
TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

Final Rule
LSA Document #24-85

DIGEST

Adds [105 IAC 18](#) regarding worksite safety automated enforcement program rebuttable presumption requirements, the burden of proof standard, record retention, and clarifying the number of worksite speed control systems operated. Effective 30 days after filing with the publisher.

HISTORY

Notice of First Public Comment Period published February 28, 2024: [20240228-IR-105240085FNA](#).
Regulatory Analysis submitted with Notice of First Public Comment Period: [20240228-IR-105240085RAA](#).
60 Day Requirement published February 28, 2024: [20240228-IR-105240085ARA](#).
Date of First Public Hearing: April 2, 2024.

SUMMARY/RESPONSES TO COMMENTS

The Indiana Department of Transportation (INDOT) requested public comment from February 28, 2024, through April 2, 2024, and during the public hearing on April 2, 2024. INDOT received no comments in response to the Notice of First Public Comment Period.

[105 IAC 18](#)

SECTION 1. [105 IAC 18](#) IS ADDED TO READ AS FOLLOWS:

ARTICLE 18. WORKSITE SAFETY AUTOMATED ENFORCEMENT PROGRAM

Rule 1. Definitions

[105 IAC 18-1-1](#) Applicability

Authority: [IC 8-23-2-6](#); [IC 8-23-32-21](#)
Affected: [IC 9-13-2-105](#); [IC 9-13-2-200](#); [IC 8-23-32](#)

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

(Indiana Department of Transportation; [105 IAC 18-1-1](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

[105 IAC 18-1-2](#) "Citation" defined

Authority: [IC 8-23-2-6](#); [IC 8-23-32-21](#)
Affected: [IC 8-23-32](#)

Sec. 2. "Citation" means a notice of violation of the worksite speed limit and assessment of a civil penalty issued by the Indiana department of transportation for a traffic violation, which requires the owner to respond.

(Indiana Department of Transportation; [105 IAC 18-1-2](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

[105 IAC 18-1-3](#) "Department" defined

Authority: [IC 8-23-2-6](#); [IC 8-23-32-21](#)
Affected: [IC 8-23-1-19](#); [IC 8-23-2-1](#); [IC 8-23-32](#)

Sec. 3. "Department" refers to the Indiana department of transportation established under [IC 8-23-2-1](#).

(Indiana Department of Transportation; [105 IAC 18-1-3](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

[105 IAC 18-1-4](#) "Motor vehicle" defined

Authority: [IC 8-23-2-6](#); [IC 8-23-32-21](#)

Affected: [IC 8-23-32](#); [IC 9-13-2-105](#)

Sec. 4. "Motor vehicle" has the meaning set forth in [IC 9-13-2-105\(a\)](#).

(Indiana Department of Transportation; [105 IAC 18-1-4](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

[105 IAC 18-1-5](#) "Owner" defined

Authority: [IC 8-23-2-6](#); [IC 8-23-32-21](#)

Affected: [IC 8-23-32-4](#)

Sec. 5. "Owner" has the meaning set forth in [IC 8-23-32-4](#).

(Indiana Department of Transportation; [105 IAC 18-1-5](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

[105 IAC 18-1-6](#) "Worksite" defined

Authority: [IC 8-23-2-6](#); [IC 8-23-32-21](#)

Affected: [IC 8-23-32](#); [IC 9-13-2-200](#)

Sec. 6. "Worksite" means a location or an area on which a:

- (1) public purpose construction or maintenance activity is being performed on a highway; or**
- (2) private purpose construction or maintenance activity authorized by a government agency is being performed on a highway.**

A worksite includes lanes of the highway leading up to the area on which the activity is being performed, beginning at the point where appropriate signs directing vehicles to merge from one (1) lane into another lane are posted. A worksite may include both directions of the highway, the median, or on and off exit ramps where work is being performed.

(Indiana Department of Transportation; [105 IAC 18-1-6](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

Rule 2. Rebut Presumption Requirements

[105 IAC 18-2-1](#) Requirements to rebut presumption; burden of proof

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

Affected: [IC 8-23-32-17](#)

Sec. 1. (a) An owner of a motor vehicle may rebut the presumption that they were operating the motor vehicle through a worksite at the time a photograph or recorded image was obtained through a worksite speed control system if any of the following apply:

(1) The owner of the motor vehicle was not driving the motor vehicle at the time the speed limit was exceeded. The owner must provide credible sworn testimony or an affidavit, under the penalties of perjury, which includes:

- (A) a statement that the owner of the motor vehicle was not driving the motor vehicle through the worksite at the time the worksite speed limit was exceeded;**
- (B) the name, age, address, and telephone number of the operator of the motor vehicle at the time the worksite speed limit was exceeded; and**
- (C) the citation number.**

(2) The motor vehicle was reported stolen before the worksite speed limit was exceeded and had not been recovered before that time. The owner must provide credible sworn testimony or an affidavit,

under the penalties of perjury, which includes:

- (A) the date the motor vehicle was stolen;
- (B) the date and time the motor vehicle was reported stolen to law enforcement, which must be before the time the worksite speed limit was exceeded;
- (C) a statement that the motor vehicle was stolen and had not been recovered at the time the worksite speed limit was exceeded;
- (D) the citation number; and
- (E) an attached copy of the police report.

(3) The registered owner of the motor vehicle was not the actual owner of the motor vehicle at the time the speed limit was exceeded. The registered owner must provide credible sworn testimony or an affidavit, under the penalties of perjury, which includes:

- (A) a statement that the registered owner of the motor vehicle was not the actual owner of the motor vehicle driven through the worksite at the time the speed limit was exceeded;
- (B) the date the title of the motor vehicle was transferred from the registered owner's name to the new owner;
- (C) the citation number; and
- (D) an attached copy of documentation that shows the title transfer of the motor vehicle to another owner.

(b) The presumption under subsection (a) may be overcome if the owner of the motor vehicle is able to prove by clear and convincing evidence they were not operating the motor vehicle through the worksite at the time the photograph or recorded image was obtained.

(Indiana Department of Transportation; [105 IAC 18-2-1](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

[105 IAC 18-2-2](#) Joint ownership

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

Affected: [IC 8-23-32](#)

Sec. 2. If a motor vehicle is owned by more than one (1) person, a citation shall be sent to each registered owner of the motor vehicle. If the owner or owners provide documentation or evidence under section 1(a) [*sic, of this rule*], each joint owner operator of the motor vehicle at the time the worksite speed limit was exceeded shall be responsible for the citation.

(Indiana Department of Transportation; [105 IAC 18-2-2](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

Rule 3. Worksites

[105 IAC 18-3-1](#) Worksites

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

Affected: [IC 8-23-32](#)

Sec. 1. The department may operate and monitor not more than four (4) worksites at any given time in a single calendar year.

(Indiana Department of Transportation; [105 IAC 18-3-1](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

Rule 4. Record Retention

[105 IAC 18-4-1](#) Record retention

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

Affected: [IC 8-23-32](#)

Sec. 1. (a) The department shall destroy personal identifying information and photographs or recorded images collected under the pilot program not later than two (2) years after the date the information and photographs or recorded images are collected unless:

- (1) that period has not yet expired to exhaust the appellate remedies; or**
- (2) under a court order.**

(b) After the period stated or ordered in subsection (a), the department shall retain the following statistical information:

- (1) The date of a violation.**
- (2) The speed exceeded.**
- (3) The amount of a fine or penalty imposed.**
- (4) The location or locations of a violation.**
- (5) Whether an incident occurred in the worksite where an automated traffic control system was operated.**

(Indiana Department of Transportation; [105 IAC 18-4-1](#); filed May 6, 2024, 8:57 a.m.: [20240529-IR-105240085FRA](#))

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Notice of First Public Comment Period: [20240228-IR-105240085FNA](#)

60 Day Requirement ([IC 4-22-2-19](#)): [20240228-IR-105240085ARA](#)

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