FHWA Bicycle and Pedestrian Program
Regulations, Policies and Guidance as of September 22, 2011

A comprehensive listing can be found at FHWA Bicycle and Pedestrian Program Website: http://www.fhwa.dot.gov/environment/bikeped/index.htm

The following are the most significant and most recent items:

Date	Document	Hyperlink
UNITED STATES CODE		
	23 USC 134	http://frwebgate.access.gpo.gov/cgi-bin/usc.cgi?ACTION=RETRIEVE&FILE=$$xa$$busc23.wais&start=997506&SIZE=63189&TYPE=TEXT
	23 USC 135	http://frwebgate.access.gpo.gov/cgi-bin/usc.cgi?ACTION=RETRIEVE&FILE=$$xa$$busc23.wais&start=1060701&SIZE=41795&TYPE=TEXT
	23 USC 217	http://frwebgate.access.gpo.gov/cgi-bin/usc.cgi?ACTION=RETRIEVE&FILE=$$xa$$busc23.wais&start=1595439&SIZE=17005&TYPE=TEXT
CODE OF FEDERAL REGULATIONS		
	23 CFR 652	http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=7f603ec660922dfa65ba82ff44906101&tpl=/ecfrbrowse/Title23/23cfr652_main_02.tpl
DOT POLICY AND GUIDANCE		
March 2010	US DOT Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations	http://www.dot.gov/affairs/2010/bicycle-ped.html
March 2010	INFORMATION: New US DOT Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations	http://www.fhwa.dot.gov/environment/bikeped/policy_accom_memo.htm
FHWA POLICY AND GUIDANCE		
February 1999	Guidance and Policies - Bicycle and Pedestrian Provisions of the Federal-aid Program	http://www.fhwa.dot.gov/environment/bikeped/memo.htm
Revised October 2008	FHWA Guidance - Bicycle and Pedestrian Provisions of Federal Transportation Legislation	http://www.fhwa.dot.gov/environment/bikeped/bp-guid.htm
Updated August 2003	FHWA/FTA Bicycle and Pedestrian Transportation Planning Guidance	http://www.fhwa.dot.gov/environment/bikeped/inter.htm

Date	Document	Hyperlink
February 2006	FHWA/FTA Memorandum - Flexible Funding for Highways and Transit and Funding for Bicycle & Pedestrian Programs	http://www.fhwa.dot.gov/hep/flexfund.htm
February 2008	Bicycle and Pedestrian Design Guidance	http://www.fhwa.dot.gov/environment/bikeped/guidance.htm
February 2008	Design guidance Accommodating Bicycle and Pedestrian Travel: A Recommended Approach	http://www.fhwa.dot.gov/environment/bikeped/design.htm
August 2000	Supplementary Design Guidance for Bicycle and Pedestrian Projects	http://www.fhwa.dot.gov/environment/bikeped/supdesgn.htm
Revised February 2011	Shared Use Paths Along or Near Freeways and Bicycles on Freeways	http://www.fhwa.dot.gov/environment/bikeped/freeways.htm

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Chapter Trans 75

BIKEWAYS AND SIDEWALKS IN HIGHWAY PROJECTS

Trans 75.01	Definitions.
Trans 75.02	When bikeways and sidewalks are required.
Trans 75.03	Bicycles or pedestrians prohibited.
Trans 75.04	Excessively disproportionate cost.
Trans 75.05	Constrained environments.
Trans 75.06	Absence of need.
Trans 75.07	Maintenance agreements; sidewalks.

Trans 75.01 Definitions. In this chapter:

(1) "Authority" means the department or local governmental unit having primary maintenance responsibility over the highway.

(2) "Bikeway" means any of the following:

(a) Bicycle lane, as defined in s. 340.01 (5e), Stats.

(b) Paved shoulders of a roadway not normally permitted for use by motor vehicles.

(c) Outside travel lanes 14 feet or more wide.

(d) Paths, subject to s. Trans 75.02 (3).

(3) "Department" means the department of transportation.

(4) "Estimated total project cost" means the construction cost estimated during preliminary design and shall include the cost of all bikeways and sidewalks and the cost of any additional real estate needed.

(5) "Highway" has the meaning given in s. 340.01 (22), Stats.

(6) "Reconstruction project" means any of the following:

(a) 'Reconstruction' of a highway, as defined in s. 84.013 (1) (c), Stats.

(b) Pavement replacement having a design life of 15 years or more on an existing highway.

(7) "Roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, including the shoulder. In a divided highway, the term "roadway" refers to each roadway separately but not to all those roadways collectively.

(8) "Sidewalk" has the meaning given in s. 340.01 (58), Stats.

History: CR 10–082: cr. Register December 2010 No. 660, eff. 1–1–11.

Trans 75.02 When bikeways and sidewalks are required. (1) Except as provided in this chapter, the authority shall include bikeways and sidewalks in all new highway construction and reconstruction projects funded in whole or in part from state funds or federal funds appropriated under s. 20.395 or 20.866, Stats.

(2) In this chapter, sidewalks and bikeways shall be considered separately. If sidewalks and bikeways cannot both be accommodated, consideration shall be given to sidewalks before adding bikeways.

(3) Paths can be used to supplement on–road bicycle accommodations. In exceptional situations a path may substitute for on–road bicycle accommodations if the use is consistent with the department's Bicycle Facility Design Handbook and the department's Facilities Development Manual and the substitution is approved in writing by the secretary's designee who has knowledge of the purpose and design of bicycle and pedestrian accommodations. A path may be considered along a controlled access highway, as defined in s. 990.01 (5r), Stats., having a speed limit of 45 miles per hour or higher.

Note: The Department's Bicycle Facility Design Handbook is available online at: http://www.dot.wisconsin.gov/projects/state/docs/bike–facility.pdf. The Facilities Development Manual is available online at:

http://roadwaystandards.dot.wi.gov/standards/fdm/index.htm.

(4) The department shall refuse to provide any state funds or federal funds appropriated under s. 20.395 or 20.866, Stats., for any highway construction or reconstruction project that does not include bikeways and sidewalks required under s. 84.01 (35), Stats., and not excepted by this chapter. If an authority determines to omit any bikeway or sidewalk under this chapter, the department may request from the authority a written justification for the omission and shall deny state funds or federal funds appropriated under s. 20.395 or 20.866, Stats., for the project if the department determines the omission is not justified under this chapter.

(5) Notwithstanding sub. (1), bikeways and sidewalks are not required to be included in any highway construction or reconstruction project that is any of the following:

(a) Has a program level scoping document consistent with life cycle 11 of the department's Facilities Development Manual or, for projects undertaken by a local unit of government, a similar document as determined by the department, in place as of January 1, 2011.

Note: The Facilities Development Manual is available online at: http://roadwaystandards.dot.wi.gov/standards/fdm/index.htm.

(b) Let for bid that is first advertised before January 1, 2011, or for projects for which no bid is advertised or undertaken under a contract signed before January 1, 2011.

(c) Described in a final environmental impact statement that is approved before January 1, 2011.

(d) Documented in an environmental report, as defined in s. Trans 400.04 (10), completed before January 1, 2011, that fit the criteria or conditions for approval as a categorical exclusion in 23 CFR 771.117, April 1, 2000.

(e) The subject of a finding of no significant impact made under ch. Trans 400 before January 1, 2011.

Note: This subsection does not supersede any federal law or policy relating to bicycle or pedestrian accommodations.

History: CR 10–082: cr. Register December 2010 No. 660, eff. 1–11–11.

Trans 75.03 Bicycles or pedestrians prohibited. (1) Section Trans 75.02 does not require bikeways or sidewalks to be included on any highway on which bicycles or pedestrians are prohibited by any of the following:

(a) Order, ordinance or resolution under s. 349.105, Stats., regarding use of a freeway or expressway.

(b) Ordinance under s. 349.18, Stats., regarding the operation of bicycles on the highway.

(c) Ordinance under s. 349.23 (3), Stats., regarding use of a roadway.

(d) Order, ordinance or resolution under s. 349.185 (2), Stats., regarding pedestrians upon highways.

(2) If bicycles or pedestrians, but not both, are prohibited from using the highway, the project shall include either a bikeway or sidewalk, as appropriate, to serve the bicycles or pedestrians that are allowed to use the highway. A path may be considered along a controlled access highway, as defined in s. 990.01 (5r), Stats., having a speed limit of 45 miles per hour or higher where bicyclists and pedestrians are not allowed to use the roadway.

History: CR 10–082: cr. Register December 2010 No. 660, eff. 1–1–11.

Trans 75.04 Excessively disproportionate cost. (1) WHEN FACILITIES ARE NOT REQUIRED. Notwithstanding s.

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Trans 75.02, bikeways and sidewalks are not required on any highway on which the cost of establishing bikeways or sidewalks would be excessively disproportionate to the need or probable use of the bikeways or sidewalks. Cost is excessively disproportionate to the need or probable use of the bikeways or sidewalks if it exceeds 20 percent of the estimated total project cost.

(2) COSTS CONSIDERED. The cost of establishing a bikeway or sidewalk shall consider only the marginal cost of establishing any new or expanded bikeway or sidewalk and may not include any cost to reestablish any existing bikeway or sidewalk. Costs shall include only construction costs and the cost to acquire any real estate needed for a bikeway or sidewalk. Only 20 percent of the cost to acquire real estate needed for a bikeway or sidewalk shall be considered a cost of the bikeway or sidewalk if all of the following apply:

(a) Existing right of way is sufficiently wide to establish the bikeway and sidewalk were the highway construction or reconstruction project to occur without any additional travel lane.

(b) Additional real estate is needed to accommodate all needed travel lanes, bikeways and sidewalks.

Note: For example, a highway reconstruction project may require a gravel shoulder of sufficient width. Paving the shoulders could establish a bikeway. The cost to establish the bikeway shall consider only the cost of paving the shoulder, not the cost of the gravel shoulder. If the shoulder is widened for the bikeway beyond that ordinarily required for the roadway, the excess shoulder costs shall be considered costs to establish the bikeway, in addition to the cost of repaving the entire shoulder.

(3) APPORTIONING MONEYS. If the sum of costs for both sidewalks and bikeways exceeds 20 percent of the estimated total project cost, but the costs for either sidewalks or bikeways is less than 20 percent of the estimated total project cost, the authority may give more consideration to the inclusion of sidewalks as required in s. Trans 75.02 (2). The highway project shall include whichever of bikeways or sidewalks, or portions thereof, the authority, in consultation with the department, determines will provide the best value and costs 20 percent or less than the estimated total project costs. The highway project shall expend up to 20 percent of estimated total project costs on establishing sidewalks or bikeways or both.

Note: Assume a highway reconstruction project requiring no additional real estate and having estimated total project costs of $1,500,000 where roadway construction costs $1,150,000, the cost to build or rebuild sidewalks on both sides is $250,000, the cost to build or rebuild bikeways on both sides is $100,000, and where:

1. Sidewalks already exist on both sides of the highway and no bikeways exist. In this example, the cost of establishing the sidewalks shall be considered to be zero, since the sidewalks are already established. The cost to establish both sidewalks and bikeways shall be considered to be $100,000, which represents 7 percent of estimated total project costs. Bikeways and sidewalks should be built on both sides of the highway.

2. Sidewalk exists on only one side of that highway and no bikeways exist. In this example, the cost of establishing the sidewalks shall be considered to be $125,000, the cost to establish bikeways is $100,000, which together represents 15 percent of estimated total project costs. Bikeways and sidewalks should be built on both sides of the highway.

3. Neither sidewalks nor bikeways exist. In this example, the cost to establish both sidewalks and bikeways is $350,000, which represents 23 percent of total project costs. In this case, expenditures to establish sidewalks and bikeways may be limited to $300,000, or 20 percent of total project costs.

(4) DOCUMENTATION AND APPROVAL REQUIRED. Notwithstanding s. Trans 75.02 (4), if an authority determines that bikeways and sidewalks are not required under this section, the authority shall submit to the department a written justification for the exception as part of any agreement concerning funding for the highway construction and reconstruction project from any appropriation of state or federal funds under s. 20.395 or 20.866, Stats. If the department receives a justification under this subsection, the department may approve the expenditure of moneys from any state or federal appropriation under s. 20.395 or 20.866, Stats., for the highway project only if the secretary of transportation, or the secretary's designee who has knowledge of the purpose and value of bicycle and pedestrian accommodations, finds that the exception under this subsection applies.

History: CR 10–082: cr. Register December 2010 No. 660, eff. 1–1–11.

Trans 75.05 Constrained environments. (1) Notwithstanding s. Trans 75.02 and subject to subs. (3) and (4), bikeways and sidewalks are not required in a constrained environment if establishing them would have excessive negative impacts. A "constrained environment" is any area in which structures, improvements, natural resources, or historical or archaeological sites adjacent to the highway do not allow construction of all of the following on each side of the roadway unless the obstruction is eliminated:

(a) A terrace at least 3 feet wide, including the width of the curb, and having no sidewalk.

(b) A sidewalk that is either of the following:

1. Five feet wide, if adjacent to a terrace at least 3 feet wide.

2. Six feet wide, if adjacent to a curb or a terrace less than 3 feet wide.

(c) A bikeway.

(2) Impacts are considered excessively negative if any of the following applies:

(a) Establishing a sidewalk and bikeway together or just a sidewalk requires the reduction of the terrace width to less than 3 feet for more than 50 percent of total project length.

(b) Eliminating obstructing structures or improvements adjacent to the highway would dramatically reduce the aesthetic value or functionality of the remaining area. The authority shall give significant weight to the impacts on abutting property owners in any constrained environment.

(c) The environmental documentation process shows that establishing all of the facilities described in sub. (1) (a), (b), or (c) would result in loss or degradation of natural resources, historical or archaeological sites.

(3) In a constrained environment with excessive negative impacts, the authority shall include those facilities to the greatest extent the authority determines is practicable but may omit a sidewalk or bikeway, or both, from either or both sides of the roadway, or may vary the minimum widths specified in sub. (1). If an authority omits a bikeway or sidewalk under this subsection, the authority shall do all of the following:

(a) Establish bikeways or sidewalks using the amount of space remaining in the highway after that omission.

(b) Consider establishing those omitted facilities nearby the constrained environment.

(4) In a constrained environment, an authority shall establish bikeways if the authority can do so by reducing the terrace width to less than 3 feet for not more than 25 percent of the overall length of the project.

(5) If real estate is or will be acquired within the constrained environment for a travel lane, the authority shall consider whether the area remains a constrained environment or whether additional real estate could be acquired for purposes of a bikeway or sidewalk without generating excessive negative impacts. Real estate costs attributable to establishing any new bikeways or sidewalks may be considered under s. Trans 75.04 for purposes of determining costs.

History: CR 10–082: cr. Register December 2010 No. 660, eff. 1–1–11.

Trans 75.06 Absence of need. (1) In this section:

(a) "Average daily traffic" or "ADT" means the total traffic volume during a stated period divided by the number of days in that stated period.

(b) "Outlying district" means the territory contiguous to and including any highway within the corporate limits of a city or village where on each side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial or residential purposes fronting thereon average more than 200 feet apart.

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(c) "Rural area" means any area that is not an urban area or a semi urban district.

(d) "Semi urban district" means the territory contiguous to and including any highway where on either side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial or residential purposes fronting thereon average not more than 200 feet apart or where the buildings in use for such purposes fronting on both sides of the highway considered collectively average not more than 200 feet apart.

Note: This will include most areas within small cities and villages that do not have a population large enough to be classified as an urban area.

(e) "Urban area" means any area which is an urbanized area or urban place, as determined by the department under 23 USC 101 (a) and regulations adopted under 23 USC 101 (a) and approved by the appropriate federal authority.

(2) An authority may not omit sidewalks under this section in any semi urban district and in any urban area that is not an outlying district. In semi urban districts and urban areas, an authority may not omit a bikeway under this section if the highway has at least 1,500 ADT in the design year.

Note: Maps of urban area boundaries shall be available for inspection at offices of the department and copies of the maps shall be provided at cost to anyone requesting them.

(3) Bikeways are not required in an outlying district or rural area if the highway that is the subject of the construction or reconstruction project has, or upon completion will have, less than 750 ADT and any of the following applies:

(a) The average bicycle traffic volume on the highway is or is expected to be less than 25 per day during the 10 most traveled days for bicycling of the year.

(b) The highway is not identified in part of a government bike transportation plan, in the Wisconsin Bicycle Transportation Plan or in any other bicycle plan endorsed by or supported by the department.

Note: The Wisconsin Bicycle Transportation Plan is available online at: http://www.dot.wisconsin.gov/projects/state/bike2020.htm

(c) The highway does not provide a connection of one mile or less between any existing or planned bike route, as defined in s. 340.01 (5m), Stats.

(d) The highway is not a short connection of one mile or less needed to connect an existing bikeway to the nearest local road.

(4) An authority may omit bikeways or sidewalks in any outlying district or rural area unless the authority determines, based on an official land use plan, that there will be significant development within the outlying district within the next 10 years. Use of a sidewalk in an outlying district or rural area is presumed to be too sparse to justify including sidewalks. An authority may omit bikeways from any highway that has less than 750 ADT in the design year, but shall consider establishing a bikeway that will do any of the following:

(a) Complete a gap of one mile or less in an otherwise continuous bike route.

(b) Make a connection of not more than 3 miles from communities or urban areas to a town or county roadway network, excluding any dead end roadway.

(5) If an authority considers omitting a bikeway or sidewalk under this section, the authority shall consider changing patterns of use during the design life of the highway project. If the authority expects bikeway or sidewalk use to increase over the design life of the highway project, the authority shall give greater weight to use projected for the second half of the design life than for the first half of the design life. In this subsection, the "design life" is 20 years for a roadway, 75 years for a bridge.

History: CR 10-082: cr. Register December 2010 No. 660, eff. 1-1-11.

Trans 75.07 Maintenance agreements; sidewalks. **(1)** Notwithstanding s. Trans 75.02, an authority may omit sidewalks from a highway construction or reconstruction project if the local governmental unit refuses to agree in writing to maintain them. A refusal is valid under this section only if shown by ordinance, resolution or order of the city, village, town or county in which the highway lies. This section applies only in areas in which all of the following applies:

(a) There are no sidewalks in the highway system under the authority's jurisdiction.

(b) The city, village, town or county has no ordinance that requires the installation of sidewalks or that requires the removal of snow and ice from sidewalks.

(c) The city, village, town or county lacks sufficient equipment for the efficient removal of snow or ice from sidewalks.

(2) Subsection (1) does not apply to any highway that is part of the national highway system.

(3) Except as provided in this section, an authority must agree, in writing, with the department, to maintain sidewalks as a condition of eligibility for state or federal funds appropriated under s. 20.395 or 20.866, Stats., for that highway construction or reconstruction project.

History: CR 10-082: cr. Register December 2010 No. 660, eff. 1-1-11.