

NOTICE OF PROPOSED GUIDANCE DOCUMENT

Illegal Vegetation Cutting and Spraying (DTSD98)

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on Illegal Vegetation Cutting and Spraying (DTSD98), WI STAT Chs. 86 and 66, a proposed guidance document.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Department of Transportation for 21 days by:

1. Department's website:

<https://trust.dot.state.wi.us/act369/?id=DTSD98&uri=https://wisconsindot.gov/Pages/doing-bus/real-estate/roadsides/illegalvegetation.aspx&division=DTSD&tags=86&tags=66>

2. Mailing written comments to:

Division of Transportation System Development
Wisconsin Department of Transportation
4822 Madison Yards Way
PO Box 7965
Madison, WI 53707-7965

WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT

The final version of this guidance document will be posted at wisconsindot.gov to allow for ongoing comment.

AGENCY CONTACT

dotdtsdguidancedocs@dot.wi.gov



State of Wisconsin Department of Transportation

Illegal vegetation cutting and spraying

Highway Maintenance

Roadsides

Landscape management

Invasive species

Mowing Wisconsin's
roadsides

Native plants
and prairies

Illegal vegetation cutting
and spraying

Illegal cutting

Although the department has the authority to maintain vegetation along state trunk highways, it is illegal for the public to cut vegetation, remove plants or plant parts, or injure trees along the right of way under [SS. 66.1037\(1\)](#) and [SS. 86.03\(4\) through \(7\)](#), Stats.

Anyone wishing to perform vegetation management work on the right of way must possess a valid [Application/Permit to Work on the Right of Way](#) from the department. Anyone removing or in any way damaging vegetation on the right of way without a permit is engaging in unauthorized activity.

Damage claims

Unauthorized cutting or trimming or accidental destruction is regarded by the department as damage to public property and, if the person(s) who did the damage can be identified and apprehended, reimbursement for the damage done will be pursued based on [SS. 26.05 Stats.](#), timber theft.

Illegal spraying

Herbicides must be used properly and safely. Herbicides must be applied by either county forces or by a certified and licensed applicator. The Department of Agriculture, Trade and Consumer Protection (DATCP) oversee the regulation of herbicide certification and licensing.

The proper certification for application on State right of way is the commercial certification category "right of way and natural area." [More information regarding pesticide certification and licensing.](#)

Damage claims

The department is not responsible for damages to crops or other claims from adjacent property owners when herbicides are applied to state trunk highway rights of way in accordance with the labeling and applicable laws and regulations. If claims are brought against the department, refer the complainant to the organization that applied the herbicide (i.e. the private contractor or the county highway department).

Highway Maintenance Manual (HMM)

 [07-10-30](#) - Unauthorized Vegetation Damage or Destruction

 [07-10-35](#) - Vegetation Damage Claims

 [07-05-15](#) - Use of Herbicides Herbaceous Vegetation

 [07-10-05](#) - Use of Herbicides Woody Vegetation