and maximum length of 60 feet, exclusive of any border, trim, ornamental base, apron, supports, embellishments, and other structural members, if the exclusions do not exceed 20 percent of the sign area.

2. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the area affected.
3. A sign structure may contain one or two advertisements per facing, not to exceed the maximum area as defined in paragraph 1 above.
4. Double-faced structures will be permitted with the maximum area being allowed for each facing.

Spacing of Signs

1. On the Interstate System and limited access facilities on the Federal-Aid Primary System:
 - a. After the effective date of this agreement no sign structure shall be erected within 500 feet of another structure on the same side of the highway.
 - b. Outside incorporated municipalities, no structure erected after the effective date of this agreement may be located adjacent to or within 500 feet of an interchange, intersection at grade, or rest area, said 500 feet to be measured along the Interstate or limited access Primary highway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way
2. On other routes on the Federal-Aid Primary System:
 - a. Outside of incorporated municipalities, no sign structure shall be erected after the effective date of the Agreement within 300 feet of another sign structure on the same side of the highway.
 - b. Inside incorporated municipalities, no sign structure shall be erected after the effective date of this Agreement within 100 feet of another sign structure on the same side of the highway.
3.
 - a. The spacing-between-sign structure rules in paragraphs 1 and 2 shall not apply to sign structures separated by a building or other obstruction in such a manner that only one sign structure is visible from any point on the highway at any one time.
 - b. Official and on-premise signs as defined in Section 131(c) of the Act shall not be counted nor shall measurements be made from them for the purposes of determining compliance with spacing requirements.
 - c. The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

Lighting

Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
2. Signs which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled ways of the Interstate or Federal-Aid Primary highway, and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle, are prohibited.

3. No sign shall be so illuminated as to obscure or interfere with the effectiveness of an official traffic sign, device, or signal.
4. All other Indiana laws relating to lighting of signs presently applicable to highways under the jurisdiction of the State of Indiana shall be applicable to signs subject to this Agreement.
5. The State and local political subdivisions shall have full authority under their own zoning laws to zone areas for commercial or industrial activities and the action of the State and local political subdivisions in this regard will be accepted for the purposes of this Agreement. At any time that a political subdivision adopts comprehensive zoning which includes the regulation of outdoor advertising in industrial or commercial areas, control will be subject to subsection A of this section.

IV. INTERPRETATION

The provisions contained herein shall constitute the minimum acceptable standards for effective control of signs, displays, and devices within the scope of this Agreement.

Nothing contained herein shall be construed to abrogate or prohibit the State or units of local government from exercising a greater degree of control of outdoor advertising than that required or contemplated by the Act or from adopting standards which are more restrictive than those in this Agreement.

In the event that the Act is amended, the parties reserve the right to renegotiate this Agreement or to modify it to conform to the amendment.

V. SEPARABILITY

If any provision, clause, sentence or section of this Agreement shall be held void, unconstitutional, or in violation of any existing State statute, all the remaining provisions, clauses, sentences or sections which are not expressly held to be void, unconstitutional, or in violation of any State statute shall be deemed valid and shall continue in full force and effect.

This Agreement shall become effective sixty days after the date of execution.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT AS OF THE FOURTH DAY OF AUGUST 1971.

s/Edgar D. Whitcomb
Governor of Indiana

APPROVED AS TO LEGALITY AND FORM

August 4, 1971 s/John A. Volpe
Secretary
Department of Transportation

s/Sheldon A. Breskow
Deputy Attorney General

State Law

Indiana Code Title 8, Art. 23, Ch. 1. Definitions [for the Department generally]

[Note: Only definitions relevant to outdoor advertising control included here.]

IC 8-23-1-1 Application throughout article

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.112-1989, SEC.5.

IC 8-23-1-7 Application of additional definitions

Sec. 7. The definitions in [IC 36-1-2](#) [Local Government, General Provisions, Definitions of General Applicability] apply to this article.

As added by P.L.18-1990, SEC.165.

IC 8-23-1-9 "Adjacent area"

Sec. 9. "Adjacent area" means an area that is adjacent to and within six hundred sixty (660) feet of the nearest edge of the right-of-way of an interstate or primary highway.

As added by P.L.18-1990, SEC.167.

IC 8-23-1-14.3 "Changeable message sign"

Sec. 14.3. (a) "Changeable message sign" means a sign that satisfies all of the following:

- (1) The message on the sign may be changed mechanically, electronically, or by remote control.
- (2) The static display on the face of the sign:
 - (A) does not display any copy or message that moves, appears to move, or flashes; and
 - (B) lasts at least eight (8) seconds.
- (3) A message change takes no more than two (2) seconds.

(b) The term includes electronic billboards and trimovement signs.

As added by P.L.66-2007, SEC.1.

IC 8-23-1-20 "Directional and other official signs and notices"

Sec. 20. "Directional and other official signs and notices" includes signs and notices pertaining to natural, scenic, and historical attractions that are required or authorized by law and conform to the national standards adopted by the United States Secretary of Commerce under 23 U.S.C. 131(c).

As added by P.L.18-1990, SEC.178.

IC 8-23-1-20.5 "Electronic billboard"

Sec. 20.5. "Electronic billboard" means a programmable sign capable of presenting a large amount of:

- (1) text;
- (2) symbolic imagery; or
- (3) both text and symbolic imagery.

As added by P.L.66-2007, SEC.2.

IC 8-23-1-21 "Erect"

Sec. 21. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish. The term does not include an activity performed as an incident to the change of an advertising message or normal maintenance or repair of a sign structure.

As added by P.L.18-1990, SEC.179.

IC 8-23-1-24 "Information center"

Sec. 24. "Information center" means an area or site established and maintained at safety rest areas for the purpose of informing the public of places of interest within Indiana and providing other information that the department considers desirable.

As added by P.L.18-1990, SEC.182.

IC 8-23-1-25 "Interstate system"

Sec. 25. "Interstate system" means the part of the national system of interstate and defense highways located within Indiana as officially designated by the department and approved by the United States Secretary of Commerce under 23 U.S.C.

As added by P.L.18-1990, SEC.183.

IC 8-23-1-28 "Limited access facility"

Sec. 28. "Limited access facility" means a highway or street designed for through traffic, over, from, or to which owners or occupiers of abutting land or other persons have either no right or easement or a limited right or easement of direct access, light, air, or view because their property abuts upon the limited access facility or for any other reason. The highways or streets may be parkways from which trucks, busses, and other commercial vehicles are excluded or freeways open to use by all customary forms of highway and street traffic.

As added by P.L.18-1990, SEC.186.

IC 8-23-1-29 "Maintain"

Sec. 29. "Maintain" means allow to exist.

As added by P.L.18-1990, SEC.187.

IC 8-23-1-30 "Main-traveled way"

Sec. 30. "Main-traveled way" means the traveled way of a highway on which through traffic is carried. For a divided highway, the term includes the traveled way of each of the separated roadways for traffic in opposite directions. The term does not include frontage roads, turning roadways, or parking areas.

As added by P.L.18-1990, SEC.188.

IC 8-23-1-33 "Primary system"

Sec. 33. "Primary system" means the part of connected main highways as officially designated by the department and approved by the United States Secretary of Commerce under 23 U.S.C.

As added by P.L.18-1990, SEC.191.

IC 8-23-1-35 "Safety rest area"

Sec. 35. "Safety rest area" means an area or site established and maintained within adjacent areas by or under public supervision or control for the convenience of the traveling public.

As added by P.L.18-1990, SEC.193.

IC 8-23-1-38 "Sign"

Sec. 38. "Sign" means an outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, or other thing that is designated, intended, or used to advertise or inform.

As added by P.L.18-1990, SEC.196.

IC 8-23-1-42 "Traveled way"

Sec. 42. "Traveled way" means the part of the roadway for the movement of vehicles. The term does not include shoulders or auxiliary lanes.

As added by P.L.18-1990, SEC.200.

IC 8-23-1-42.5 "Trimovement sign"

Sec. 42.5. "Trimovement sign" means a sign that displays three (3) separate images sequentially by rotating triangular cylinders.

As added by P.L.66-2007, SEC.3.

IC 8-23-1-43 "Unzoned commercial or industrial area"

Sec. 43. (a) "Unzoned commercial or industrial area" means an adjacent area not zoned under state or local statute, rule, or ordinance on which there is located one (1) or more permanent structures for commercial or industrial activities other than a sign or upon which a commercial or an industrial activity is actually conducted, whether or not there is a permanent structure located upon the adjacent area, and the area:

(1) extending six hundred (600) feet beyond the edge of the commercial or industrial activity as determined under subsection (c); and

(2) located along either side of an interstate or a primary highway.

The term does not include land contiguous to an interstate or a primary highway that has been designated as scenic by the state.

(b) The term does not include the following areas:

(1) Within three hundred (300) feet of a building used primarily as a residence, unless the owner of the building consents in writing to the particular commercial use.

(2) Within five hundred (500) feet of the following:

(A) A public park garden.

(B) A recreation area or forest preserve.

(C) A church or school.

(D) An officially designated historic battlefield, museum, or historical monument.

(E) A safety rest or recreation area, publicly owned, controlled, and maintained under 23 U.S.C. 319.

(F) A sanitary or other facility for the accommodation of motorists, publicly owned, controlled, and maintained under 23 U.S.C. 319.

(3) Within seven hundred fifty (750) feet of a strip of land in which an interest has been acquired by the state for the restoration, preservation, or enhancement of scenic beauty that is publicly controlled and maintained under 23 U.S.C. 319.

(c) Distance from a commercial or an industrial activity described under subsection (a):

(1) must be:

(A) measured from the outer edges of the regularly used building, parking lot, storage areas, or processing areas of the commercial or industrial activity; and

(B) parallel to the edge of the pavement of the highway; and

(2) may not be measured from the property line of the commercial or industrial activity, unless the property line is located on an area described in subdivision (1)(A).

As added by P.L.18-1990, SEC.201. Amended by P.L.61-1996, SEC.11.

IC 8-23-1-44 "Urban area"

Sec. 44. "Urban area" means:

(1) an urbanized area designated by the Bureau of the Census;

(2) if an urbanized area lies within more than one (1) state, the part of the area that lies within the boundaries of Indiana; or

(3) an urban place designated by the Bureau of the Census having a population of at least five thousand (5,000) that is not within an urbanized area and is within boundaries cooperatively established by the department and local officials.

As added by P.L.18-1990, SEC.202.

IC 8-23-1-45 "Visible"

Sec. 45. "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity using the highway system.

As added by P.L.18-1990, SEC.203.

IC 8-23-1-47 "Zoned commercial or industrial areas"

Sec. 47. "Zoned commercial or industrial areas" means those areas that are zoned for business, industry, commerce, or trade under a zoning ordinance.

As added by P.L.18-1990, SEC.205.

Indiana Code Title 8, Art. 23, Ch. 20. Regulation of Billboards and Junkyards

IC 8-23-20-1 Agreements with United States Secretary of Commerce

Sec. 1. (a) The department and the United States Secretary of Commerce shall enter into agreements under 23 U.S.C. concerning the regulation of billboards, signs, junkyards, and scrap metal processing areas in areas adjacent to the interstate and primary highway systems. The agreements must conform to the provisions of 23 U.S.C. to ensure that federal funds to Indiana are continued.

(b) An agreement between the state and the United States Secretary of Commerce entered into under 23 U.S.C. 131 must contain the definition of "unzoned commercial or industrial area" found in IC 8-23-1-43. If the state has received from the Secretary a formal notice of a proposed determination to withhold funds from the state because of an asserted unacceptability of the definition, the governor shall modify the definition. The modification may be made during a hearing on the notice held by the Secretary under 23 U.S.C. 131, or, if as a matter of law the Secretary decides to withhold funds prior to a hearing, the governor:

- (1) may modify the definition before a hearing; and
- (2) shall request a hearing under 23 U.S.C. 131.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-2 Form of agreements; negotiation

Sec. 2. The regulatory standards set forth in an agreement described in section 1(a) of this chapter must be consistent with customary use in Indiana. The agreement must be in a form that is in the best interests of the state and may be of a duration and subject to terms and provisions for modification that the governor considers advisable. In negotiating the agreement, the governor shall consider the following factors:

- (1) The actual availability of federal funds.
- (2) The imminence of a sanction against the state for a violation of 23 U.S.C. 131.
- (3) The enactment of an amendment to 23 U.S.C. 131 or the regulations promulgated under 23 U.S.C. 131, or the possibility of an amendment.
- (4) The scope of an agreement entered into by another state with the Secretary under 23 U.S.C. 131.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-3 Determination of legality of Secretary's actions

Sec. 3. The attorney general shall institute proceedings under 23 U.S.C. 131 to obtain a judicial determination of the legality of the determination of the United States Secretary of Commerce if the Secretary makes a final determination to:

- (1) withhold funds from Indiana;
- (2) fail to agree with Indiana as to the size, lighting, and spacing of signs; or
- (3) fail to agree with Indiana as to unzoned commercial or industrial areas in which signs may be erected and maintained.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-4 Signs in adjacent areas; standards

Sec. 4. Signs located in an adjacent area must conform to the standards of size, lighting, and spacing set forth in rules adopted by the department under the provisions of an agreement under section 1 of this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-5 Signs in unzoned and zoned commercial and industrial areas

Sec. 5. Signs located in unzoned commercial or industrial areas and zoned commercial or industrial areas must conform to the standards of size, lighting, and spacing set forth in rules adopted by the department under the provisions of an agreement under section 1 of this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-6 Prohibited signs

Sec. 6. The following signs may not be erected or maintained in an adjacent area:

- (1) Signs that are illegal under state statutes or rules.
- (2) Signs not securely affixed to a substantial structure.
- (3) Signs that attempt or appear to attempt to regulate, warn, or direct the movement of traffic or that interfere with, imitate, or resemble an official traffic sign, signal, or device.
- (4) Signs erected or maintained upon trees, or painted or drawn upon rocks or other natural features.
- (5) Signs that are not consistent with this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-7 Authorized signs

Sec. 7. The following signs may be erected outside of urban areas beyond six hundred and sixty (660) feet of the right-of-way visible from the traveled way of a highway on the interstate or primary system with the intent of a message being read from the traveled way:

- (1) Directional or official signs and notices.

(2) Signs advertising the sale or lease of the property upon which the signs are located.

(3) Signs indicating the name of the business, activities, or profession conducted on the property, or identifying the goods produced or sold, or services rendered on the property.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-8 Directional signs within 200 feet of right-of-way

Sec. 8. A person may not erect or maintain in the right-of-way of a highway in the state highway system, or within two hundred (200) feet of the right-of-way, a sign or device directing or indicating on what highway or route a person should travel to reach a designated place or highway without the written consent of the department. The department may remove a sign or device erected or maintained in violation of this section.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-9 Removal of previously existing nonconforming signs

Sec. 9. (a) A sign lawfully erected in an adjacent area that does not conform to this chapter after June 30, 1968, is not required to be removed until the end of the fifth year after the sign becomes nonconforming.

(b) A sign located beyond six hundred sixty (660) feet of the right-of-way, visible from the traveled way of a highway on the interstate or primary system, that was lawfully erected before July 1, 1976, and does not conform to this chapter is not required to be removed until the end of the fifth year after the sign becomes nonconforming.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-10 Acquisition of nonconforming signs

Sec. 10. The department may acquire and shall pay just compensation for the removal of signs that do not conform to this chapter. A removal by the department or sign owner under this chapter constitutes a taking, and the owner shall be compensated under IC 32-24-1. Compensation shall be paid for the following:

(1) The taking from the owner of a sign of all rights, titles, and interests in the sign, and of the owner's leasehold or other interest in the land.

(2) The taking from the owner of the real property on which the sign is located and of the right to erect and maintain signs on the real property.

As added by P.L.18-1990, SEC.229. Amended by P.L.2-2002, SEC.50.

IC 8-23-20-11 Payment of compensation

Sec. 11. Compensation under section 10 of this chapter shall be paid to a person entitled to compensation upon the presentation to the department of information that the department requires. The claim for compensation must be filed within one hundred eighty (180) days after the removal is completed. The state's share of the compensation shall be paid from funds appropriated under this section.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-12 Compensation determination; civil actions

Sec. 12. If a claimant under section 11 of this chapter and the department do not reach agreement on the amount of compensation to be paid within one hundred twenty (120) days after the claim is filed, the claimant may file a civil action to have the compensation determined. An action under this section shall be filed in a court of general jurisdiction in either the county where the sign and real property are located or in the county in which the claimant resides. The county of residence of a corporation shall be determined under the applicable statutes. An action under this section shall be filed not later than one (1) year after the filing with the department of a claim for compensation under section 10 of this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-13 Enforcement of chapter

Sec. 13. (a) The department shall enforce this chapter.

(b) When the department is notified by a governmental agency of a possible violation of this chapter, the department shall determine whether a violation exists. Whenever the department determines a violation exists, the department shall enter a resolution setting out the nature, extent, and location of the violation and refer the resolution to the attorney general.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-14 Injunctions; criminal proceedings

Sec. 14. Whenever the attorney general receives a resolution under section 13 of this chapter, the attorney general shall commence an action in a court having jurisdiction to enjoin the violation of this chapter. The attorney general may also request the prosecuting attorney of the judicial circuit in which the violation has occurred to institute criminal proceedings against the persons responsible for violation of this chapter. The prosecuting attorney shall institute criminal proceedings if requested to do so by the attorney general.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-15 Zoning powers; limitations

Sec. 15. (a) Subsection (c) does not apply to signs erected before March 15, 1986.

(b) A board, commission, council, governmental body, or political subdivision that has the legal authority to zone land has authority to zone areas for commercial or industrial purposes. Except as provided in subsection (c), a zoning action taken by a body described in this subsection may be taken under this chapter.

(c) A zoning action taken by a body described in subsection (a) will not be accepted under this chapter if the action is:

(1) not part of a comprehensive plan; and

(2) taken primarily to permit the erection of signs in an adjacent area that is outside an urban area and visible from the traveled way of a highway in the interstate or primary highway system.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-16 Removal, taking, and appropriation of signs; limitations

Sec. 16. (a) Subsection (b) does not apply to:

(1) actions taken by the department under this chapter; or

(2) the removal, taking, or appropriation of a sign, display, or device prohibited under section 6 of this chapter.

(b) Before an outdoor advertising sign, display, or device is removed, taken, or appropriated through the use of zoning or another power or authority of the state, a state agency, or political subdivision:

(1) the value of the sign, display, or device shall be determined by the taking authority without the use of an amortization schedule; and

(2) the owners of the sign, display, or device and of the real property upon which the sign, display, or device is situated must be paid full and just compensation for the taking.

As added by P.L.18-1990, SEC.229.

[Statutes pertaining to junkyards not included: 8-23-20-17 through 21]

IC 8-23-20-22 Violations; notice

Sec. 22. (a) A person who violates section 4, 5, or 6 of this chapter commits a Class C infraction. Whenever the department discovers or is given written notice of a violation by a responsible government agency, the department shall give thirty (30) days notice, by certified mail, to the owner of the property upon which the violation exists. If the owner fails to act within thirty (30) days, then each day of maintenance of the violation beginning on the thirty-first day constitutes a separate offense.

(b) A person who violates section 7 of this chapter commits a Class C infraction.

(c) A person who violates section 8 of this chapter commits a Class B misdemeanor. Whenever the department discovers or is given written notice of a violation by a responsible government agency, the department shall give thirty (30) days notice, by certified mail, to the owner of the property upon which the violation exists. If the owner fails to

act within thirty (30) days, then each day of maintenance of the violation beginning on the thirty-first day constitutes a separate offense.

As added by P.L.18-1990, SEC.229. Amended by P.L.1-1991, SEC.84.

IC 8-23-20-23 Federal aid; acceptance

Sec. 23. The department may accept an allotment of funds by the United States, or an agency of the United States, appropriated to carry out 23 U.S.C. 131. The department shall take any necessary action to obtain funds allotted under 23 U.S.C. 131 to receive reimbursement for the federal share of the just compensation paid to owners under sections 10 and 20 of this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-24 Federal aid; appropriation

Sec. 24. The department may not acquire a sign, the real property upon which the sign is situated, a junkyard, or a scrap metal processing facility unless:

- (1) the acquisition costs are eligible for not less than seventy-five percent (75%) federal participation;
- (2) there are sufficient funds appropriated and immediately available to Indiana; and
- (3) the funds have been apportioned by the federal government and notice of the apportionment has been received by the state.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-25 Advertising signs along federally regulated and interstate highways; permits; fees; rules; registration of signs

Sec. 25. (a) The department shall institute a permit system to regulate the erection and maintenance of outdoor advertising signs along:

- (1) the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991; and
- (2) any other highways where control of outdoor advertising signs is required under 23 U.S.C. 131.

(b) Except as provided in subsections (c) and (g) and section 25.5(c) of this chapter, a sign may not be erected, operated, used, or maintained in areas described in subsection (a) unless the owner of the sign has obtained a permit under this section.

(c) A permit is not required to erect, operate, use, or maintain the following signs:

- (1) Directional or official signs and notices.
- (2) Signs advertising the sale or lease of the property on which the sign is located.
- (3) Signs that primarily indicate:

(A) the name of the business, activity, or profession conducted;

(B) the types of goods produced or sold; or

(C) the services rendered;

on the property on which the sign is located.

(d) Signs in existence on July 1, 1993, and subject to this section:

(1) must comply with the registration system described in subsection (h); and

(2) are subject to the permit requirement after the department has made the determination described in subsection (g).

(e) The department shall adopt rules under IC 4-22-2 to carry out this section. Rules adopted under this section may be no broader than necessary to implement 23 U.S.C. 131 and 23 CFR 750.

(f) In addition to the requirements of subsection (e), rules adopted under this section must provide the following:

(1) A list of all roadways subject to the permit requirement.

(2) A procedure to appeal adverse determinations of the department under IC 4-21.5, including provisions for judicial review under IC 4-21.5.

(3) The fees that may be charged by the department as follows:

(A) A one-time fee of one hundred dollars (\$100) per structure that must accompany the permit application.

(B) A one-time fee of forty dollars (\$40) per structure for transfer of a sign and permit to any subsequent transferee. The fee is due to be paid not later than one hundred eighty (180) days after the effective date of the transfer. If the transfer fee is not timely paid, the department may charge a late fee of not more than four hundred dollars (\$400).

(C) A one-time fee of one hundred dollars (\$100) per structure for each request for modification of a sign and an addendum to the permit issued by the department.

(D) A one-time fee of twenty-five dollars (\$25) per structure, if needed to obtain any replacement permit tag. The fee is due to be paid not later than sixty (60) days after the date that notice is sent by the department that a replacement tag is needed. The department may charge a late fee of not more than four hundred dollars (\$400) if:

(i) the fee is not timely paid; or

(ii) the replacement tag is not fastened to the sign within sixty (60) days after the replacement tag is received from the department.

(E) A late fee not to exceed four hundred dollars (\$400) if written notice of the current mailing address and electronic mail address of the owner of the property on which the sign is located is not received by the department within:

(i) one hundred eighty (180) days of the sign owner's actual knowledge of any sale of an ownership interest in the property; or

(ii) one hundred twenty (120) days after the sign owner's actual knowledge of other changes to any property owner's current mailing address or electronic mail address.

(4) That a permit may not be issued for a sign erected in an adjacent area after January 1, 1968, unless:

(A) the sign is erected in an area described in section 5 of this chapter; or

(B) the permit is a conditional permit issued under subdivision (6).

(5) That a permit may not be issued for a sign erected after June 30, 1976, outside of urban areas, beyond six hundred sixty (660) feet of the right-of-way, visible from the traveled way, and erected with the purpose of a message being read from the traveled way, unless:

(A) the sign is erected in an area described in section 5 of this chapter; or

(B) the permit is a conditional permit issued under subdivision (6).

(6) For the issuance of a conditional permit for a nonconforming sign that has not been acquired under section 10 of this chapter. A conditional permit issued under this subdivision may be revoked if the department subsequently acquires the sign.

(7) That the department is granted the right to enter the real property on which a sign for which a permit under this section has been applied for or issued to perform reasonable examinations and surveys necessary to administer the permit system.

(8) The department may revoke any permit when it is found that the permittee has provided false or misleading information and that such a finding may be cause to subsequently refuse to issue a permit.

(9) Any other provisions necessary to:

(A) administer this section; or

(B) avoid sanctions under 23 U.S.C. 131.

(g) A sign that is subject to and complies with the registration system described in subsection (h) may not be declared unlawful until the later of the following:

(1) The department has made a determination of permit eligibility under this section.

(2) December 31, 1993.

(h) A separate application for registration must be submitted to the department for each structure defined in subsection (d) and must:

(1) be on a form furnished by the department;

(2) be signed by the applicant or an individual authorized in writing to sign for the applicant;

(3) provide information concerning the size, shape, and nature of the advertising sign, display, or device;

(4) provide the sign's actual location with sufficient accuracy to enable the department to locate the sign; and

(5) include a one-time registration fee of twenty-five dollars (\$25).

- (i) A sign that is not registered before January 1, 1994, is a public nuisance subject to section 26 of this chapter.
- (j) Each registrant shall fasten to each advertising sign or device a label or marker provided by the department that must be plainly visible from the traveled way.

As added by P.L.112-1993, SEC.1. Amended by P.L.66-2007, SEC.4; P.L.222-2017, SEC.1.

IC 8-23-20-25.5 Changeable message signs; rules; permits; erection; compliance

Sec. 25.5. (a) The department may adopt rules under IC 4-22-2 that provide for the issuance of a permit for a changeable message sign erected, operated, used, or maintained in areas described in section 25(a) of this chapter.

(b) A permit authorized by this section may not otherwise violate state or federal law or local ordinances or regulations.

(c) Until the department adopts rules under this section, a person may erect, operate, or use a changeable message sign in an area described in section 25(a) of this chapter, subject to any other requirements of state or federal law or local ordinances or regulations.

(d) This subsection applies to a changeable message sign erected after the owner or operator receives a permit from the department. Notwithstanding any rules adopted by the department after the issuance of the permit, a changeable message sign that is in compliance with the rules in effect at the time a permit is granted for the changeable message sign is considered to be in compliance with the department's rules.

As added by P.L.66-2007, SEC.5.

IC 8-23-20-25.6 Obstruction or removal of outdoor advertising sign; elevation or relocation of outdoor advertising sign; compensation; notice of project

Sec. 25.6. (a) As used in this section, "market area" means a point within the same county as the prior location of an outdoor advertising sign.

(b) This section applies only to an outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

(c) If an outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

(1) elevate a conforming outdoor advertising sign; or

(2) relocate a conforming or nonconforming outdoor advertising sign to a point within the market area, if the new location of the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.

(d) If within one (1) year of an action being filed under IC 32-24, an owner can demonstrate that the owner has made good faith efforts to relocate a conforming or nonconforming outdoor advertising sign to a conforming location within the market area, but the owner has not obtained a new conforming location, the outdoor advertising sign will be treated as if it cannot be relocated within the market area. Notwithstanding subsection (e) and IC 8-23-20.5, if an outdoor advertising sign cannot be elevated or relocated to a conforming location and elevation within the market area, the removal or relocation of the outdoor advertising sign constitutes a taking of a property interest and the owner must be compensated under section 27 of this chapter.

(e) The county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

(f) The elevated outdoor advertising sign or outdoor advertising sign to be relocated, to the extent allowed by federal or state law, may be modified:

(1) to elevate the sign to make the entire advertising content of the sign visible;

(2) to an angle to make the entire advertising content of the sign visible; and

(3) in size or material type, at the expense of:

(A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or

(B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.

(g) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.

(h) At least twelve (12) months before the filing of an eminent domain action to acquire an outdoor advertising sign under IC 32-24, the department must provide written notice to the representative of the sign owner identified on the outdoor advertising sign permit that is on file with the Indiana department of transportation that a project has been planned that may impact the outdoor advertising sign.

(i) If the agency fails to provide notice required by subsection (h) within twelve (12) months of an action being filed against an owner under IC 32-24, the owner may receive reasonable compensation for losses associated with the failure to receive timely notice. However, failure to send notice required by subsection (h) is not a basis of an objection to a proceeding under IC 32-24-1-8.

As added by P.L.222-2017, SEC.2. Amended by P.L.97-2022, SEC.1; P.L.178-2022(ts), SEC.10.

IC 8-23-20-25.7 Rules

Sec. 25.7. The department may adopt emergency rules under IC 4-22-2 to implement this chapter. A rule adopted under this section expires only with the adoption of a new superseding rule.

As added by P.L.97-2022, SEC.2.

IC 8-23-20-26 Signs in violation of chapter; public nuisance; notice; remedies

Sec. 26. (a) A sign that is in violation of this chapter or rules adopted under this chapter is a public nuisance.

(b) If the department determines that a public nuisance exists, the department shall give notice under subsection (c) to:

- (1) the owner of the property on which the public nuisance is located; and
- (2) the owner of the public nuisance, if the owner of the public nuisance can be determined by reasonable inquiry.

(c) The department shall give notice of the determination under IC 4-21.5-3-6. The notice must include the following information:

- (1) The name and address of the owner of the property or the owner of the sign.
- (2) A description of the sign, including its location, that has been determined to be a public nuisance under this section.
- (3) That the sign has been determined to be a public nuisance and the reasons for the determination.
- (4) That the person receiving the notice has thirty (30) days after the date on which the notice was sent to:
 - (A) remove the sign from the property on which the sign is located; or
 - (B) file a petition for review under IC 4-21.5.
- (5) That if after thirty (30) days the sign has not been removed or a petition for review has not been filed, the department will remove the sign or cause the sign to be removed.
- (6) That if the department removes the sign or causes the sign to be removed, the person receiving notice will be charged the cost of the removal of the sign, including all administrative costs, and a lien will be imposed on the property under subsection (e).
- (7) Any other information the department determines to be necessary.

(d) To qualify for judicial review under IC 4-21.5-5 of a final agency action taken under this section, the person filing the petition for review must post a bond of five thousand dollars (\$5,000) with the clerk of the court in which the petition for review is filed. If the court determines that the request for review was:

- (1) frivolous;
- (2) in bad faith; or
- (3) taken for the primary purpose of delaying the removal of a sign that is in violation of this chapter;

the bond shall be forfeited to the state highway fund.

(e) If after:

- (1) thirty (30) days following the date on which the notice was sent under subsection (c):
 - (A) a petition for review of the determination has not been filed; and
 - (B) the sign that is determined to be a public nuisance has not been removed; or

(2) a petition for review has been filed, a final determination that the sign is a public nuisance has been made, and the sign that is determined to be a public nuisance has not been removed;

the department shall enter the property and remove the public nuisance or cause the public nuisance to be removed. The department shall bill the owner of the property on which a sign that is determined to be a public nuisance is located for the cost of the removal. If the bill remains unpaid for at least thirty (30) days following the date on which the bill was issued, the department shall file the bill with the clerk of the circuit court of the county in which the property is located. The clerk shall immediately enter the bill on the judgment docket against the owner of the property as a lien against the property. The lien may be foreclosed in the same manner as other judgment liens, without relief from valuation or appraisal laws or right of redemption. Each owner of the property on which a sign that is determined to be a public nuisance is located is jointly and severally liable for the costs of the removal of the sign under this subsection.

(f) A lease or other contract for the display of a sign that is determined to be a public nuisance under this section is against public policy and may not be enforced. An owner from whom the costs of removing a sign that is determined to be a public nuisance are collected under subsection (e) is entitled to contribution from any other owners of the property.

As added by P.L.112-1993, SEC.2.

IC 8-23-20-27 Taking of outdoor advertising sign; compensation

Sec. 27. (a) This section applies to a taking of an outdoor advertising sign through:

- (1) the power of eminent domain under IC 32-24; or
- (2) a change that prohibits a conforming outdoor advertising sign from being elevated or relocated under section 25.6 of this chapter.

(b) As used in this section, "condemnor" means:

- (1) any person authorized by Indiana law to exercise the power of eminent domain; and
- (2) an agency of the state that must provide compensation to the owner of a conforming outdoor advertising sign under section 25.6 of this chapter.

(c) As used in this section, "outdoor advertising sign" means a sign that is located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

(d) A condemnor that acquires an outdoor advertising sign and its associated rights under this section shall pay full and just compensation to the owner of the outdoor advertising sign in an amount equal to the fair market value of the interests associated with the outdoor advertising sign, including, but not limited to, leasehold interests and access rights.

(e) An appraiser shall calculate the fair market value by considering all valuation approaches based upon the standards governing recognized valuation approaches to fair market value.

As added by P.L.97-2022, SEC.3.

IC 8-23-20.5 Chapter 20.5. Relocation of Conforming Billboards

IC 8-23-20.5-1 Applicability of chapter

Sec. 1. This chapter applies to an outdoor advertising sign that is eligible to be relocated as a conforming sign under IC 8-23-20-25.6(c) and IC 8-23-20-25.7.

As added by P.L.97-2022, SEC.4.

IC 8-23-20.5-2 "Market area"

Sec. 2. As used in this chapter, "market area" has the meaning set forth in IC 8-23-20-25.6(a).

As added by P.L.97-2022, SEC.4.

IC 8-23-20.5-3 Special exception or variance; compensation by county or municipality; eminent domain action

Sec. 3. (a) If a county or municipality either:

- (1) subject to IC 8-23-20-10, does not amend its zoning ordinance as necessary to provide for a special exception to the zoning ordinance for the relocation of an outdoor advertising sign; or
- (2) does not approve a variance to the zoning ordinance filed by the outdoor advertising sign's owner that conforms to the filing requirements;

the county or municipality is responsible for the payment of full and just compensation for the outdoor advertising sign under IC 8-23-20-27, including any costs and fees associated with a variance application, if applicable, to the outdoor advertising sign's owner.

(b) A county or municipality's consideration of a special exception or variance may not be a basis to delay the appointment of appraisers under IC 32-24-1-9.

(c) If a county or municipality has not approved the relocation of an outdoor advertising sign located within its jurisdiction before the date an action under IC 32-24 is filed, the county or municipality must be named as a party to the action.

As added by P.L.97-2022, SEC.4.

IC 8-23-20.5-4 Outdoor advertising signs incapable of relocation; appraisal

Sec. 4. (a) If an outdoor advertising sign cannot be relocated within the market area, a court presiding over an action under IC 32-24 shall order, subject to IC 32-24-1-9:

- (1) if an appraisal has not already been submitted to the court, an appraisal; or
- (2) if an appraisal has already been submitted to the court, a new appraisal;

with instructions to the appraisers that the outdoor advertising sign is not capable of relocation and must be appraised using the method described in IC 8-23-20-27.

(b) If a new appraisal is ordered under subsection (a), the new appraisal may not affect any possession rights obtained under IC 32-24-1-10.

(c) If a new appraisal is ordered under subsection (a), any party to the action may file exceptions to the new appraisal with the court not later than forty-five (45) days after the appraisal report is mailed.

As added by P.L.97-2022, SEC.4.

IC 8-23-20.5-5 Removal of outdoor advertising sign

Sec. 5. The following apply to the removal of an outdoor advertising sign:

(1) The removal of an outdoor advertising sign by the outdoor advertising sign's owner to allow for construction may not be considered a waiver of the owner's rights under this chapter.

(2) An outdoor advertising sign must be removed by the owner once the amount of damages assessed in the appraisal is deposited with the court pursuant to IC 32-24-1-10.

(3) If the outdoor advertising sign is removed by the owner, the owner is responsible for the cost of the removal, subject to assistance provided under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655).

(4) If an outdoor advertising sign is removed by the condemnor, the condemnor is responsible for the cost of the removal.

As added by P.L.97-2022, SEC.4.

IC 8-23-20.5-6 Rules

Sec. 6. The department may adopt emergency rules under IC 4-22-2 to implement this chapter. A rule adopted under this section expires only with the adoption of a new superseding rule.

As added by P.L.97-2022, SEC.4.

APPENDIX V. State Administrative Code

Title 105, Art. 7: Permits for Highways; Rule 4. Signs

105 IAC 7-4-1 Purpose of rule for signs

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 8-23-20

Sec. 1. This rule establishes that the department is authorized, pursuant to applicable federal law and state law, to institute and impose such requirements and restrictions as may be necessary to effectively control the erection, repair, and maintenance of signs that are visible from control routes in Indiana.

(Indiana Department of Transportation; 105 IAC 7-4-1; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR 105170337FRA)

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

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 though 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 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.

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

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

(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.

(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.

(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.

(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.

(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.

(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].

(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.

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

(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.

(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.

(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.

(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.

(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.

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

(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.

(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.

(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.

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

(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.

(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.

(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.

(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)

105 IAC 7-4-3 Content of applications; incomplete applications; approval or denial of permits; effect of false or misleading information or repeated violation of permit terms

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 4-21.5; IC 8-23-20

Sec. 3. (a) A separate application for a permit shall be made for each sign on a form furnished by the department or through the electronic permitting system. The application must be verified and include, at a minimum, the following information:

- (1) The complete name and address of the applicant.
- (2) The original signature of the applicant, unless the applicant is using the electronic permitting system.
- (3) The proposed location of the sign.
- (4) The complete legal name and address of the property owner, as well as an accurate and complete description of the specific property interest held by the property owner in that real estate (for example, fee simple, lessee, or easement holder).

(5) A statement of whether the sign is located within an incorporated municipality or within the municipality's extraterritorial jurisdiction.

(6) The original signature of the property owner or its authorized representative on the accompanying affidavit in form and substance satisfactory to the department, demonstrating a consent to:

(A) the erection of the sign; and

(B) the right of entry from time to time by employees or authorized agents of the department on the real estate where the sign is located for purposes of inspection or removal of the sign; and in lieu of the affidavit signed by the property owner contemplated by this subdivision, the applicant may execute and submit an affidavit in form and substance satisfactory to the department, representing to the department:

(i) that the applicant made a reasonable request to obtain the executed affidavit from the property owner, but the applicant's request was refused;

(ii) that the applicant has the legal right to erect the sign, based upon its contractual documentation with the property owner;

(iii) that the applicant notified the property owner of the right of entry from time to time by employees or authorized agents of the department on the real estate where the sign is located for purposes of inspection or removal of the sign; and

(iv) the correct name, mailing address, and electronic mail address of the property owner.

Upon receipt of the affidavit executed by the applicant under this subdivision, the department may require the applicant to provide additional information or documentation verifying the representations therein.

(7) A letter or other document signed by an authorized representative of the local governmental entity that provides the current zoning applicable to the sign's location. In lieu of the letter or other document from the local governmental entity contemplated by this subdivision, the applicant may execute and submit an affidavit in form and substance satisfactory to the department, representing to the department that:

(A) the applicant made a reasonable request to obtain the executed letter or other document on behalf of the local governmental entity, but the applicant's request was refused; and

(B) the applicant has verified that the zoning is appropriate for the erection of the sign, and is also representing to the department what the current zoning classification is for the real estate upon which the sign would be located.

Upon receipt of a letter or other document signed by an authorized representative of the local governmental entity or the affidavit executed by the applicant under this subdivision, the department may require the applicant to provide additional information or documentation verifying the information or representations therein.

(8) Information that details how and the specific location on such real estate at which the sign will be erected and maintained.

(9) Any other information or documentation reasonably related to the application that is required by the department. The application shall be completed accurately by the applicant, or by a representative duly authorized in writing to act for the applicant, and shall also describe and set forth the size, shape, and the nature of the proposed sign.

(b) An incomplete 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. Otherwise, all documents included with an incomplete application shall be returned to the applicant (but not sooner than fifteen (15) days after the date upon which it was submitted) without being processed, along with a written explanation of the reason for its return, and the application fee shall be returned by the department. The return of an incomplete application and any accompanying materials without processing in accordance with this rule is not a final administrative action subject to appeal. If an application is withdrawn or returned for any reason, and the applicant chooses to resubmit the application, the subsequently filed application shall be processed as a new application as of the date it is received by the department with a new application number and it shall be subject to the payment of another application fee.

(c) The department shall review each application on the basis of its qualifications as of the date received by the department. For example, any qualifying commercial or industrial activity and appropriate zoning that is required for approval must exist on the date the application is received. If the permit is approved by the department, written notice of this fact and the permit tag shall be sent to the applicant. Any denial of a permit by the department shall be in writing, accompanied by an explanation of the rationale for the denial, and shall be sent to the applicant by U.S. certified mail. If the permit is denied, the applicant may appeal this denial by delivering a written notice of the appeal to the department in accordance with the applicable time period set forth in IC 4-21.5 and in compliance with the requirements of section 12(c) of this rule. After an appeal is delivered, the applicant shall be afforded the opportunity for a hearing under IC 4-21.5 and IC 8-23-20.

(d) The permittee or its authorized representative shall have the right to change the advertising copy on the sign for which the permit was issued without payment of any additional fee to the department and no approval by the department is required for any such change.

(e) The department shall have authority, thirty (30) days after notice in writing to the permittee, to revoke any permit issued under this rule where the application for the permit contains false or misleading information or where the permittee has violated any provision of this rule.

(f) The department may subsequently refuse to issue any sign permits to an applicant for a period not to exceed two (2) years from the date of its decision, if:

- (1) the applicant or any owner, shareholder, officer, representative, or employee thereof intentionally provided false or misleading information on a permit application or modification request for an addendum within the previous two (2) years; or
- (2) there are repeated substantive violations by the permittee of the general provisions and special provisions that are attached to the permits held by the permittee.

Before taking any action under this subsection, the department will afford the applicant or permittee an opportunity to meet and explain why this particular information had been provided to the department or to explain the circumstances that resulted in the repeated violation of these provisions.

(g) The issuance of the permit shall in no way imply the department's approval of, or be intended to influence any action pending before a local board, commission, or agency.

(h) All modification requests for an addendum to an existing permit for a sign shall comply with section 13(5) or 14(a) of this rule.

105 IAC 7-4-4 Documentation evidencing consent of property owner; transfer of ownership of the sign

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 4. (a) It is unlawful for any sign to be erected without the lawful permission or consent of the property owner. Any sign so erected is an illegal sign and any permit for such sign shall be revoked by the department.

(b) The applicant for any sign permit shall provide to the department written evidence, in affidavit form and in substance similar to section 3(a)(6) of this rule or otherwise reasonably satisfactory to the department, that the property owner has consented to the erection of the sign at that location. Failure of the applicant to do so will result in the department denying that application.

(c) In the event the sign or the permit for the sign is sold by the permittee, the permittee or transferee shall complete and submit to the department information about the transfer and the transferee on a form prescribed by the department. This form shall be accompanied by a transfer fee in the amount of forty dollars (\$40) and is due within one hundred eighty (180) days of the effective date of the transfer. Except as provided in this subsection:

(1) transfers of ownership of a sign that have occurred and for which equivalent information about the transfer and the transferee have been provided to the department's reasonable satisfaction prior to the adoption date of this subsection shall not require the submission of a transfer form or the payment of a transfer fee; and

(2) transfers of ownership of a sign that have occurred prior to the adoption date of this subsection, but for which equivalent information about the transfer and the transferee have not been provided to the department's reasonable satisfaction, shall submit a transfer form within one (1) year of the adoption date of this subsection and pay a transfer fee in the amount of forty dollars (\$40). If any transfer form and transfer fee required by this subdivision is not timely received by the department, then the permittee and the transferee shall jointly and severally owe the department a late fee of one hundred dollars (\$100) per month from the due date of such form and fee until they are both received by the department, but subject to a maximum late fee of four hundred dollars (\$400) for any particular sign. Failure of the permittee or the transferee to submit this transfer form and to pay this transfer fee in a timely manner shall be a sufficient ground for the department to revoke any permit for that sign, but the permittee or the transferee may prevent this revocation by submitting the completed transfer form and paying the transfer fee and all late fees within thirty (30) days of the date of the department's revocation notice.

(Indiana Department of Transportation; 105 IAC 7-4-4; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-5 Changeable message signs

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-20-25; IC 8-23-20-25.5

Sec. 5. (a) Only a conforming sign may be modified to a changeable message sign. A nonconforming sign may not be modified to a changeable message sign under any circumstances.

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

(1) A single face sign.

(2) A V-shaped sign.

(3) A back-to-back sign.

A stacked sign or a side-by-side sign is not allowed as a changeable message sign.

(c) The permittee shall provide the department with up to two (2) contact persons and phone numbers for every changeable message sign. The contact persons must have the ability and authority to make modifications to the display and lighting levels upon request by the department. The department may direct the permittee to disable the changeable message sign:

(1) in cases of emergency; or

(2) when the contact persons do not respond to a department request relating to a malfunction within forty-eight (48) hours.

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

(1) impairs the vision of the driver of any motor vehicle; or

(2) otherwise interferes with the operation of a motor vehicle; then upon request from the department, the permittee shall take appropriate corrective action to fix the problem or cause the sign to be frozen in a dark or blank position within twelve (12) hours. Failure to take such appropriate corrective action within forty-eight (48) hours after a department request to do so may result in revocation of the permit for this sign.

(e) Changeable message signs must possess and utilize a light sensing device with automatic dimming capabilities to adjust the brightness of the sign, so that the maximum luminescence level is not more than three-tenths (0.3) foot candles over ambient light measured at a distance of:

(1) one hundred fifty (150) feet for those sign faces less than or equal to three hundred (300) square feet;

(2) two hundred (200) feet for those sign faces greater than three hundred (300) square feet, but less than or equal to three hundred seventy-eight (378) square feet;

(3) two hundred fifty (250) feet for those sign faces greater than three hundred seventy-eight (378) square feet, and less than six hundred seventy-two (672) square feet; or

(4) three hundred fifty (350) feet for those sign faces equal to or greater than six hundred seventy-two (672) square feet, but sign face area cannot exceed one thousand (1,000) square feet. In addition to the requirements in subdivisions (1) through (4), signs under this subsection shall be configured to default to a static display or freeze the sign in a dark or blank position in the event of a malfunction.

(f) A changeable message sign shall be operated with systems and monitoring in place to either turn the display off or show a full black image in the event of a malfunction.

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

(Indiana Department of Transportation; 105 IAC 7-4-5; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-6 Permit required before erection of sign; time to erect; multiple conflicting applications

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 6. (a) A person or entity shall have an existing permit from the department for the sign before erecting, repairing, or maintaining the sign. Any sign erected, repaired, or maintained without an existing permit from the department for that sign is an illegal sign. The department may deny any application for a permit for a sign that is submitted after

erection of the sign had been started or completed. The department may send the applicant a separate written notice requiring the removal of any such sign within thirty (30) days after the date of such notice.

(b) The erection of the proposed sign must be completed within three hundred sixty-five (365) days of the date of issuance of the permit, or the permit shall be revoked and the uncompleted sign shall be removed at the permittee's sole expense. No extension of time shall be granted by the department.

(c) For any sign constructed and registered on or before December 31, 1993, the department shall make a determination of the registered sign's eligibility for a permit as of the date the registration form was submitted to the department. If the department determines the registered sign is eligible for a permit, the department shall issue a legal nonconforming permit or a legal conforming permit based upon the information in the registration form. If the determination for a legal nonconforming permit is made and the sign owner has documentation to demonstrate a legal conforming permit should be issued, the sign owner shall have ninety (90) days from the date of the eligibility determination to provide documentation to the department. If the documentation submitted to the department is found to be inadequate to support a legal conforming permit, the legal nonconforming permit determination shall be final. If the department determines the registered sign is not eligible for a permit, then the registered sign is a public nuisance and is subject to removal.

(d) When multiple permit applications are received for proposed signs at the same site or at sites that, if both permits were granted, would conflict with the spacing criteria in this rule, priority shall be given in the order the applications were received by the department. If an application is returned to an applicant because it is not complete or has incorrect information, the application loses its priority position. The department will hold an application, without taking any further action on it, if it is for the same site as, or for a conflicting site with that of an application that the department previously received and that has not been denied. The department's hold will continue until the department makes a final decision on the previously received application and all appeals relating thereto have been concluded, or until the department returns the previously received application to its applicant. The department will notify the subsequent applicant in writing or through the electronic permitting system that the subsequent application is being held because an application for the same site or for a conflicting site was previously received.

(e) Whenever a spacing or other conflict exists, an application for a proposed sign and an existing sign constructed on or before December 31, 1993, which was timely registered under state law, but for which a valid permit has not been issued, the department shall make a determination of the registered sign's eligibility for a permit. If the department determines that the registered sign is eligible for a permit, the department shall issue a permit for the registered sign and deny the application for the proposed sign. If the department determines that the registered sign is not eligible for a permit, then the registered sign is a public nuisance and subject to removal, and the department shall consider the application for the proposed sign.

(Indiana Department of Transportation; 105 IAC 7-4-6; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-7 Application and fee

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20-25

Sec. 7. (a) Each application for a permit shall be accompanied by an application fee of one hundred dollars (\$100). If the application is approved, the applicant will be notified by U.S. mail, electronic mail, or through the electronic permitting system. If the application is denied, the applicant will be notified by U.S. certified mail. No refund of the application fee will be made after an application for a permit has been received by the department.

(b) Each modification request for an addendum to the permit that is submitted under section 13(5) or 14(a) of this rule shall be accompanied by an addendum fee of one hundred dollars (\$100). If the addendum is approved, the applicant will be notified by U.S. mail, electronic mail, or through the electronic permitting system. If the modification request is denied, the applicant will be notified by electronic mail or U.S. certified mail. No refund of any portion of the addendum fee will be made after a modification request for an addendum has been received by the department.

(Indiana Department of Transportation; 105 IAC 7-4-7; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-8 Permit identification number for signs; fastening to signs

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 8. (a) Each permit issued by the department shall be assigned a separate identification number, and it shall be the duty of each permittee to fasten to each sign the permit tag provided by the department in a location with the permit number plainly facing the control route and visible from the right-of-way of the control route. In the event the most recent version of the department's permit tag is not available to be attached to the sign, a replacement permit tag shall be obtained from the department by the permittee's submission of a written request to the department and the payment of a replacement fee in an amount determined by the department, but not to exceed twenty-five dollars (\$25). The replacement permit tag shall be fastened to the sign as provided in this subsection.

(b) A permit tag is issued for a particular sign at its current location and a permit tag may not be moved to or used for any other sign or location.

(c) If the department changes its permit tags to a new design because of federal law or state law and sends written notice of that fact to the permittee, the permittee shall promptly submit a written request for the newly designed permit tag, pay the replacement fee in an amount determined by the department, but not to exceed twenty-five dollars (\$25), and, upon receipt, shall fasten the newly designed permit tag as provided in subsection (a).

(d) If the department determines that a sign does not have the current design of the permit tag fastened and visible in accordance with subsection (a), the department may send written notice to the permittee that requires such permit tag to be so fastened and visible. If a replacement permit tag is needed, the permittee shall:

(1) submit a written request for a replacement permit tag within sixty (60) days of the department's notice; and

(2) fasten the replacement permit tag as provided in subsection (a) within sixty (60) days of receiving such tag from the department.

(e) The permittee shall owe the department a fee of one hundred dollars (\$100) per month from the date that any action should have been taken by the permittee under subsection (d)(1) or (d)(2), but subject to a maximum fee of four hundred dollars (\$400) for any particular sign. Failure of the permittee to timely fasten the current design of the permit tag to the sign as provided in subsection (a) after receiving the department's written notice to do so shall be a sufficient ground for the department to revoke any permit for the sign, but the permittee may prevent this revocation by fastening the permit tag to the sign in an appropriate manner and paying all fees under this subsection within thirty (30) days of the date of the department's revocation notice.

(Indiana Department of Transportation; 105 IAC 7-4-8; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-9 Territory to which article applies; entries for examinations and surveys

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 9. (a) As of July 1, 2018, the current list of control routes subject to this rule are:

Route Name	From	To	County
I-64	All plus Ramps and Connectors		
I-65	All plus Ramps and Connectors		
I-69	All plus Ramps and Connectors		
I-70	All plus Ramps and Connectors		
I-74	All plus Ramps and Connectors		
I-80	All plus Ramps and Connectors		
I-90	All plus Ramps and Connectors		
I-94	All plus Ramps and Connectors		
I-265	All plus Ramps and Connectors		
I-275	All plus Ramps and Connectors		
I-465	All plus Ramps and Connectors		
I-469	All plus Ramps and Connectors		
I-865	All plus Ramps and Connectors		
U.S. 6	All		
U.S. 6	I-80	Porter Co. Line	Lake
U.S. 6	Lake Co. Line	U.S. 6	Porter
U.S. 6	Porter Co. Line	S. 900 W.	LaPorte
U.S. 6	LaPorte Co. Line	Marshall Co. Line	St. Joseph
U.S. 6	St. Joseph Co. Line	Elkhart Co. Line	Marshall
U.S. 6	U.S. 33	Noble Co. Line	Elkhart
U.S. 6	Marshall Co. Line	U.S. 33	Elkhart
U.S. 6	Elkhart Co. Line	DeKalb Co. Line	Noble
U.S. 6	Noble Co. Line	Ohio State Line	DeKalb
U.S. 12	Michigan State Line	S.R. 212	
U.S. 12	Bridge Street	Vermont Street in Hammond	
U.S. 12	Michigan State Line	Porter Co. Line	LaPorte
U.S. 12	LaPorte Co. Line	Town of Pines City Limit	Porter
U.S. 12	Tremont Road	Lake Co. Line	Porter
U.S. 12	Porter Co. Line	Rhode Island Street	Lake
U.S. 12	Rhode Island Street	Illinois State Line	Lake
U.S. 20	All		
U.S. 20	U.S. 12	Columbus Drive	Lake
U.S. 20	Porter Co. Line	U.S. 12	Lake
U.S. 20	Lake Co. Line	LaPorte Co. Line	Porter
U.S. 20	Porter Co. Line	I-94	LaPorte
U.S. 20	U.S. 31 North Juncture	Elkhart Co. Line	St. Joseph
U.S. 20	St. Joseph Co. Line	LaGrange Co. Line	Elkhart
U.S. 20	Elkhart Co. Line	Steuben Co. Line	LaGrange
U.S. 24	All		
U.S. 24	Illinois State Line	Jasper Co. Line	Newton

U.S. 24	Newton Co. Line	White Co. Line	Jasper
U.S. 24	Jasper Co. Line	Cass Co. Line	White
U.S. 24	White Co. Line	Miami Co. Line	Cass
U.S. 24	Cass Co. Line	Wabash Co. Line	Miami
U.S. 24	Miami Co. Line	Huntington Co. Line	Wabash
U.S. 24	Wabash Co. Line	Whitley Co. Line	Huntington
U.S. 24	Huntington Co. Line	Allen Co. Line	Whitley
U.S. 24	Whitley Co. Line	I-69	Allen
U.S. 24	I-469	Ohio State Line	Allen
U.S. 27	S.R. 3	Ohio State Line	
U.S. 27	Ohio State Line	Wayne Co. Line	Union
U.S. 27	Union Co. Line	Randolph Co. Line	Wayne
U.S. 27	Wayne Co. Line	Jay Co. Line	Randolph
U.S. 27	Randolph Co. Line	Adams Co. Line	Jay
U.S. 27	Jay Co. Line	U.S. 224	Adams
U.S. 27	U.S. 224	Allen Co. Line	Adams
U.S. 27	Adams Co. Line	I-469	Allen
U.S. 30	All		
U.S. 30	Illinois State Line	Porter Co. Line	Lake
U.S. 30	Lake Co. Line	S.R. 2	Porter
U.S. 30	S.R. 2	S.R. 49	Porter
U.S. 30	S.R. 49	LaPorte Co. Line	Porter
U.S. 30	Porter Co. Line	Starke Co. Line	LaPorte
U.S. 30	LaPorte Co. Line	Marshall Co. Line	Starke
U.S. 30	Starke Co. Line	Kosciusko Co. Line	Marshall
U.S. 30	Marshall Co. Line	Whitley Co. Line	Kosciusko
U.S. 30	Kosciusko Co. Line	Allen Co. Line	Whitley
U.S. 30	Whitley Co. Line	I-69	Allen
U.S. 30	I-469	Ohio State Line	Allen
U.S. 31	Michigan State Line	I-465 on south side of Indianapolis to Pennsylvania Avenue, on to Madison Avenue, to East Street, to U.S. 31 at I-465	
U.S. 31	Kentucky State Line	I-65 Ramp 002b	Clark
U.S. 31	I-65	Johnson Co. Line	Bartholomew
U.S. 31	I-465	Tipton Co. Line	Hamilton
U.S. 31	Hamilton Co. Line	Howard Co. Line	Tipton
U.S. 31	Tipton Co. Line	Miami Co. Line	Howard
U.S. 31	Howard Co. Line	Fulton Co. Line	Miami
U.S. 31	Miami Co. Line	Marshall Co. Line	Fulton
U.S. 31	Fulton Co. Line	Marshall Co. Line	Marshall
U.S. 31	Marshall Co. Line	U.S. 20	St. Joseph
U.S. 31	U.S. 20	Michigan State Line	St. Joseph
U.S. 33	All		
U.S. 33	Ohio State Line	U.S. 27	Adams
U.S. 33	U.S. 30	Whitley Co. Line	Allen
U.S. 33	Allen Co. Line	Noble Co. Line	Whitley

U.S. 33	Whitley Co. Line	U.S. 6	Noble
U.S. 33	U.S. 6	10th Street	Elkhart
U.S. 33	10th Street	Main Street	Elkhart
U.S. 33	Main Street	U.S. 20	Elkhart
U.S. 35	S.R. 2	I-70	
U.S. 35	500 N.	I-69	Delaware
U.S. 35	I-69	Howard Co. Line	Grant
U.S. 35	Grant Co. Line	U.S. 31	Howard
U.S. 35	E. 400 N.	N. 80 W.	Howard
U.S. 35	N. 80 W.	Cass Co. Line	Howard
U.S. 35	E. 300 S.	U.S. 24	Cass
U.S. 35	U.S. 24	N. 350 W.	Cass
U.S. 36	Illinois State Line	I-465 on the west side of Indianapolis	
U.S. 36	U.S. 27	Ohio State Line	
U.S. 36	Illinois State Line	S.R. 63	Vermillion
U.S. 36	Putnam Co. Line	Marion Co. Line	Hendricks
U.S. 36	Hendricks Co. Line	I-465	Marion
U.S. 36	I-465	I-465 Ramp 013a	Marion
U.S. 36	Hancock Co. Line	S.R. 9	Madison
U.S. 40	I-465 West	Hendricks Co. Line	
U.S. 40	I-70	Clay Co. Line	Vigo
U.S. 40	Putnam Co. Line	Marion Co. Line	Hendricks
U.S. 40	Hendricks Co. Line	I-465	Marion
U.S. 40	S. 350 W.	S.R. 3	Henry
U.S. 40	McMinn Road	S. 17th Street	Wayne
U.S. 40	S. 17th Street	Ohio State Line	Wayne
U.S. 41	All		
U.S. 41	Kentucky State Line	S.R. 66	Vanderburgh
U.S. 41	S.R. 66	I-64	Vanderburgh
U.S. 41	I-64	Knox Co. Line	Gibson
U.S. 41	Gibson Co. Line	Sullivan Co. Line	Knox
U.S. 41	Knox Co. Line	Vigo Co. Line	Sullivan
U.S. 41	Sullivan Co. Line	E. 93rd Avenue	Vigo
U.S. 41	U.S. 41 Ramp 114c	Vermillion Co. Line	Vigo
U.S. 41	S.R. 63	Benton Co. Line	Warren
U.S. 41	Warren Co. Line	Newton Co. Line	Benton
U.S. 41	Benton Co. Line	Lake Co. Line	Newton
U.S. 41	Newton Co. Line	I-80	Lake
U.S. 41	I-80	U.S. 12	Lake
U.S. 46	U.S. 421	S.R. 3	Decatur
U.S. 50	All		
U.S. 50	Illinois State Line	U.S. 41	Knox
U.S. 50	U.S. 41	Daviess Co. Line	Knox
U.S. 50	Knox Co. Line	Martin Co. Line	Daviess
U.S. 50	Daviess Co. Line	Lawrence Co. Line	Martin

U.S. 50	Martin Co. Line	Jackson Co. Line	Lawrence
U.S. 50	Lawrence Co. Line	Jennings Co. Line	Jackson
U.S. 50	Jackson Co. Line	Ripley Co. Line	Jennings
U.S. 50	Jennings Co. Line	Dearborn Co. Line	Ripley
U.S. 50	Ripley Co. Line	Ohio State Line	Dearborn
U.S. 52	Illinois State Line	U.S. 231 North	
U.S. 52	I-465 on east side of Indianapolis	I-74	
U.S. 52	E. 350 S.	N. 400 W.	Tippecanoe
U.S. 52	S. 100 E.	0.8 Mi N.W. of N. 225 W.	Rush
U.S. 52	Dearborn Co. Line	S.R. 1	Franklin
U.S. 131	Michigan State Line	I-80 and I-90	
U.S. 131	S.R. 13	Michigan State Line	Elkhart
U.S. 136	S.R. 32	U.S. 231	Montgomery
U.S. 150	All		
U.S. 150	U.S. 41	Bolton Road	Vigo
U.S. 224	All		
U.S. 224	Meridian Road	U.S. 24	Huntington
U.S. 231	S.R. 2 South intersection	U.S. 41	
U.S. 231	U.S. 52 intersection	Kentucky State Line	
U.S. 231	Kentucky State Line	Dubois Co. Line	Spencer
U.S. 231	Spencer Co. Line	MacArthur Street	Dubois
U.S. 231	MacArthur Street	S.R. 56	Dubois
U.S. 231	S.R. 56	Martin Co. Line	Dubois
U.S. 231	Dubois Co. Line	U.S. 50	Martin
U.S. 231	U.S. 50	Daviess Co. Line	Martin
U.S. 231	Martin Co. Line	S.R. 558	Daviess
U.S. 231	S.R. 558	Greene Co. Line	Daviess
U.S. 231	Daviess Co. Line	Owen Co. Line	Greene
U.S. 231	Greene Co. Line	Putnam Co. Line	Owen
U.S. 231	Owen Co. Line	Montgomery Co. Line	Putnam
U.S. 231	Putnam Co. Line	Tippecanoe Co. Line	Montgomery
U.S. 231	Montgomery Co. Line	U.S. 52	Tippecanoe
U.S. 231	I-65	U.S. 41	Lake
U.S. 421	U.S. 20	I-465 North	
U.S. 421	S.R. 46	Kentucky State Line	
U.S. 421	Kentucky State Line	S.R. 56	Jefferson
U.S. 421	S.R. 56	Ripley Co. Line	Jefferson
U.S. 421	S.R. 56	Jefferson Street	Jefferson
U.S. 421	Jefferson Co. Line	U.S. 50	Ripley
U.S. 421	U.S. 50	Decatur Co. Line	Ripley
U.S. 421	Ripley Co. Line	I-74	Decatur
U.S. 421	Carroll Co. Line	U.S. 24	White
U.S. 421	U.S. 24	Pulaski Co. Line	White
U.S. 421	White Co. Line	Starke Co. Line	Pulaski
U.S. 421	Pulaski Co. Line	LaPorte Co. Line	Starke
U.S. 421	Starke Co. Line	U.S. 6	LaPorte

U.S. 421	U.S. 6	U.S. 20	LaPorte
U.S. 421	U.S. 20	11th Street	LaPorte
S.R. 1	I-469 South intersection	S.R. 18	
S.R. 1	U.S. 36	U.S. 52 (extra from U.S. 36 to U.S. 35)	
S.R. 1	I-74	U.S. 50	
S.R. 1	Dearborn Co. Line	U.S. 52	Franklin
S.R. 1	U.S. 52	Fayette Co. Line	Franklin
S.R. 1	Franklin Co. Line	5th Street	Fayette
S.R. 1	S.R. 44	Wayne Co. Line	Fayette
S.R. 1	Fayette Co. Line	I-70	Wayne
S.R. 1	S.R. 32	Jackson Street	Randolph
S.R. 2	U.S. 41	U.S. 231	
S.R. 2	U.S. 30	U.S. 31	
S.R. 2	Division Road	U.S. 30	Porter
S.R. 2	U.S. 30	Old S.R. 2	Porter
S.R. 2	Porter Co. Line	S. 900 W.	LaPorte
S.R. 2	LaPorte Co. Line	U.S. 20	St. Joseph
S.R. 3	U.S. 6	I-69	
S.R. 3	S.R. 18	S.R. 62	
S.R. 3	S.R. 56	S.R. 56	Scott
S.R. 3	Vernon City Limit	S.R. 750	Jennings
S.R. 3	S.R. 750	350 N.	Jennings
S.R. 3	S.R. 46	Rush Co. Line	Decatur
S.R. 3	Decatur Co. Line	U.S. 52	Rush
S.R. 3	U.S. 52	Henry Co. Line	Rush
S.R. 3	Rush Co. Line	U.S. 40	Henry
S.R. 3	U.S. 40	Delaware Co. Line	Henry
S.R. 3	Henry Co. Line	S.R. 67	Delaware
S.R. 7	All		
S.R. 7	S.R. 56	Paper Mill Road	Jefferson
S.R. 7	S.R. 3	W. 500 N.	Jennings
S.R. 8	S.R. 2	U.S. 421	
S.R. 9	All (extra ends at S.R. 46)		
S.R. 9	U.S. 36	I-69	Madison
S.R. 9	I-69	0.7 Mi N. of S.R. 28	Madison
S.R. 9	600 S.	E. 350 N.	Grant
S.R. 9	W. 100 N.	U.S. 24	Huntington
S.R. 9	U.S. 24	E. 600 N.	Huntington
S.R. 9	S. 50 E.	Cider Mill Road	Whitley
S.R. 10	Illinois State Line	U.S. 421	
S.R. 11	Yankee Road	U.S. 50	Jackson
S.R. 11	U.S. 50	0.2 Mi N. of N. 760 E.	Jackson
S.R. 13	S.R. 37	W. 1350 N.	Madison
S.R. 13	W. 400 S.	North Manchester City Limit	Wabash
S.R. 13	U.S. 20	U.S. 131	Elkhart

S.R. 14	U.S. 421	S.R. 19	
S.R. 14	Meridian Road	S.R. 25	Fulton
S.R. 14	S.R. 25	Oakhill Drive	Fulton
S.R. 14	18th Street	Colonial Drive	Fulton
S.R. 15	U.S. 33	S.R. 15 and S.R. 9 N. intersection	
S.R. 15	U.S. 35	S.R. 9	Grant
S.R. 15	S.R. 9	0.3 Mi N. of Grandview Drive	Grant
S.R. 15	W. 400 S.	Division Road	Wabash
S.R. 15	U.S. 30	Elkhart Co. Line	Kosciusko
S.R. 15	Kosciusko Co. Line	I-80 101c	Elkhart
S.R. 18	U.S. 421 and S.R. 39	S.R. 29 South intersection	
S.R. 18	S.R. 19	Ohio State Line	
S.R. 18	S.R. 43	3rd Street	White
S.R. 18	N. 325 W.	Norton Avenue	Grant
S.R. 18	0.7 Mi W. of Bethlehem Road	N. 700 E.	Grant
S.R. 19	U.S. 24	S.R. 18	
S.R. 19	Michigan State Line	U.S. 6	
S.R. 19	Main Street	Ash Street	Tipton
S.R. 19	S. 150 E.	U.S. 24	Miami
S.R. 22	S.R. 29	I-69	
S.R. 23	U.S. 20 and U.S. 31	U.S. 6	
S.R. 25	S.R. 28	U.S. 231	
S.R. 25	I-65	U.S. 24	
S.R. 25	S.R. 17	S.R. 14	
S.R. 25	E. 200 N.	Carroll Co. Line	Tippecanoe
S.R. 25	Tippecanoe Co. Line	Cass Co. Line	Carroll
S.R. 25	Carroll Co. Line	Fulton Co. Line	Cass
S.R. 25	E. 100 S.	S.R. 14	Fulton
S.R. 26	Illinois State Line	U.S. 41	
S.R. 26	U.S. 231	U.S. 31	
S.R. 26	Warren Co. Line	U.S. 52	Tippecanoe
S.R. 26	I-65	Clinton Co. Line	Tippecanoe
S.R. 26	Tippecanoe Co. Line	Howard Co. Line	Clinton
S.R. 26	Clinton Co. Line	U.S. 31	Howard
S.R. 26	S.R. 67	U.S. 27	Jay
S.R. 28	Illinois State Line	S.R. 67	
S.R. 28	Ohio State Line	Columbia Street	Randolph
S.R. 28	S.R. 28 Roundabout	S.R. 19	Tipton
S.R. 28	Ash Street	Madison Co. Line	Tipton
S.R. 29	All		
S.R. 32	U.S. 231	Ohio State Line	
S.R. 32	S. 200 W.	S.R. 47	Montgomery
S.R. 32	S.R. 47	U.S. 231	Montgomery
S.R. 32	U.S. 136	S.R. 47	Montgomery
S.R. 32	S.R. 47	N. Walnut Hills	Montgomery
S.R. 32	S. 500 W.	S.R. 9	Madison

S.R. 32	S.R. 9	Delaware Co. Line	Madison
S.R. 32	U.S. 35	Randolph Co. Line	Delaware
S.R. 32	Delaware Co. Line	S.R. 1	Randolph
S.R. 32	S.R. 1	Ohio State Line	Randolph
S.R. 37	I-465 south side Indianapolis	S.R. 66	
S.R. 37	I-69	S.R. 9	
S.R. 37	12th Street	Main Street	Perry
S.R. 37	S.R. 66	Crawford Co. Line	Perry
S.R. 37	Perry Co. Line	S.R. 64	Crawford
S.R. 37	S.R. 64	S.R. 237	Crawford
S.R. 37	U.S. 150	Lawrence Co. Line	Orange
S.R. 37	S.R. 60	U.S. 50	Lawrence
S.R. 37	U.S. 50	Monroe Co. Line	Lawrence
S.R. 37	Lawrence Co. Line	I-69	Monroe
S.R. 37	I-69	Morgan Co. Line	Monroe
S.R. 37	Johnson Co. Line	Monroe Co. Line	Morgan
S.R. 37	Morgan Co. Line	Marion Co. Line	Johnson
S.R. 37	Johnson Co. Line	I-465	Marion
S.R. 37	U.S. 35	S.R. 9	Grant
S.R. 38	U.S. 52	I-65	Tippecanoe
S.R. 38	S.R. 3	S. 300 E.	Henry
S.R. 39	Michigan State Line	S.R. 2	
S.R. 39	S.R. 28	S.R. 32	
S.R. 39	S.R. 67	S.R. 37	
S.R. 39	Rogers Road	S.R. 67 North Juncture	Morgan
S.R. 42	U.S. 40	91st Street	Vigo
S.R. 42 Roundabout	S.R. 42	N/A	Vigo
S.R. 43	I-65	U.S. 24	
S.R. 43	I-65	White Co. Line	Tippecanoe
S.R. 43	Tippecanoe Co. Line	S.R. 18	White
S.R. 43	S.R. 18	U.S. 24	White
S.R. 44	S.R. 135	U.S. 27	
S.R. 44	0.8 Mi W. of Flatrock River Road	U.S. 52	Rush
S.R. 44	N. 200 E.	S.R. 1	Fayette
S.R. 44	S.R. 1	S. 350 W.	Fayette
S.R. 45	S.R. 445	S.R. 37	
S.R. 45	S.R. 37	10th Street	Monroe
S.R. 46	S.R. 59	S.R. 3 East intersection	
S.R. 46	I-70	0.2 Mi S. of I-70	Vigo
S.R. 46	U.S. 231	Monroe Co. Line	Owen
S.R. 46	Owen Co. Line	S.R. 37	Monroe
S.R. 46	S.R. 45	Brown Co. Line	Monroe
S.R. 46	Monroe Co. Line	Bartholomew Co. Line	Brown
S.R. 46	Brown Co. Line	Decatur Co. Line	Bartholomew
S.R. 46	Bartholomew Co. Line	S.R. 3	Decatur
S.R. 46	U.S. 421	0.09 Mi S.E. of Base Road	Decatur

S.R. 46	S.R. 229	S.R. 129	Ripley
S.R. 47	U.S. 41	S.R. 32	
S.R. 47	150 S.	S.R. 32	Montgomery
S.R. 47	S.R. 32	Sugar Creek	Montgomery
S.R. 49	U.S. 12	U.S. 30	
S.R. 51	U.S. 30	Bracken Road	Lake
S.R. 51	Cleveland Avenue	U.S. 6	Lake
S.R. 51	I-80	U.S. 20	Lake
S.R. 53	U.S. 30	U.S. 12 Westbound	Lake
S.R. 54	U.S. 41	S.R. 43	
S.R. 55	U.S. 231	Ridge Road	Lake
S.R. 56	S.R. 61 and S.R. 57 S. intersection	U.S. 50 and S.R. 350	
S.R. 56	Altar Creek	U.S. 231	Dubois
S.R. 56	S.R. 145	S.R. 150	Orange
S.R. 56	S.R. 3	Jefferson Co. Line	Scott
S.R. 56	Scott Co. Line	U.S. 421	Jefferson
S.R. 56	U.S. 421	E. Fulton Street	Jefferson
S.R. 57	S.R. 54	U.S. 41	
S.R. 57	U.S. 41	I-69	Vanderburgh
S.R. 57	I-69	Warrick Co. Line	Gibson
S.R. 57	Gibson Co. Line	Gibson Co. Line	Warrick
S.R. 57	Warrick Co. Line	Pike Co. Line	Gibson
S.R. 57	Gibson Co. Line	S.R. 56	Pike
S.R. 57	9th Street	Buffalo Trace Loop	Pike
S.R. 57	S.R. 56	Daviess Co. Line	Pike
S.R. 57	Pike Co. Line	Greene Co. Line	Daviess
S.R. 57	Newberry City Limit	Daviess Co. Line	Greene
S.R. 58	U.S. 231	S.R. 37	
S.R. 59	U.S. 36	S.R. 54 East intersection	
S.R. 60	U.S. 50	I-65 (extra U.S. 50 to S.R. 37)	
S.R. 60	S.R. 37	Orange Co. Line	Lawrence
S.R. 60	Orange Co. Line	S.R. 56	Washington
S.R. 60	S.R. 56	Clark Co. Line	Washington
S.R. 60	Washington Co. Line	I-65	Clark
S.R. 61	U.S. 41	S.R. 57	
S.R. 61	S.R. 68	S.R. 66	
S.R. 62	Illinois State Line	U.S. 231	
S.R. 62	S.R. 56	I-65	
S.R. 62	State Street	Vanderburgh Co. Line	Posey
S.R. 62	Posey Co. Line	U.S. 41	Vanderburgh
S.R. 62	U.S. 41	I-69	Vanderburgh
S.R. 62	S.R. 56	U.S. 421	Jefferson
S.R. 63	U.S. 41 Carbondale	U.S. 41 Terre Haute	
S.R. 63	Vigo Co. Line	Warren Co. Line	Vermillion
S.R. 63	Vermillion Co. Line	U.S. 41	Warren
S.R. 64	Illinois State Line	U.S. 231	

S.R. 64	S. 350 W.	Top Hat Road	Gibson
S.R. 64	Huntingburg City Limit	S. 75 W.	Dubois
S.R. 64	S.R. 145	S.R. 37	Crawford
S.R. 66	Illinois State Line	S.R. 37	
S.R. 66	S.R. 65	U.S. 41	Vanderburgh
S.R. 66	U.S. 41	I-69	Vanderburgh
S.R. 66	Vanderburgh Co. Line	Spencer Co. Line	Warrick
S.R. 66	Warrick Co. Line	U.S. 231	Spencer
S.R. 66	0.9 Mi N. of S.R. 37	S.R. 37	Perry
S.R. 66	S.R. 37	S.R. 237	Perry
S.R. 67	U.S. 41	Ohio State Line	
S.R. 67	S.R. 39	Hendricks Co. Line	Morgan
S.R. 67	Morgan Co. Line	Marion Co. Line	Hendricks
S.R. 67	Hendricks Co. Line	I-465	Marion
S.R. 67	I-69	S.R. 3	Delaware
S.R. 67	Tyson Road	S.R. 26	Jay
S.R. 69	I-64	S.R. 62	
S.R. 69	S.R. 62	I-64	Posey
S.R. 101	S.R. 44	U.S. 52	
S.R. 101	I-74	U.S. 50	
S.R. 103	E. 400 S.	S.R. 38	Henry
S.R. 103	S.R. 38	E. 150 N.	Henry
S.R. 109	S.R. 9	I-70	
S.R. 109	E. 600 S.	I-69	Madison
S.R. 114	U.S. 41	U.S. 421	
S.R. 114	S.R. 14	U.S. 24	
S.R. 127	U.S. 20	300 N.	Steuben
S.R. 129	0.5 Mi S. of Bischoff Road	S.R. 46	Ripley
S.R. 130	Cleveland Avenue	Porter Co. Line	Lake
S.R. 130	Lake Co. Line	S.R. 149	Porter
S.R. 135	S.R. 44	Kentucky State Line	
S.R. 144	S.R. 42	S.R. 67	
S.R. 145	S.R. 56	I-64	
S.R. 145	S.R. 64	Orange Co. Line	Crawford
S.R. 145	Crawford Co. Line	S.R. 56	Orange
S.R. 149	S.R. 130	U.S. 12	Porter
S.R. 152	I-80	U.S. 20	Lake
S.R. 154	All		
S.R. 161	Kentucky State Line	I-64	
S.R. 163	S.R. 63	Parke Co. Line	Vermillion
S.R. 212	All in Michigan City		
S.R. 212	U.S. 20	U.S. 12	LaPorte
S.R. 229	S.R. 46	I-74	Ripley
S.R. 236	S.R. 9	I-69	Madison
S.R. 237	S.R. 37	Kentucky State Line	
S.R. 237	Kentucky State Line	S.R. 66	Perry

S.R. 249	All		
S.R. 249	U.S. 20	U.S. 12	Porter
S.R. 252	S.R. 37	S.R. 135	
S.R. 257	U.S. 50	Old U.S. 50	Daviess
S.R. 265	All		
S.R. 265	Kentucky State Line	I-65	Clark
S.R. 267	I-65	S.R. 42	
S.R. 312	U.S. 20	Hohmann Avenue in Hammond	
S.R. 312	Whiteoak Avenue	U.S. 12	Lake
S.R. 331	U.S. 20	I-80	St. Joseph
S.R. 441	All in Vincennes		
S.R. 441	U.S. 41	Illinois State Line	Knox
S.R. 443	All in West Lafayette		
S.R. 445	All		
S.R. 526	All		
S.R. 558	U.S. 231	Martin Co. Line	Daviess
S.R. 641	U.S. 41	McDaniel Road	Vigo
S.R. 912	All		
S.R. 912	I-90	Dickey Road	Lake
S.R. 912	Dickey Road	U.S. 12	Lake
S.R. 912	U.S. 20	Ridge Road	Lake
S.R. 930	I-69	I-469	
S.R. 931	Tipton Co. Line	U.S. 31	Howard
10th Street	Main Street	Muncie Pike	Grant
11th Street	Ohio Street	Wabash Avenue	Vigo
17th Street	Brown Street	Jackson Street	Madison
1st Street	S.R. 44	U.S. 52	Rush
1st Street	Wilkerson Street	Zig Street	Huntington
37th Avenue	Ridge Road	U.S. 6	Lake
38th Street	Raible Avenue	Dr. MLK Jr. Blvd	Madison
3rd Street	Alabama Street	Fannon Drive	Tippecanoe
4th Street	U.S. 52	Fannon Drive	Tippecanoe
53rd Street	W. 53rd Street Pkwy	S.R. 9	Madison
5th Street	U.S. 40	Williamsburg Pike	Wayne
61st Avenue	I-65	Bracken Road	Lake
61st Avenue	S.R. 55	Merrillville City Limit	Lake
61st Avenue	0.13 Mi E. of Hobart Street	Porter Co. Line	Lake
6th Street	S.R. 441	Old U.S. 41	Knox
6th Street	U.S. 40	U.S. 40 Westbound	Wayne
8th Street	Grand Avenue	E. Western Avenue	Fayette
9th Street	Greenbush Street	Duncan Road	Tippecanoe
9th Street	Wabash Avenue	Cherry Avenue	Vigo
Airport Expressway	I-69	Ardmore Avenue	Allen
Alabama Street	3rd Street	4th Street	Tippecanoe
Arthur Street	McIlory Avenue	Johnson Avenue	Vigo
Bracken Road	61st Avenue	S.R. 51	Lake

Broadway Avenue	S.R. 19	Peru City Limit	Miami
Broadway Avenue	Peru City Limit	Peru City Limit	Miami
Broadway Avenue	Grand Avenue	S.R. 9	Madison
Brown Street	17th Street	S.R. 32	Madison
Calumet Avenue	Ridge Road	Munster City Limit	Lake
Calumet Avenue	Hammond City Limit	I-80	Lake
Chauncey Avenue	Wood Street	W. State Street	Tippecanoe
Cherry Avenue	U.S. 41	9th Street	Vigo
Chicago Street	U.S. 41	Hammond City Limit	Lake
Cicott Street	Old S.R. 25	Market Street	Cass
Clinton Street	Haythorne Avenue	U.S. 41	Vigo
Columbia Street	Lafayette City Limit	Main Street	Tippecanoe
County Line Road	61st Street	S.R. 130	Lake
Cross Street	200 W.	CSX RR	Madison
Dan Jones Road	Main Road	U.S. 36	Hendricks
Delaware Street	S.R. 32	Jackson Street	Madison
Dickey Road	S.R. 912	Riley Road	Lake
Dr. MLK Jr. Blvd	I-69	17th Street	Madison
Duncan Road	9th Street	Sagamore Pkwy N.	Tippecanoe
E. Lincolnway	E. Lincolnway Roundabout	Washington Street	Porter
E. Lincolnway	U.S. 30	E. Lincolnway Roundabout	Porter
E. Lincolnway Roundabout	E. Lincolnway	N/A	Porter
E. Main Street	U.S. 40	1st Street	Wayne
E. Market Street	S.R. 25	Front Street	Cass
E. Michigan Blvd	U.S. 35	U.S. 12	LaPorte
E. State Street	West Lafayette City Limit	S. River Road	Tippecanoe
E. Western Avenue	8th Street	30th Street	Fayette
Etna Road	Huntington City Limit	U.S. 224	Huntington
Etna Road	W. 100 N.	Huntington City Limit	Huntington
Fannon Drive	9th Street	3rd Street	Tippecanoe
Fannon Drive	Salem Street	N. 4th Street	Tippecanoe
Fowler Avenue	West Lafayette City Limit	Northwestern Avenue	Tippecanoe
Fulton Avenue	Riverside Drive	S.R. 62	Vanderburgh
Grand Avenue	S.R. 44	8th Street	Fayette
Grant Street	I-80 Ramp 009b	U.S. 12 Westbound	Lake
Harcourt Drive	S.R. 127	Angola City Limit	Steuben
Howard Co. Line	Howard Co. Line	Tippecanoe Co. Line	Clinton
Jackson Street	8th Street	Grand Avenue	Madison
Jackson Street	17th Street	S.R. 32	Madison
Jackson Street	S.R. 32	8th Street	Madison
Lafayette Avenue	Locust Street	Haythorne Avenue	Vigo
Locust Street	Lafayette Avenue	U.S. 41	Vigo
Main Street	University Drive	S.R. 23	St. Joseph
Main Street	Madison Street	Pike Street	Elkhart
Main Street	S.R. 38	South Street	Tippecanoe
Main Street	Clinton City Limit	S.R. 163	Vermillion

Main Street	S.R. 32	W. 250 N.	Randolph
Main Street	South Street	Columbia Street	Tippecanoe
Main Street	U.S. 24	Rickie Road	White
Main Street	S.R. 25	U.S. 421	Carroll
Main Street	U.S. 421	U.S. 24	White
Main Street	10th Street	U.S. 35	Grant
Missouri Street	Morris Street	I-70	Marion
Monticello Road	Logansport City Limit	U.S. 24	Cass
Monticello Road	U.S. 24	Logansport City Limit	Cass
Morris Street	Missouri Street	West Street	Marion
Morse Street	133rd Avenue	132nd Place	Lake
Muncie Pike	600 S.	10th Street	Grant
N. 200 W.	Angola City Limit	W. 100 N.	Steuben
N. Gerald Lett Avenue	U.S. 20	Angola City Limit	Steuben
N. Main Street	S.R. 163	Clinton City Limit	Vermillion
N. Street	U.S. 27	U.S. 27 Southbound	Wayne
National Avenue	U.S. 150	I-70	Vigo
Northwestern Avenue	Fowler Avenue	Sagamore Pkwy W.	Tippecanoe
Ohio Street	11th Street	U.S. 41	Vigo
Old Muncie Road	I-69 Ramp 234d	Madison Co. Line	Delaware
Old Muncie Road	Delaware Co. Line	Chesterfield City Limit	Madison
Park Drive	Wilkerson Street	U.S. 224 Westbound	Huntington
Park Drive	U.S. 224	U.S. 24	Huntington
Pine Street	9th Street	U.S. 12	LaPorte
Poplar Street	U.S. 40	U.S. 41	Vigo
Raible Avenue	38th Street	Cross Street	Madison
Rangeline Road	S.R. 236	Union Twp. Pike	Madison
Ray Becker Pkwy	Ohio Street	Barker Avenue	Vanderburgh
Ridge Road	37th Avenue	Calumet Avenue	Lake
Riverside Drive	Veterans Memorial Pkwy	Fulton Avenue	Vanderburgh
Ronald Reagan Pkwy	I-70	I-74	Hendricks
S. Main Street	1700 S.	Clinton City Limit	Vermillion
Sagamore Pkwy N.	South Street	Beech Drive	Tippecanoe
Sagamore Pkwy S.	S.R. 38	South Street	Tippecanoe
Sagamore Pkwy W.	Beech Drive	U.S. 52	Tippecanoe
Salem Street	Union Street	Lafayette City Limit	Tippecanoe
Sam Jones Expressway	I-70 Ramp 075c	High School Road	Marion
Schuyler Avenue	E. 200 N.	Sagamore Pkwy N.	Tippecanoe
Schuyler Avenue	Lafayette City Limit	Sagamore Pkwy N.	Tippecanoe
Second Street	S.R. 56	U.S. 421	Jefferson
Senate Avenue	Dead End	Wisconsin Street	Marion
Sheetz Street	Wood Street	W. State Street	Tippecanoe
South Street	I-65 Ramp 172d	Lafayette City Limit	Tippecanoe
South Street	Lafayette City Limit	West Lafayette City Limit	Tippecanoe
Southport Road	Emerson Avenue	I-65	Marion
St. Joseph Avenue	Ohio Street	S.R. 62	Vanderburgh

St. Joseph Avenue	S.R. 62	Evansville City Limit	Vanderburgh
St. Joseph Avenue	Evansville City Limit	S.R. 66	Vanderburgh
Union Street	Sagamore Pkwy N.	Salem Street	Tippecanoe
Union Street	Salem Street	Lafayette City Limit	Tippecanoe
Union Twp. Pike	Rangeline Road	Chesterfield City Limit	Madison
Veterans Memorial Pkwy	I-69	Riverside Drive	Vanderburgh
W. 53rd Street	W. 53rd Street Pkwy	Dr. MLK Jr. Blvd	Madison
W. 53rd Street Pkwy	W. 53rd Street	Dr. MLK Jr. Blvd	Madison
W. Lake Shore Drive	Morse Street	W. 133rd Lane	Lake
W. Lincolnway	Washington Street	Valparaiso City Limit	Porter
W. Lincolnway	Valparaiso City Limit	Valparaiso City Limit	Porter
W. Lincolnway	Valparaiso City Limit	S.R. 130	Porter
W. Main Street	1st Street	5th Street	Wayne
W. Market Street	Front Street	Cicott Street	Cass
Wabash Avenue	U.S. 40	9th Street	Vigo
Wabash Avenue	Ohio Street	S.R. 62	Vanderburgh
Washington Street	U.S. 30	W. Lincolnway	Porter
Washington Street	9th Street	U.S. 12	LaPorte
West Street	Wisconsin Street	Morris Street	Marion
West Street	Morris Street	I-70	Marion
Wilkerson Street	1st Street	Park Drive	Huntington
Williamsburg Pike	5th Street	Richmond City Limit	Wayne
Wisconsin Street	Senate Avenue	West Street	Marion
Wood Street	Chauncey Avenue	Sheetz Street	Tippecanoe
Yeager Road	Yeager Road Roundabout	Sagamore Pkwy W.	Tippecanoe
Yeager Road Roundabout	Yeager Road	N/A	Tippecanoe
Zig Street	U.S. 24	Huntington City Limit	Huntington
Zig Street	Huntington City Limit	1st Street	Huntington
Zone Street	Zig Street	Huntington City Limit	Huntington
The department shall maintain a list of control routes designated by the state of Indiana on the Internet at www.in.gov/indot/2781.htm .			

(b) The submission of a permit application, as well as the continued use of the permit after issuance, is deemed permission for any employee or authorized agent of the department to enter into and upon any real estate upon which the proposed or erected sign is located to make such examinations and surveys as may be reasonable, and to remove any illegal sign if the permittee or the property owner does not timely do so under applicable law.

(Indiana Department of Transportation; 105 IAC 7-4-9; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-10 Permit denial criteria

Authority: IC 8-23-2-6; IC 8-23-20-25
 Affected: IC 8-23-20

Sec. 10. (a) No permit, except as provided in section 13 of this rule, may be issued for any sign as follows:

(1) Within six hundred sixty (660) feet of the nearest edge of the right-of-way of a control route and erected after January 1, 1968, unless the sign is erected in a zoned commercial or industrial area or an unzoned commercial or industrial area in accordance with section 20 of this rule.

(2) Beyond six hundred sixty (660) feet of the nearest edge of the right-of-way of a control route, outside of an incorporated municipality, if the sign would be visible from the main-traveled way of a control route, and erected with the purpose of a message on its sign face being read from the main-traveled way of a control route, and erected after June 30, 1976.

(3) In an adjacent area where the sign fails to comply with the size and configuration restrictions in section 16 of this rule.

(4) In an adjacent area where the sign fails to comply with the spacing criteria in section 17 of this rule.

(5) In an adjacent area where the sign fails to comply with the lighting criteria in section 18 of this rule.

(6) Where the zoning is not part of comprehensive plan or was zoned primarily to permit outdoor advertising structure or constitutes spot zoning or strip zoning.

(7) A new construction project programmed, which may affect the spacing or location requirements for an outdoor advertising structure, unless the applicant and the department enter into an agreement, which will allow for a permit to be issued.

(8) Proposed sign along a route designated as a scenic byway.

(9) That fails to comply with the miscellaneous criteria in section 19 of this rule.

(b) Until any appeal of an applicant whose permit application is denied is completed, no permit shall be issued to any other applicant that would affect the legality of that denied application.

(Indiana Department of Transportation; 105 IAC 7-4-10; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-11 Notice of permit denial or revocation

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 11. (a) The permittee and the property owner shall each maintain on file with the department one (1) person's name, one (1) electronic mail address (if available), and one (1) mailing address. If the permittee's mailing address contains a P.O. Box, a street address of the permittee's principal place of business for outdoor advertising activities shall also be provided. Whenever there is a change in the electronic mail address or the mailing address of the permittee or the property owner, written notice of the change shall be sent to the department not later than one hundred twenty (120) days of the permittee's actual knowledge of any such change.

(b) Whenever the real estate upon which the sign is located is sold, the permittee shall have the obligation to provide to the department written evidence of the sale, as well as the correct name and address of the new owner, within one hundred eighty (180) days of its actual knowledge of any such sale.

(c) If any information required by subsection (a) or (b) is not timely submitted to the department, then the permittee shall owe the department a late fee of one hundred dollars (\$100) per month from the due date of such information until it is submitted to the department, but subject to a maximum late fee of four hundred dollars (\$400) for any particular sign. Failure of the permittee to submit this information in a timely manner shall be a sufficient ground for

the department to revoke any permit for that sign, but the permittee may prevent this revocation by submitting all the required documentation and all late fees within thirty (30) days of the date of the department's revocation notice.

(Indiana Department of Transportation; 105 IAC 7-4-11; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-12 Appeal procedures; no contract between department and permittee and no tort action permitted against department for negligent permitting of signs

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 4-21.5; IC 8-23-20

Sec. 12. (a) An applicant whose permit application is denied, or any permittee or property owner who is sent a notice by the department that such permit is being revoked or whose modification request for an addendum to such permit is denied or that such permit is being changed to a permit for a nonconforming sign, may appeal that determination in accordance with the provisions of IC 8-23-20-26 and IC 4-21.5, as well as subsection (c).

(b) Whenever the department is sending a notice of a permit denial or revocation to the permittee or the property owner, service of that notice shall be deemed sufficient if sent to such person or entity by U.S. certified mail at the last known address in the records of the department. However, if an applicant or a permittee has properly submitted to the department a designation of a person or entity to receive notice of the denial of any permit application and of any revocation notice for a permit, the department will send any such notice to that designated person or entity instead.

(c) Each request for an appeal shall be submitted to the department within the period provided by IC 4-21.5, shall be in writing, and shall contain the following:

- (1) Whether the appellant is the permittee, the property owner, or a person or entity properly designated in accordance with subsection (b).
- (2) The appellant's address and phone number.
- (3) Each permit number, if any.
- (4) The location of the sign.
- (5) A statement outlining the specific basis for the appeal. Service of that appeal request shall be deemed sufficient if served on the department by personal service or by U.S. mail at the address specified in the department's notice, as required by IC 4-21.5-3-1(c).

(d) Hearings will be held in Indianapolis at the department's offices or other nearby location. The failure of a permittee or other person who has appealed to appear at the time and place of the hearing shall be deemed a withdrawal of the appeal, and the written revocation notice, denial of permit application or addendum, or other determination shall constitute a final order of the commissioner and shall not be subject to further administrative review.

(e) Action or inaction of the department with respect to an application, permit, or modification request for an addendum, and any other action or inaction of the department of any kind or nature relating to a sign shall be solely in furtherance of the department's public policy responsibilities and shall not be grounds for a cause of action against the department based in tort or based in any other manner on negligent permitting. The determination of an application or modification request by the department, or the permit, permit tag, or addendum issued by the department, or any fee received by the department under this rule or applicable law shall not constitute the basis under any circumstances of a contractual relationship between the department and any other person or entity.

(Indiana Department of Transportation; 105 IAC 7-4-12; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-13 Conditional permit

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

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)

105 IAC 7-4-14 Modification of conforming sign to different sign type; addendum to permit

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20-25.5

Sec. 14. (a) A permittee shall not modify a conforming sign to a different sign type without the approval of the department. Before modifying a conforming sign to a different sign type, the permittee shall submit a completed modification request for an addendum to the sign permit to the department on a form to be provided by the department or through the electronic permitting system, together with the addendum fee of one hundred dollars (\$100). The department may then issue an addendum to the permit allowing such change, provided the sign otherwise complies with state and federal law. The permittee's failure to submit this modification request and to receive the department's approval for the addendum prior to modifying the conforming sign to a different sign type

will result in the permit for such sign being automatically and permanently changed to a permit for a nonconforming sign, without any notice from the department to the permittee, and the permittee must promptly remove all features added to modify the sign to a different sign type.

(b) The modification approved by the addendum 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 any further action by the department. No extension of time shall be granted by the department. (Indiana Department of Transportation; 105 IAC 7-4-14; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

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)

105 IAC 7-4-16 Size and configuration criteria

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 16. (a) The maximum area for any sign face of any sign erected after October 4, 1971, shall be one thousand (1,000) square feet, with the maximum height of twenty-five (25) feet and the maximum length of sixty (60) feet, exclusive of any border, trim, ornamental base, apron, or embellishments, if the total area of the exclusions do not exceed twenty percent (20%) of the sign's total area for its sign face plus all such exclusions.

(b) The sign's area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof that will encompass the area affected.

(c) A sign that is not a changeable message sign may display up to two (2) advertisements per facing, not to exceed the maximum area for any sign face and exclusions calculated in accordance with subsection (a).

(d) A double-faced structure that is not a changeable message sign will be allowed, with the maximum area being permissible for each sign face and exclusions relating thereto. A double-faced structure can be a stacked sign or a side-by-side sign.

(Indiana Department of Transportation; 105 IAC 7-4-16; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-17 Sign spacing criteria

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 17. (a) All signs erected after October 4, 1971, in adjacent areas must conform to the following criteria:

(1) On the interstate system and limited access facilities on the control routes:

(A) no sign shall be located within five hundred (500) feet of another sign on the same side of the highway; and

(B) outside incorporated municipalities, no sign shall be located within five hundred (500) feet of the nearest edge of an interchange, intersection at grade, or rest area, with the five hundred (500) feet to be measured along the interstate system or other limited access control route from the closer of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

(2) On control routes other than those in subdivision (1):

(A) outside of incorporated municipalities, no sign shall be located within three hundred (300) feet of another sign on the same side of the highway; and

(B) inside incorporated municipalities, no sign shall be located within one hundred (100) feet of another sign on the same side of the highway.

(b) Subsection (a)(2) shall not apply to signs separated by a building or other obstruction in such a manner that only one (1) sign is visible from any point on the control route at any one (1) time.

(c) Directional and other official signs and notices and other signs defined in IC 8-23-20-25(c) shall not be counted, nor shall measurements be made from them, for purposes of determining compliance with spacing requirements in this rule.

(d) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

(Indiana Department of Transportation; 105 IAC 7-4-17; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-18 Sign lighting criteria

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 18. (a) Signs located within adjacent areas may be illuminated, except for any sign that:

(1) contains, includes, or is illuminated by any flashing, or moving light or lights;

(2) is not effectively shielded to prevent beams or rays of light from being directed at any portion of the main-traveled way on a control route, if it:

(A) is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle; or

(B) otherwise interferes with any driver's operation of a motor vehicle; or

(3) obscures or interferes with the effectiveness of an official traffic sign, device, or signal.

(b) Notwithstanding anything to the contrary in this section, changeable message signs or signs giving public service information such as time, date, temperature, weather, or similar information may be illuminated so long as each such sign complies with subsection (a)(2) and (a)(3). (Indiana Department of Transportation; 105 IAC 7-4-18; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-19 Miscellaneous criteria

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 4-21.5; IC 8-23-1; IC 8-23-20

Sec. 19. (a) The following signs shall not be eligible for a permit:

(1) A sign that is illegal under federal law or state law.

(2) A sign that is not securely affixed to a substantial structure.

(3) A sign that attempts or appears to attempt to regulate, warn, or direct the movement of traffic or that interferes with, imitates, or resembles any official traffic sign, signal, or device.

(4) A sign that was erected, repaired, or maintained upon trees, or painted or drawn upon rocks or other natural features.

(5) A sign that is located in an unzoned commercial or industrial area, which extends beyond six hundred (600) feet from the outer edges of regularly used buildings, parking lots, storage, or processing areas of a commercial or industrial activity as defined in IC 8-23-1-43.

(6) A sign otherwise inconsistent with:

(A) 23 U.S.C. 131*, as effective July 1, 2018;

(B) 23 CFR 750*, as effective July 1, 2018;

(C) IC 8-23-1 or IC 8-23-20; or

(D) this rule.

Any permit previously issued for any such ineligible sign shall automatically become an illegal sign and shall be revoked by the department.

(b) If any sign that has a permit is the subject of a notice from the United States Department of Transportation, the Federal Highway Administration, or any other applicable federal agency to the department or to the state of Indiana that the continued existence of that sign may result in the reduction of federal aid highway funds as provided in 23 U.S.C. 131* as effective July 1, 2018, the permit for that sign shall be revoked and the permittee shall remove the sign within thirty (30) days after the department notifies the sign owner in writing of the receipt of the federal notice, subject to the right of the permittee and the property owner to deliver a written notice of an appeal thereof to the department that 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. Neither the department nor the state of Indiana shall have any liability to the permittee or any other person or entity in connection with the cessation of operation or the removal of a sign pursuant to this section.

(c) Notwithstanding any other provision of this rule, no sign shall be erected, repaired, or maintained in an adjacent area to any control route in violation of the national standards applicable to outdoor advertising promulgated pursuant to 23 U.S.C. 131* as effective July 1, 2018, or federal administrative regulations adopted in 23 CFR 750* as effective July 1, 2018.

*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 7-4-19; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-20 Zoned commercial or industrial area; unzoned commercial or industrial area

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 20. (a) A sign may be located only in a zoned commercial or industrial area, or in an unzoned commercial or industrial area, only if there is a qualifying commercial or industrial activity on the real estate in such area that also would be the location of the sign.

(b) The department shall deny any application for a sign permit, if the zoning action for the real estate upon which the sign will be located is the result of spot zoning or strip zoning.

(c) Zoning action that has the effect of allowing signs on the affected real estate may not be recognized by the department as a zoned commercial or industrial area for purposes of this rule. Factors to be considered by the department when making its independent determination of whether the real estate is in a zoned commercial or industrial area suitable for allowing signs and whether spot zoning or strip zoning occurred with respect to the particular sign include:

- (1) whether or not this action is part of or consistent with part of a comprehensive zoning plan;
- (2) the reason behind any rezoning of a parcel, which must be taken for reasons other than allowing signs or outdoor advertising;
- (3) the person or entity who requested the zoning action;
- (4) the zoning of nearby areas;
- (5) the actual land use of nearby areas;
- (6) the existence of plans for commercial and industrial development on the real estate;
- (7) the availability of utilities (such as water, electricity, and sewage) on the real estate; and
- (8) the existence of access roads or dedicated access to the real estate.

(d) Factors to be considered by the department when making its independent determination of whether there is a qualifying commercial or industrial activity on the real estate upon which the sign will be located in an unzoned commercial or industrial area include the following:

- (1) The activity maintaining all necessary business licenses as required by state or local law or ordinances.
- (2) If the activity is performed by a corporation or a limited liability company, the entity maintaining all necessary registration to remain in good standing with the Indiana secretary of state.
- (3) The activity having direct vehicular access from a public road that is normal and customary for ingress and egress by the public to the activity, as well as adequate parking to accommodate public access.
- (4) Any building or other permanent structure used for the activity shall:
 - (A) not be principally used as a residence;
 - (B) include customary facilities such as running water, functioning electrical connections, and adequate heating;
 - (C) be located on the same side of the control route as the sign; and
 - (D) have a permanent foundation that is built or modified for the activity, and any mobile structure being so used shall:
 - (i) not be a self-propelled vehicle;
 - (ii) remove all wheels, axles, and springs; and
 - (iii) be permanently secured on piers, pad, or foundation.
- (5) The activity not being, in whole or in substantial part, any of the following:
 - (A) Signs or other outdoor advertising structures.
 - (B) Agricultural, forestry, ranching, grazing, farming, and related activities, including produce stands and other seasonal stands.

(C) Transient or temporary activities, including weekend or seasonal flea markets.

(D) Railroad tracks, minor sidings, cell towers, or other utility facilities.

(E) Visible from the main-traveled way.

(F) Highways, roads, or streets.

(6) The actual land use of nearby areas, as well as whether there is other commercial or industrial activity in nearby areas.

(e) All applications for a sign permit and all supporting documentation from the property owner must provide express authorization in one (1) of the following:

(1) The original signature of the property owner or its authorized representative on the accompanying affidavit in form and substance satisfactory to the department, demonstrating a consent to:

(A) the erection of the sign; and

(B) the right of entry from time to time by employees or authorized agents of the department on the real estate where the sign is located for purposes of inspection or removal of the sign.

(2) In lieu of the affidavit signed by the property owner contemplated by subdivision (1), the applicant may execute and submit an affidavit in form and substance satisfactory to the department, representing to the department:

(A) that the applicant made a reasonable request to obtain the executed affidavit from the property owner, but the applicant's request was refused;

(B) that the applicant has the legal right to erect the sign, based upon its contractual documentation with the property owner;

(C) that the applicant notified the property owner of the right of entry from time to time by employees or authorized agents of the department on the real estate where the sign is located for purposes of inspection or removal of the sign; and

(D) the correct name, mailing address, and electronic mail address of the property owner.

(f) If the zoning of a commercial or industrial area changes after a permit is issued for a sign such that a conforming sign should become a nonconforming sign, the permittee or the current owner of the sign shall, within ninety (90) days of receiving notice of such zoning change, send the department a written request for a permit tag for a nonconforming sign, together with the standard permit tag fee in section 8(a) of this rule. Failure of the permittee or the current owner of the sign to timely comply with this subsection may, in the discretion of the department, result in the revocation of the permit for the sign. (Indiana Department of Transportation; 105 IAC 7-4-20; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-21 Scenic byways

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 21. (a) As of July 1, 2018, the current national and state scenic byways in Indiana include:

(1) Historic National Road;

- (2) Indiana's Historic Pathways;
- (3) Lincoln Highway Scenic Byway;
- (4) Historic Michigan Road Scenic Byway;
- (5) Ohio River Scenic Byway;
- (6) Wabash River Scenic Byway;
- (7) Whitewater Canal Scenic Byway; and
- (8) Whitewater Canal Scenic Byway Loop Routes.

The department shall maintain a list of scenic byways designated by the state of Indiana on the Internet at www.in.gov/indot/2827.htm

(b) The designation of each of the state and national scenic byways set forth in subsection (a)(1) through (a)(8) is hereby ratified and confirmed by the department. The process for nominating and designating a scenic byway in Indiana includes the following steps:

(1) A locally organized sponsor may submit an application to the department to nominate a particular road or combination of roads to become a scenic byway. The application of this local organized sponsor shall be in form and substance satisfactory to the department, and should highlight the following specific intrinsic qualities that are applicable:

- (A) Scenic beauty.
- (B) Natural qualities.
- (C) Historical significance.
- (D) Cultural significance.
- (E) Recreational significance.
- (F) Archeological importance.

(2) Each application submitted to the department for review and approval shall be forwarded to the state scenic byway advisory committee, which was established by an interagency agreement in 1997, and consists of one (1) representative from each of the following entities:

- (A) Department of natural resources.
- (B) Indiana office of tourism development.
- (C) Association of Indiana Counties.
- (D) Accelerate Indiana Municipalities.
- (E) The Indiana division of the Federal Highway Administration.
- (F) The department.

This committee determines if one (1) or more of the specific intrinsic qualities in subdivision (1) are applicable to this specific road or combination of roads. If the new scenic byway is approved by the state scenic byway advisory committee, then the application and this approval document is forwarded to the commissioner of the department and to the lieutenant governor of Indiana for their review of the application. If the

commissioner and the lieutenant governor of Indiana approve this application, the new scenic byway is designated for the road or combination of roads described in the designation.

(3) The department may submit any state scenic byway to the Federal Highway Administration, which may designate it as a national scenic byway.

(c) When any Indiana road or portion thereof has been nominated by the appropriate local organized sponsor to be designated as a scenic byway, the department will send a written notice of the scenic byway nomination and pending designation to:

(1) all applicants with pending permit applications for any sign to be erected adjacent to the portion of the road that is nominated to become a scenic byway;

(2) all permittees for whom a permit has been granted within the past three hundred sixty-five (365) days for any sign to be erected adjacent to the portion of the road that is nominated to become a scenic byway;

(3) all applicants with pending permit applications for any sign to be erected adjacent to any control route, which sign would be visible from the main-traveled way of the nominated road; and

(4) all permittees for whom a permit has been granted within the past three hundred sixty-five (365) days for any sign to be erected adjacent to any control route, which sign would be visible from the main-traveled way of the nominated road.

(d) When any Indiana road, or portion thereof, has been nominated for designation as a scenic byway:

(1) the department shall suspend consideration of all pending applications for permits covering any sign to be erected on any control route, if the sign would be visible from the main-traveled way of that scenic byway, until such time as the nomination for designation has been approved or denied, unless the applicant and the department enter into an agreement, which will allow for a permit to be issued;

(2) signs shall not be erected adjacent to that scenic byway, except for signs more particularly described in 23 U.S.C. 131(c)(1) through 23 U.S.C. 131(c)(5)*, effective as of July 1, 2018;

(3) signs shall not be erected adjacent to any other control route, except for signs more particularly described in 23 U.S.C. 131(c)(1) through 23 U.S.C. 131(c)(5)*, effective as of July 1, 2018, if any such sign would be visible from the main-traveled way of that scenic byway; and

(4) any sign that would be adjacent to the scenic byway and any other sign that would be visible from the main-traveled way of the scenic byway for which a permit was granted prior to nomination of the road to be designated as a scenic byway, but which sign, in either case, has not been erected and completed as of the date the road is designated as a scenic byway:

(A) the permit for such sign shall be automatically revoked; and

(B) must be removed at the expense of the sign owner and the owner of the real estate upon which the sign is located.

The department shall provide just compensation to the sign owner when a substantial effort has been made in the erection of a structure at the time of the scenic byway designation.

(e) Existing conforming signs adjacent to any road as of the date that such road is designated as a scenic byway shall continue to be conforming signs.

(f) The department may exclude from proposed designation as a scenic byway (or remove from any existing scenic byway) any segment or segments of any Indiana road in a zoned commercial or industrial area determined by the department to be inconsistent with the designation of a scenic byway, if:

- (1) an interested party makes a written request to the department to consider exclusion of a particular segment of an Indiana road that meets the test for exclusion from proposed designation as a scenic byway, or removal of that segment from an existing scenic byway;
- (2) the department makes a determination under subsection (g) that segmentation should occur; and
- (3) each of the entities listed in subsection (h)(1) through (h)(3) approve this proposed segmentation.

(g) The department's consideration of segmentation under subsection (f) will result in the department's determination that a particular segment of an Indiana road should be excluded from the proposed scenic byway or removed from an existing scenic byway, if, in the department's reasonable discretion, a predominance of the following conditions are present:

- (1) That segment is zoned for industrial or commercial use, the department agrees with that local zoning determination, and the department further determines that this segment shall not constitute spot zoning or strip zoning.
- (2) That segment contains seventy-five percent (75%) or more of ongoing commercial or industrial activities in a zoned commercial or industrial area in both directions for one thousand (1,000) feet from the outer edges of the proposed segment, and those commercial or industrial activities are visible from the main-traveled way of that roadway.
- (3) That segment does not contain the following intrinsic qualities for which the scenic byway has been or will be designated on either side of the roadway:
 - (A) Scenic beauty.
 - (B) Natural qualities.
 - (C) Historical significance.
 - (D) Cultural significance.
 - (E) Recreational significance.
 - (F) Archeological importance.
- (4) That segment is not part of an approved plan for any local, state, or federal improvements to the proposed or existing scenic byway, including island or street landscape development, tree planting, lighting, or other visual improvements to the area.
- (5) The department has determined that this segment is inconsistent with the designation of that scenic byway.

(h) Whenever the department determines that a particular segment of an Indiana road should be excluded from the proposed scenic byway or removed from the existing scenic byway, the following shall occur:

- (1) The written request of the interested party in subsection (f)(1), together with the department's determination, shall be submitted for approval by the appropriate local organized sponsor that nominated the specific scenic byway for which a specific segmentation is proposed.

(2) If the exclusion of such segment from that scenic byway has been approved by the local organized sponsor, that approval shall be submitted, together with the documentation in subdivision (1), to the state scenic byway advisory committee for its approval.

(3) If the exclusion of such segment from that scenic byway has been approved by the state scenic byway committee and if it is a federally designated scenic byway, that approval shall be submitted, together with the documentation in subdivisions (1) and (2), to the Federal Highway Administration for its approval.

(i) No sign may be erected within any excluded segmented area of a scenic byway if it is still visible from the scenic byway.

*This document is incorporated by reference and refers to the law 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 7-4-21; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-22 Local control of signs on relinquished roads and other control routes within local jurisdiction

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 8-23-20

Sec. 22. (a) Each local governmental entity shall be responsible for effectively controlling signs on control routes within its jurisdiction in accordance with applicable federal law and state law, including those control routes for which authority and responsibility was relinquished pursuant to agreement between the department and such local governmental entity.

(b) If any local governmental entity fails to effectively control any particular sign on a control route within its jurisdiction for more than thirty (30) days following the entity's receipt of a written notice from the department, the local governmental entity shall hold the department harmless and indemnify the department for all costs, expenses, and other amounts paid or incurred by the department as follows:

(1) To ensure effective control of that sign in accordance with federal law and state law (including to the payment of financial compensation, if required under any such law).

(2) Based on the department's participation in any legal or administrative actions challenging or defending the erection, repair, or maintenance of that sign.

(Indiana Department of Transportation; 105 IAC 7-4-22; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

105 IAC 7-4-23 Separability

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 8-23-20

Sec. 23. The terms of this rule are declared to be separable. Should any word, phrase, sentence, or section be declared unconstitutional or otherwise invalid, the remainder of this rule shall not thereby be affected, but shall remain in full force and effect.

(Indiana Department of Transportation; 105 IAC 7-4-23; filed Jul 24, 2019, 8:08 a.m.: 20190821-IR-105170337FRA)

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)