

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

Notice of Public Comment Period For Interim Rule

LSA Document #24-273

RELOCATION ASSISTANCE

PURPOSE OF NOTICE

The Indiana Department of Transportation (INDOT) is soliciting public comment on rules to be temporarily added concerning relocating advertising signs. INDOT seeks comment on the affected citations listed and any other provisions of Title 105 that may be affected by this rulemaking.

ADDITIONAL DOCUMENTS

Governor's Approval dated July 31, 2024: 20240821-IR-105240273GAA

Regulatory Analysis: 20240821-IR-105240273RAA

CITATIONS AFFECTED: 105 IAC 17

AUTHORITY: IC 8-23-20-25.7; IC 8-23-20.5-6

OVERVIEW

Basic Purpose and Background

The proposed interim rule clarifies relocation cost support for the outdoor advertising industry and expands the definition of "relocation expenses", as well as clarifies the steps the industry must take if impacted by an INDOT project.

INDOT filed an emergency rule August 2, 2022, to add 105 IAC 17, which became effective August 15, 2022. The emergency rule added clarity to the relocation process for an outdoor advertising sign impacted by an INDOT project. First, it specified that adjustments to a sign due to relocation must be compensated as a relocation expense, and also clarified that the adjustment cost may not exceed the replacement value of the structure, minus proceeds or trade in value of the original structure. Second, the rule clarified that an outdoor advertising company is not eligible to receive duplicative payments through relocation and eminent domain proceedings. Third, the rule described the right of an outdoor advertising company to appeal costs associated with relocating a billboard if the company engages with relocation professionals.

Statement Justifying Requirement or Cost

The proposed interim rule addresses the need for clarifying relocation benefits if a conforming outdoor sign is impacted by an INDOT project. The outdoor advertising industry requested this clarification. The proposed interim rule does not add any fees, fines, or civil penalties.

REQUEST FOR PUBLIC COMMENT

INDOT is soliciting public comment on the proposed interim rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

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Kirstie Andersen

Indiana Department of Transportation

100 North Senate Avenue, Room N758—Legal Services

Indianapolis, IN 46204

(2) By email to kiandersen@indot.in.gov. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than September 20, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis and Statement Justifying Requirement or Cost, and materials incorporated by reference (if applicable) are on file at the Indiana Department of Transportation, 100 North Senate Avenue, Room N758, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis and Statement Justifying Requirement or Cost are available at

the Indiana Department of Transportation office.

PROPOSED INTERIM RULE

SECTION 1. The purpose of this document is to carry out the objectives of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601-4655), IC 8-23-20-25.6, IC 8-23-20-27, and IC 8-23-20.5. For purposes of this document, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and federal regulations promulgated to meet the Uniform Act's objectives, including 49 CFR Part 24, as amended, are together referred to as the "Uniform Act". Except as expressly enumerated in this document, or as otherwise provided for in Indiana law or federal law, the Uniform Act applies to owners and displaced persons for determining the eligibility of relocation payments and the amount of those payments. Definitions in the Uniform Act apply throughout this document.

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

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

- (1) payments made to the owner that are determined to be duplicative based on the Uniform Act; and
- (2) payments the owner was not entitled to receive because of a later opinion of a court with jurisdiction to enter a judgment for compensation under IC 8-23-20-27.

(b) The agreement under subsection (a) gives INDOT the authority to set off payments owed to it under this SECTION against compensation INDOT may owe to a displaced person under IC 8-23-20-27. INDOT may exercise set off rights through the filing of a request with the court with jurisdiction over the eminent domain proceeding. INDOT is not prohibited from using other means to obtain repayment of duplicative payments.

SECTION 4. If a displaced person has applied for relocation assistance under the Uniform Act or applicable state law, the Indiana department of transportation shall issue a written notification of its determination, based on the eligibility requirements under the Uniform Act, on the displaced person's eligibility for assistance. A displaced person is entitled to appeal this determination under the procedures outlined in the Uniform Act and IC 4-21.5.

SECTION 5. This document expires four hundred twenty-five (425) days after the publisher accepts the Interim Final Rule for filing.

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Approved by Governor: July 31, 2024