

Clearinghouse Rule 25-022

**STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION**

PROPOSED ORDER AMENDING PERMANENT RULE

The Wisconsin Department of Transportation proposes an order to:

Create ss. Trans 212.02 (6g), (6r), (9), (10) and (11), Trans 212.02 (9), (10) and (11), Trans 213.02 (1m), Trans 213.02 (7d), (7h), (7p) and (7t), Trans 213.02 (10) and (11), Trans 213.03 (1) (e), Trans 213.03 (2) (c)

Amend ss. Trans 212 (title), Trans 212.02 (1), (2), (3), (4), (5), (6), (7) and (8), Trans 212.02 (7) and (8), Trans 212.02 (7) and (8), Trans 212.03, Trans 212.04 (1), (2) and (3), Trans 212.04 (4), Trans 212.05, Trans 212.06 (1), Trans 212.07, Trans 212.09, Trans 212.10, Trans 212.12, Trans 212.13, Trans 213.02 (1), Trans 213.02 (3), Trans 213.02 (8), 213.03 (1) (a), Trans 213.03 (2), (2) (a) and (2) (b), Trans 213.03 (4) (a), Trans 213.03 (4) (c) (Note), Trans 213.03 (5)

Repeal ss. Trans 212.01 (intro.), Trans 212.06 (3) and (4), Trans 213.02 (9), Trans 213.03 (1) (b) and (1) (c)

Repeal and recreate ss. Trans 212.06 (2), Trans 212.08, Trans 212.11, Trans 213.02 (2m)

ReNUMBER and amend ss.

ReNUMBER ss.

The Statement of Scope for this Permanent Rule, SS 045-23, was approved by the Governor on July 6, 2023, published in Register No. 811A2 on July 10, 2023, and approved by Secretary of the State of Wisconsin Department of Transportation (Department) Craig Thompson, as required by s. 227.135(2), Stats, on June 1, 2023.

The State of Wisconsin Department of Transportation Proposes an Order to Amend Permanent Rule Wis. Admin. Code chs. Trans 212 and 213 - relating to: Standards for inspection for local bridge program. The analysis below was prepared by the Department.

ANALYSIS

Statutes Interpreted: ss. 84.14(3) and 84.18, Stats.

Statutory Authority: ss. 84.14(3), 84.04, 85.025, and 84.11, Stats.

Explanation of Agency Authority:

Chapter Trans 212 authority: s. 84.17 (3), Stats.

(3) After the initial inspection and inventory under sub. (2) is completed, all highway bridges in the state shall be inspected on a continuing basis as determined by the department. The department shall establish standards for the continuing inspection program. The responsibility for the continuing inspection program shall be as follows:

(a) The department shall be responsible for inspecting the highway bridges on the state trunk highway system.

(b) Local authorities and other authorities shall be responsible for inspecting highway bridges on highways under their jurisdictions.

Chapter Trans 213 authority: s. 84.18, Stats.

(1) Purpose. The local bridge program is created to accelerate the reconstruction or rehabilitation of seriously deteriorating local bridges.

(2) Definitions. In this section:

(a) "Coordinating agency" means the county which coordinates the submission of applications from eligible applicants within the county to the department.

(b) "Eligible applicant" means county, city, village, town or combination thereof.

(c) "Entitlement" means the amount of aids a coordinating agency will be eligible to receive under this section as determined under sub. (5).

(d) "Local bridge" means a bridge which is not on the state trunk highway system or on marked routes of the state trunk highway system designated as connecting highways.

(e) "Local bridge project" means a project for the design and construction or rehabilitation of a seriously deteriorating local bridge and minimum approaches.

(f) "Seriously deteriorating local bridge" means a local bridge exhibiting deficiencies that meet the criteria established by the department.

(3) Administration. The department shall administer a local bridge program which provides an entitlement of funds to the coordinating agency for the reconstruction or rehabilitation of seriously deteriorating local bridges. The department shall provide the same percentage of the cost of a local bridge project as the percent established under 23 USC 144 (f).

(4) Applications. Any eligible applicant may apply to the coordinating agency for funds under this section. A separate application is required for each local bridge project. The application shall describe the specific local bridge project for which funds are to be used. The department shall prescribe the form, nature and extent of information to be contained in the application.

(5) Determination of entitlement. The department shall determine the entitlement to the coordinating agency based upon the ratio between the estimated cost of reconstructing or rehabilitating seriously deteriorating local bridges in that county and the estimated cost of reconstructing or rehabilitating the seriously deteriorating local bridges in the state which are eligible under this section, exclusive of any bridge that is programmed for construction under an order by the department under s. 84.11 (4). The estimated cost of reconstructing or rehabilitating

the seriously deteriorating local bridges in the state and individual counties shall be based upon those bridges identified in the inventory of bridges made under s. 84.17.

(6) Execution and control of work. Subject to s. 30.2022 and the control exercised by the United States, the construction under this section of any local bridge project shall be wholly under the supervision and control of the department. The secretary shall make and execute all contracts and have complete supervision over all matters pertaining to such construction and shall have the power to suspend or discontinue proceedings or construction relative to any bridge project at any time in the event any county, city, village or town fails to pay the amount required of it for any project eligible for construction under this section, or if the secretary determines that sufficient funds to pay the state's part of the cost of such bridge project are not available. All moneys provided by counties, cities, villages and towns shall be deposited in the state treasury, when required by the secretary, and paid out on order of the secretary. Any of the moneys deposited for a project eligible for construction under this section which remain in the state treasury after the completion of the project shall be repaid to the respective county, city, village or town in proportion to the amount each deposited.

(7) Rules. The department shall adopt rules to implement this section.

(8) Exceptions. Nothing in this section prevents any of the following:

(a) Construction or rehabilitation projects under other bridge programs if applicable.

(b) The sharing of the cost under s. 82.08 to fund the local share of a local bridge project.

Related Statute or Rule: chs. Trans 212, 213, 209 and 215.

Plain Language Analysis:

This rulemaking updates Wis. Admin. Code ch. Trans 212 by replacing obsolete language, updating references, adding language as necessary to complement current state and national practice, and comply with the code of federal regulations. This includes the addition of language related to tunnels and tunnel inspection standards consistent with federal standards and adopted by state DOTs. Inspection standards and procedures are clarified as well. These updates do not substantially change the way the Department inspects state-owned bridges, nor does it change expectations for the inspection of bridges on the local system. Rather, the changes reflect current practice on both the state and local system and reflect updates in the code of federal regulations.

This rulemaking updates Wis. Admin. Code ch. Trans 213 by repealing and replacing obsolete language and updates references to make them current. There is also additional language added and deletion or modification of existing language to create eligibility criteria that is more closely aligned with modern bridge asset management practice and how bridge project eligibility is determined for state-owned bridges. The current language was developed at a time when bridge condition information was more difficult to gather, store, and analyze. These changes create a wider range of rehabilitation options for local owners and better allow local owners to seek funding for the appropriate bridge work at the appropriate time.

SECTION 1. Amends the title of the rule to include tunnels.

SECTION 2. Repeals the purpose of the rule.

SECTION 3. Amends the definition of AASHTO manual, Bridge, BIRM, Inspection, and Inventory to incorporate more recent federal national association standards for the construction and maintenance of bridges and tunnels.

SECTION 4. Creates two additional definitions for national bridge and tunnel inspection standards referenced in federal code.

SECTION 5. Amends the definitions of posting and rating to include tunnels.

SECTION 6. Creates definitions for the: Structure Inspection Manual; Tunnel Operation, Maintenance, Inspection, and Evaluation Manual; and Tunnel.

SECTION 7. Amends the application of chapter to include tunnels.

SECTION 8. Amends Trans 212.04 to include tunnels.

SECTION 9. Creates Trans 212.04 (4) identifying department authority to order the closure of bridges or tunnels for the safety of the public.

SECTION 10. Amends the required minimum qualifications of personnel involved in the inspection of bridges and tunnels to more current standards.

SECTION 11. Amends the required frequency of inspections of bridges to current standards.

SECTION 12. Amends the required frequency of inspections of tunnels to current standards.

SECTION 13. Repeals Trans 212.06 (3) and (4) which described alternative inspection frequencies now covered by references to current inspection standards in sections 11 and 12 above.

SECTION 14. Amends the frequency of inventory section to include tunnels and update the reporting of data into the department inventory system.

SECTION 15. Repeals and recreates the inspection section to reference current manuals for bridges and tunnels.

SECTION 16. Amends the rating section to include tunnels and update the required timelines to match current federal rules.

SECTION 17. Amends posting requirements to reference current manuals and federal timelines.

SECTION 18. Repeals and recreates Trans 212.11 Reporting, to include tunnels, and reference current manuals and timelines.

SECTION 19. Amends Trans 212.12 to include tunnels and current department data system.

SECTION 20. Amends Trans 212.13 to include tunnels.

SECTION 21. Amends Trans 213.02 (1) to clarify the definition of “Bridge”.

SECTION 22. Creates a definition for “Bridge Project Scope Eligibility List” for use by the department.

SECTION 23. Repeals the definition of “Deficient Bridge” and recreates “Culver Condition Rating”, “Deck Condition Rating” and “Deficiencies” to align with current manuals and federal standards.

SECTION 24. Amends Trans 213.02 (3) to clarify the definition of “Eligible applicant”.

SECTION 25. Creates definitions for “National Bridge Inventory”, “Preservation”, “Reconstruction or Replacement”, and “Rehabilitation or Rehabilitating”.

SECTION 26. Amends the definition of “Seriously deteriorating local bridge” to point to updated Trans 213.02 (2s) reference.

SECTION 27. Repeals the definition “Sufficiency rating”.

SECTION 28. Creates definitions for “Superstructure Condition Rating” and “Substructure Condition Rating”.

SECTION 29. Amends Trans 213.03 (1) (a) to clarify how determinations of eligibility for funding will be made by the department using current inspection methods.

SECTION 30. Repeals outdated criteria for the determination of eligibility.

SECTION 31. Creates the criteria to determine eligibility for funding.

SECTION 32. Amends the Replacement, Rehabilitation and Preservation section to refer to updated department processes.

SECTION 33. Creates Trans 213.03 (2) (c) to incorporate updated department processes.

SECTION 34. Amends the Determination of Entitlement section to include rehabilitating and update the proportionate share calculation.

SECTION 35. Trans 213.03 (4) (c) (Note) is amended to refer to the current title and location of the referenced program guideline document.

SECTION 36. Amends the reference to the current federal bridge program code.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

These proposed rule changes will be consistent with existing federal statutes and regulations in 23 CFR Part 650 and per the Bridge Formula Program (BFP) Implementation Guidance memorandum (dated 1/14/22) for obligating and expending federal funds from the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law” (BIL)).

Comparison with Rules in Adjacent States:

Illinois.

Illinois does not have a state statute or administrative code, they follow the National Bridge Inspection Standards (NBIS) and National Tunnel Inspection Standards (NTIS) provided in Title 23 of the Code of Federal Regulations (Bridge Management and Inspections (illinois.gov)). State funding of road district bridges is provided for in statute 605 ILCS 5/ Illinois Highway Code. (ilga.gov), including the Township Bridge Program in Illinois Highway Code 605 ILCS 5/6- 901.

Iowa.

Per Iowa Code Chapter 314.18, the counties, cities, and other public agencies are responsible for the safety inspection and evaluation of all highway bridges under their jurisdiction which are located on public roads, in accordance with the National Bridge Inspection Standards (NBIS). An Instruction Memorandum (I.M.), I.M. 7.020 (iowadot.gov) provides guidelines and procedures for bridge inspections.

State bridge funding programs are described in Iowa Code Section 312.2 and 761.161.pdf (iowa.gov). Highway Bridge Programs for Cities and Counties are described in I.M. 1.100

(iowadot.gov). This includes guidelines and procedures for the Local Public Agency (LPA) Federal-aid Swap and State bridge programs for highways.

Michigan.

Michigan DOT does not have a state statute or administrative rule for bridge inspections. There is Bridges and Culverts statute Michigan Legislature - Act 354 of 1925, however it does not include inspection information.

Michigan DOT does have Local Bridge Program Rules 247.161 to 247.166 and state statute Michigan Legislature - Section 247.660.

Minnesota.

Minnesota has bridge inspection specifications in Minnesota Statute 165.03 – Strength of Bridge Inspection Sec. 165.03 MN Statutes. Minnesota does not have administrative rules related to bridge inspections. They have Bridge & Structure Inspection Program Manual section A.3.4.3 Inspection Specifications Bridge Inspection - Bridges and Structures – MnDOT (state.mn.us).

Minnesota Local Bridge Replacement Program (LBRP - State Aid - MnDOT) provides funding assistance to local agencies for the reconstruction, rehabilitation, or removal of bridges or structures on their local road system. These funds are appropriated per Minnesota Statutes Sec. 174.50 MN Statutes and Minnesota Rules 8810 - MN Rules Chapter. Further, there are Resources - Bridge State Aid - MnDOT for bridge funding eligibility (i.e., condition criteria) and bridge preservation, improvement, and replacement guidelines (e.g., MnDOT Bridge Asset Management).

Summary of the Factual Data and Analytical Methodologies:

As noted above, the changes to Trans 212 and 213 amount to revisions intended to reflect current state and national practices. Consequently, most of the factual basis informing revisions amounts to close readings of current federal laws and guidance, and the review of state system procedures and reflect current practice on both the state and local system. Further, the rulemaking updates create local bridge program project eligibility criteria that is more closely aligned with modern bridge asset management practice and how bridge project eligibility is determined for state-owned bridges. These changes create a wider range of rehabilitation options for local owners and better allow local owners to seek funding for the appropriate bridge work at the appropriate time. Beyond the in-house analysis, WisDOT Bureau of Structure staff consulted with Wisconsin County Highway Association, Wisconsin Towns Association, Wisconsin County Association, and the League of Wisconsin Municipalities regarding the proposed rule changes. This consultation was intended to ensure that the revisions reflect a consistent understanding of federal and state laws

and guidelines and would not unnecessarily affect or complicate local bridge inspections and local bridge project eligibility.

Analysis Regarding Rule’s Effect on Small Businesses:

WisDOT anticipates no substantive impacts on small businesses and industries. Local units of governments that have bridges in their jurisdiction will be potentially impacted, in that, there will likely be an increase in local bridges that are eligible for local bridge program funding allowing for long-term investments and improvements to bridge condition and infrastructure. This is seen as a positive economic impact on the overall safety, efficiency, and reliability of the movement of people, goods, and services over bridges.

The agency contact person listed below is also the small business regulatory coordinator for this proposed rule. This proposed rule, fiscal estimate, and other related documents may be viewed at <https://docs.legis.wisconsin.gov/code>.

Agency Contact Person:

Josh Dietsche, Director – Bureau of Structures
State of Wisconsin Department of Transportation
Division of Transportation System Development
4822 Madison Yards Way
Madison, Wisconsin 53705
(608) 266-8353
DOTAdminRules@dot.wi.gov

Place Where Comments Should Be Submitted and Deadline: Comments may be submitted to the agency contact person listed above or through the Legislature’s Administrative Rules website <http://docs.legis.wisconsin.gov/code> until the deadline given in the forthcoming notice of public hearing.

TEXT OF RULE

SECTION 1. Trans 212 (title) is amended to read:

CHAPTER Trans 212

STANDARDS FOR THE INSPECTION OF BRIDGES & TUNNELS IN WISCONSIN

Section 2. Trans 212.01 (intro.) is repealed.

Section 3. Trans 212.02 (1), (2), (3), (4), (5), (6), (7) and (8) are amended to read:

- (1) “AASHTO manual” means the *Manual for ~~Condition Evaluation of Bridges~~ Bridge Evaluation as referenced in 23 CFR Part 650 Subpart C Section 650.305, on June 6, 2022 1994 as revised by ~~Interim Specifications, Bridges 1995–1998~~, published by the American Association ~~association~~ of State ~~state~~ Highway ~~highway~~ and Transportation ~~transportation~~ Officials (AASHTO) ~~officials~~, 555 12th Street NW, Suite 1000444 North Capitol Street, N.W., Washington, D.C. 2000420001.*

Note: ~~This manual is on file at the offices of the Division of Transportation Infra-structure Development, Wisconsin Department of Transportation, the Secretary of State, and the Legislative Reference Bureau.~~ 23 CFR Part 650 Subpart C Section 605.305 is available at <https://www.ecfr.gov/current/title-23/chapter-I/subchapter-G/part-650/subpart-C>.

- (2) “Bridge” means a structure, including supports, erected over a depression or an obstruction, such as water, a highway, or a railway, having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between the under ~~opening~~ copings of abutments or spring lines of arches, or extreme ends ~~the~~ of openings for multiple boxes. It ~~may include~~ includes multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

- (3) ~~“Bridge Inspector’s Reference Manual BIRM” means the Bridge Inspector’s Reference Manual (BIRM) (2022 NBIS Version) Training Manual 90, 1991, publication no. FHWA-NHI-23-024, publication no. FHWA-NHI-23-024 published by the federal highway administration and available from the superintendent of documents, U.S. government printing office, Washington, D.C. 20402.~~

Note: ~~This manual is on file at the offices of the Division of Transportation Infra structure Development, Wisconsin Department of Transportation, the Secretary of State, and the Legislative Reference Bureau available through FHWA online at <https://www.fhwa.dot.gov/bridge/inspection/>.~~

- (4) ~~“Department” means the Wisconsin department Department of trans portation Transportation.~~
- (5) ~~“Inspection” means the examination, evaluation, and assessment of the physical condition of a bridge or tunnel, the evaluation of the physical condition observed, and the report-reporting and documenting of the observations and evaluations the findings within the department’s Highway Structures Information System (HSIS) on a bridge inspection report form adopted by the department.~~

Note: ~~The HSIS is the department’s electronic database used to store inventory and inspection reports and other structure records bridge inspection report forms referred to in this subsection are: (1) “Field Bridge Inspection Report,” #E-M-30, and (2) “Supplemental Information to Field Bridge Inspection,” #E-M-36. Copies of these report forms may be obtained from the department.~~

- (6) ~~“Inventory” means the gathering and reporting of all the required items per the information required on the bridge inventory form adopted by the department Specification for the National Bridge Inventory (SNBI), publication no. FHWA-HIF-22-017 (published March 2022 with errata~~

#1 03/2024) or the Tunnel Operations Maintenance, Inspection, and Evaluation (TOMIE) Manual, publication no. FHWA-HIF-15-005 (published July 2015).

Section 4. Trans 212.02 (6g) and (6r) are created to read:

(6g) “NBIS” means the National Bridge Inspection Standards as described in 23 CFR Part 650 Subpart C.

(6r) “NTIS” means the National Tunnel Inspection Standards as described in 23 CFR Part 650 Subpart E on July 14, 2015.

Section 5. Trans 212.02 (7) and (8) are amended to read:

(7) “Posting” means the placement of regulatory signs at a bridge or tunnel indicating the safe load-carrying capacity of the bridge or tunnel.

(8) “Rating” means determining the safe load-carrying capacity of a bridge or tunnel.

Section 6. Trans 212.02 (9), (10) and (11) are created to read:

(9) “SIM” means the WisDOT Structure Inspection Manual.

(10) “TOMIE” means the Tunnel Operation, Maintenance, Inspection, and Evaluation Manual publication no. FHWA-HIF-15.005.

(11) “Tunnel” means an enclosed roadway for motor vehicular traffic with vehicle access limited to portals, regardless of type of structure or method of construction. Tunnels are classified separately from bridges in order to prevent the structure from being considered a highway bridge as well. Tunnels are structures that require special design considerations which may include lighting, ventilation, fire protection systems, and emergency egress capacity.

SECTION 7. Trans 212.03 is amended to read:

Application of chapter. The bridge and tunnel inspection and inventory standards in this chapter apply to all highway bridges and tunnels which either lie within or cross the borders of the state of

Wisconsin. Bridges or tunnels carrying only railroad traffic and bridges or tunnels used only by pedestrians, bicycles, and recreational vehicles are excluded from the application of this chapter.

SECTION 8. Trans 212.04 (1), (2) and (3) are amended to read:

- (1) The department shall inspect highway bridges and tunnels on the state trunk highway system and all other bridges and tunnels for which the department has been assigned maintenance responsibility.
- (2) Each local authority or other authority having jurisdiction over a non-department maintained bridge or tunnel shall inspect the highway bridges and tunnels on highways under its jurisdiction.
- (3) When the department determines that a local authority or other authority having jurisdiction over a non-departmental maintained bridge or tunnel has failed to inspect any highway bridge or tunnel as required, the department shall inform the county highway commissioner of the county in which the bridge or tunnel is located of the inspection failure and shall direct the county to inspect or cause the bridge or tunnel to be inspected. Upon receipt of the department's notice and direction, the county shall perform the bridge or tunnel inspection or cause it to be performed.

Section 9. Trans 212.04 (4) is created to read:

- (4) The department has the authority under 86.06(1), to order the closure or restriction of any bridge or tunnel for the safety of the public. When the department determines a bridge or tunnel must be closed or restricted for safety purposes, the department will notify the authority having jurisdiction over the bridge or tunnel. If appropriate actions to close or restrict the bridge or tunnel are not taken by the authority, the department shall direct the county highway commissioner of the county in which the bridge or tunnel is located to immediately close or restrict the bridge or tunnel. The county highway department may request payment from the local authority.

SECTION 10. Trans 212.05 is amended to read:

Qualification of personnel. Individuals involved in the inspection of bridges as required by this chapter shall meet the minimum requirements set forth in the ~~NBISAASHTO manual~~ and the experience requirements described in the SIM. Individuals involved in the inspection of tunnels as required by this chapter shall meet the minimum requirements set forth in the NTIS and the experience requirements described in the SIM.

SECTION 11. Trans 212.06 (1) is amended to read:

Frequency of inspections. (1) ~~State-owned or state-maintained~~ Highway bridges located on all public roads shall be inspected at ~~regular intervals not to exceed 2 years~~ based on the inspection type as required by and in accordance with the NBIS.

SECTION 12. Trans 212.06 (2) is repealed and recreated to read:

(2) Highway tunnels located on all public roads shall be inspected at intervals based on the inspection type as required by and in accordance with the NTIS.

SECTION 13. Trans 212.06 (3) and (4) are repealed.

SECTION 14. Trans 212.07 is amended to read:

Trans 212.07 Frequency of inventory. An inventory shall be maintained for each bridge and tunnel. Changes in inventory data or postings shall be reported and entered in HSIS ~~to the appropriate department official or officials~~ when the bridges or tunnels are inspected ~~and significant changes occur.~~ The inventory of a new bridge or tunnel shall be obtained upon completion of its construction and the information shall be reported and entered in HSIS ~~submitted to the department at that time for use in maintaining the statewide bridge file.~~ Inventory changes shall be updated in HSIS within the timelines outlined in the SIM.

SECTION 15. Trans 212.08 is repealed and recreated to read:

Trans 212.08 Inspection. Inspections of bridges shall be conducted according to and following the BIRM and the SIM. Inspections of tunnels shall be conducted according to and following the TOMIE and the SIM.

SECTION 16. Trans 212.09 is amended to read:

Trans 212.09 Load Ratings. Each bridge or tunnel required to be inspected under this chapter shall be rated to determine its safe load-carrying capacity. Load ratings must be completed by the maintaining authority and reported to the department as soon as practical, but no later than 90 days after the initial inspection and when a change is identified that warrants a re-rating such as, but not limited to, changes in condition, reconstruction, new construction, or changes in dead or live loads (per 23 CFR 650.313(k)(2)). ~~Significant changes in the condition of a bridge shall be reported to the department as soon as possible. When the significant change affects the rating of the bridge, the bridge shall be rerated by the maintenance authority within 7 calendar days of the inspection. When the inspection or rerating results in a recommendation for posting, change in posting, or closure of the bridge, the department shall be notified within 7 calendar days of the inspection or rerating.~~ Load ratings ~~Ratings~~ shall be determined in accordance with the AASHTO manual and the Wisconsin Bridge Manual.

SECTION 17. Trans 212.10 is amended to read:

Trans 212.10 Posting. When it is determined by the department that the maximum load under state law exceeds the load permitted on a bridge as described in the AASHTO manual and the Wisconsin Bridge Manual, the bridge shall be posted for weight limits or closed. The department shall post or close bridges on the state trunk highway system and all other bridges for which the department is the maintaining authority. Each local authority shall post or close the bridges on highways under its jurisdiction. Posting shall be made as soon as possible but no later than 30 days after a load rating

determines a need for such posting (23 CFR 650.313(l)(2)). When a local authority fails to post or close a bridge as required, the department shall inform the county highway commissioner of the county in which the bridge is located and direct the county to post or close the bridge or cause the bridge to be posted or closed. Upon receipt of the department's notice and direction, the county shall post or close the bridge or cause it to be posted or closed. After the erection of signs or barriers associated with the posting or closing of the bridge by the county, the local maintaining authority of the bridge is responsible for the maintenance of the signs or barriers.

SECTION 18. Trans 212.11 is repealed and recreated to read:

Trans 212.11 Reporting. The reporting of bridge and tunnel inspections shall be as follows:

- (1) Each authority having jurisdiction over a bridge or tunnel shall submit the inspection and inventory data in HSIS following the requirements in Section 1.2.5.7 of the SIM. When HSIS is not available, tunnel inspection and inventory data shall be submitted electronically to the Department.
- (2) The department shall inform the county highway commissioners or designee of: late, missing, or incomplete non-state bridge or tunnel inspections each month.
- (3) After February 1 of each year, the department shall compile a list of any local governments which have not submitted the data required by subs. (1) and (2) and shall submit this list to the senate and the assembly committees concerned with transportation issues.

SECTION 19. Trans 212.12 is amended to read:

Trans 212.12 County status under department direction. When a county highway commissioner of a county containing a bridge or tunnel that has failed to be inspected, posted, or closed receives notice and direction from the department to perform the inspection, perform the ~~interim~~ inspection, enter the inspection and inventory data in HSIS, keep records, post or close the bridge or tunnel, the

county is the agent of the local authority that has failed to fulfill its responsibilities. No liability is assumed by the county in carrying out the department's direction. Any liability associated with the county's action in following the department's direction is imputed to the local authority with maintenance responsibility for the bridge or tunnel.

SECTION 20. Trans 212.13 is amended to read:

Trans 212.13 Compliance and county costs. Counties acting upon notice and direction from the department to perform the inspection, perform the interim inspection, keep records, post or close bridges or tunnels on local roads that are not under county jurisdiction shall be reimbursed for the costs by the local authority with maintenance responsibility for the bridge or tunnel. If the county is not reimbursed by the maintaining authority, the county shall be eligible for reimbursement of costs from the maintaining authority's local transportation aids payment under s. 86.30, Stats. The reimbursement payment shall be made by the department directly to the county. Maintaining authorities that fail to reimburse counties for costs shall not be eligible for any local bridge program funds. Failure of a county to comply with notice and direction from the department to perform the inspection, perform the interim inspection, keep records, post or close bridges or tunnels shall result in the suspension of all federal highway aids and all state bridge aids to the county.

Section 21. Trans 213.02 (1) is amended to read:

(1) "Bridge" means a structure, including supports, erected over a depression or an obstruction, such as water, a highway, or a railway, having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between the under ~~opening~~ copings of abutments or spring lines of arches, or extreme ends ~~the~~ of openings for multiple boxes. It ~~may include~~ includes multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

Section 22. Trans 213.02 (1m) is created to read:

(1m) “Bridge Project Scope Eligibility List” means the list that is developed by the Department and made available to local bridge owners with each project funding cycle. The list is developed based on deficiencies noted in the most recent inspection, extrapolating those deficiencies into future years, cost-benefit considerations, and safety considerations.

Section 23. Trans 213.02 (2m) is repealed and recreated to read:

- (2e) “Culvert Condition Rating” means a condition assessment rating of a culvert as defined by the Specifications for the National Bridge Inventory (Publication No. FHWA-HIF-22-017).
- (2L) “Deck Condition Rating” means a condition assessment rating of a bridge deck as defined by the Specifications for the National Bridge Inventory (Publication No. FHWA-HIF-22-017).
- (2s) “Deficiencies” are defined in Part 2 of the WisDOT Structure Inspection Manual, July 2024 and include (but are not limited to) spalling, cracking, delamination, checking, splitting, rot, section loss, scour, and corrosion.

Section 24. Trans 213.02 (3) is amended to read:

- (3) “Eligible applicant” means county, city, village, town or combination thereof and any federally recognized tribal governing body per s.20.002(13), Stats.

Section 25. Trans 213.02 (7d), (7h), (7p) and (7t) are created to read:

- (7d) “NBI” means National Bridge Inventory.
- (7h) “Preservation” means actions performed that serve to prevent, delay, or reduce the deterioration of a bridge. This work is a type of rehabilitation, but typically less intrusive and less costly.
- (7p) “Reconstruction or Replacement” means the removal of an existing bridge and construction of a new bridge in the same or very similar location.

(7t) “Rehabilitation or Rehabilitating” means making major repairs necessary to restore the structural integrity of a highway bridge or making repairs necessary to correct a major safety defect.

SECTION 26. Trans 213.02 (8) is amended to read:

(8) “Seriously deteriorating local bridge” means a local bridge ~~which is a deficient bridge with~~ observed deficiencies documented in the most recent inspection, as defined in Trans 213.02 (2s).

SECTION 27. Trans 213.02 (9) is repealed.

SECTION 28. Trans 213.02 (10) and (11) are created to read:

(10) “Superstructure Condition Rating” means a condition assessment rating of a bridge superstructure as defined by the Specifications for the National Bridge Inventory (Publication No. FHWA-HIF-22-017).

(11) “Substructure Condition Rating” means a condition assessment rating of a bridge substructure as defined by the Specifications for the National Bridge Inventory (Publication No. FHWA-HIF-22-017).

Section 29. Trans 213.03 (1) (a) is amended to read:

(a) The bridge has ~~been determined by the department to be a deficient bridge~~ observed deficiencies documented in the most recent inspection.

SECTION 30. Trans 213.03 (1) (b) and (1) (c) are repealed.

SECTION 31. Trans 213.03 (1) (e) is created to read:

(1)(e) The bridge meets criteria noted in Table 1 or Table 2 below.

TABLE 1 – Eligible preservation and rehabilitation projects based on Deck NBI Rating

		Preservation	Rehabilitation
Deck NBI Rating	9	X	
	8	X	
	7	X	
	6	X	X
	5		X
	4		X
	3		X
	2		X
	1		X
	0		X

Eligible preservation and rehabilitation project scopes based on deck NBI rating are defined in Chapter 41.4.1 of the Wisconsin DOT Bridge Manual, July 2024.

TABLE 2 – Eligible rehabilitation and reconstruction based on superstructure, substructure, or culvert NBI Rating

		Rehabilitation	Reconstruction
Superstructure, Substructure, or Culvert NBI Rating	9	X	
	8	X	
	7	X	
	6	X	X
	5		X
	4		X
	3		X
	2		X
	1		X
	0		X

Eligible rehabilitation and reconstruction project scopes based on superstructure, substructure, or culvert NBI rating are defined in Chapter 41.4.1 of the Wisconsin DOT Bridge Manual, July 2024.

SECTION 32. Trans 213.03 (2), (2) (a) and (2) (b) are amended to read:

(2) **REPLACEMENT, AND REHABILITATION, AND PRESERVATION.** The Department shall publish a Bridge Project Scope Eligibility List.

(2)(a) An eligible local bridge project under sub. (1) may be submitted for replacement of the bridge if the bridge ~~has a current sufficiency rating of less than 50.~~ is identified by the Department for replacement in the Bridge Project Scope Eligibility List. If the bridge in question does not appear on the list as replacement-eligible, the local owner may submit an application with a replacement scope, but it shall be accompanied by an engineering study providing justification. The justification should consider the timing of the proposed project, consideration of alternative scopes, safety of the traveling public, maintaining serviceability of the structure, and cost-benefit of the proposed scope versus other viable options.

(2)(b) An eligible local bridge project under sub. (1) may be submitted for rehabilitation of the bridge if the bridge has a ~~sufficiency rating of 80 or less.~~ ~~An engineering study shall be undertaken and funded independently by the eligible applicant that indicates that any rehabilitation would be cost effective, would extend the life of the bridge by at least 10 years, and would correct all deficiencies.~~ ~~If conditions exist that would prevent the completed improvement from correcting all deficiencies, the department may determine if the proposed project is eligible based on safety and the public interest.~~ an identified rehabilitation scope in the most recent Bridge Project Scope Eligibility List. If the bridge in question does not appear on the list as rehabilitation-eligible, the local owner may submit an application for rehabilitation, but it shall be accompanied by an engineering study providing justification. The justification should consider the timing of the proposed project, consideration of alternative scopes, safety of the traveling public, maintaining serviceability of the structure, and cost-benefit of the proposed scope versus other viable options.

SECTION 33. Trans 213.03 (2) (c) is created to read:

(2)(c) An eligible local bridge project under sub. (1) may be submitted for preservation of the bridge if the bridge has an identified preservation action in the most recent Bridge Project Scope Eligibility

List. If the bridge in question does not appear on the list, the local owner may submit an application for rehabilitation, but it shall be accompanied by an engineering study providing justification. The justification should consider the timing of the proposed project, safety, serviceability, and cost-benefit.

SECTION 34. Trans 213.03 (4) (a) is amended to read:

(4) DETERMINATION OF ENTITLEMENT. (a) The proportionate share of the funds available to each county shall be the ratio of the estimated cost of rehabilitating or replacing those eligible local bridges in the county ~~with sufficiency ratings of less than 50~~ to the estimated cost of rehabilitating or replacing all eligible local bridges in the state ~~with sufficiency ratings of less than 50~~.

SECTION 35. Trans 213.03 (4) (c) (Note) is amended to read:

Note: The statewide project ranking and calculation methodology is explained in the ~~Program Management Manual, Chapter 06-02-08, June 10, 1988. Copies of this document may be obtained from the Division of Transportation Investment Management, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-5408.~~ Local Bridge Improvement Assistance (Local Bridge Program) program guideline document. This document is available at the following webpage: <https://wisconsindot.gov/Documents/doing-bus/local-gov/astnce-pgms/highway/local-bridge.pdf>

SECTION 36. Trans 213.03 (5) is amended to read:

(5) FINANCIAL PARTICIPATION. The department shall provide the percentage of the cost of a local bridge project, ~~which~~ that is applicable under ~~the federal bridge program aid programs~~ administered under ~~23 USC 144 (f).~~ 23 USC ~~The~~ and the remainder of the cost shall be provided by the applicant.

Note: As applicable under federal aid program administered under 23 USC or any other federal authorizing legislation.

(END OF RULE TEXT)

Signed this ____ day of _____ 20__.

Kristina Boardman, Secretary
State of Wisconsin Department of Transportation