

2001 DRAFTING REQUEST

Bill

Received: **08/22/2001**

Received By: **fasttn**

Wanted: **As time permits**

Identical to LRB:

For: **Kimberly Plache (608) 266-1832**

By/Representing: **John Anderson (aide)**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**
Transportation - miscellaneous

Extra Copies: **TNF, PJH**

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Codify DOT mowing proccdures

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	agary 10/12/2001	rschluet 10/17/2001	jfrantze 10/17/2001	_____	lrb_docadmin 10/17/2001	lrb_docadminState 02/04/2002	

FE Sent For:

<END>

LA intro.

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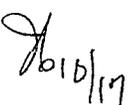
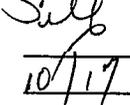
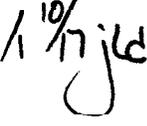
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1?	agary	 10-15-1	 10/16/17	 10/17			
FE Sent For:		 1/17 jld					

<END>

Gary, Aaron

From: Anderson, John
Sent: Tuesday, September 25, 2001 1:40 PM
To: Gary, Aaron
Subject: RE: Bill DRAFT request: Mowing Procedures for Highways

Gary, we would like to have a bill drafted to codify the highlights of the mowing policy. 12 feet rather than 15, no mowing months, backslope, min. height.

Thanks, much.

jga

-----Original Message-----

From: Gary, Aaron
Sent: Friday, September 21, 2001 4:50 PM
To: Anderson, John
Cc: Fast, Timothy
Subject: RE: Bill DRAFT request: Mowing Procedures for Highways

John,

I received the relevant portion of the maintenance manual this week and am again working on this request. The mowing provisions of the DOT maintenance manual are rather detailed and include many items that are the type of thing that would not normally be put in the statutes but would be left to the agency to adopt by rule. Do you want this draft to codify only the "highlights" of the mowing procedures and direct that (the more minor) details be established by DOT by rule, or do you want pretty much everything in the manual to go into the statutes? For your reference, I am forwarding to you the e-mail from DOT attaching the maintenance manual provisions on mowing.

Also, I am advised that the caption "at the request of" is placed on the bill at the time of introduction by the clerk's office, not by the LRB.

Thanks. Have a good weekend. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Fast, Timothy
Sent: Tuesday, August 21, 2001 4:37 PM
To: Gary, Aaron
Subject: FW: Bill DRAFT request: Mowing Procedures for Highways

-----Original Message-----

From: Anderson, John
Sent: Tuesday, August 21, 2001 11:59 AM
To: Fast, Timothy
Subject: Bill DRAFT request: Mowing Procedures for Highways

Tim, please forward this request if it is not for you.

Sen. Plache would like to have a bill drafted, "**at the request of William Neuhaus of Racine**" which would codify the DOT mowing procedures (policy 74.10) of the WisDOT Maintenance Manual with these changes:

- 1) limit mowing on highway right of ways (ROW) to no greater than **12** feet maximum or to the bottom of the ditch whichever is less.

2) **No mowing from September 15 to July 1.**

3) **No moving up the backslope (beyond the bottom of the ditch)**

4) From July 1 through September 15, the minimum height for the general plant is 6 inches.

Please call me with any questions,

Thank you,

John G. Anderson
Office of Sen. Kim Plache
(608) 266-1832

Gary, Aaron

From: Anderson, John
Sent: Tuesday, September 04, 2001 8:17 AM
To: Gary, Aaron
Subject: RE: Bill DRAFT request: Mowing Procedures for Highways

Yes, you have our permission.

Thank you.

-----Original Message-----

From: Gary, Aaron
Sent: Friday, August 31, 2001 9:55 AM
To: Anderson, John
Subject: RE: Bill DRAFT request: Mowing Procedures for Highways

John,

Dr. Fast forwarded this request to me for drafting. To prepare the draft, I will need to obtain the most current version of the mowing procedure section of DOT's Maintenance Manual. Do I have your permission to contact DOT to obtain this section of the manual? Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Fast, Timothy
Sent: Tuesday, August 21, 2001 4:37 PM
To: Gary, Aaron
Subject: FW: Bill DRAFT request: Mowing Procedures for Highways

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From: Anderson, John
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- 4) From July 1 through September 15, the minimum height for the general plant is 6 inches.

Please call me with any questions,

Thank you,

Effective: May 1, 1996

70.00 Roadside Maintenance
74.00 Vegetation Management
74.10 Roadside Mowing

Supersedes: January 1, 1994

By: Director, Bureau of Highway Operations

Page 1 of 5

A. General

1. **Turf and Plant Injury:** Under no circumstances shall the turf or desirable plants be damaged by rutting, scalping, debarking or cutting as a result of mowing operations.
2. **Noxious Weeds:** Noxious weeds (Canada thistle, leafy spurge, and field bindweed) shall be principally controlled by Integrated Pest Management methods (see Guideline 74.20). The primary option for control will be through the use of herbicides. Mechanical methods may be used in certain situations (complaints, preparation for Fall spraying).
3. **Planned Vegetation Management Areas:** Roadside areas which have specific vegetation management plans shall be mowed in accordance with those plans.
4. **Mowing Lines:** Abrupt changes in mowing lines should be avoided. When mowing up to and away from stationary objects or approved weed control areas, do so with smooth, curved and gradual transitions so as not to produce a chopped or ragged look. **At county lines coordinate operations with the adjacent county.**
5. **Adjacent Property: Blending Highway Landscaping with Adjacent Property**

If the highway right-of-way is fenced by WisDOT, the adjacent property owner will not be allowed on the highway right-of-way. If the highway right of way is not fenced by WisDOT, and the adjacent property owner mows highway right-of-way to blend* roadside vegetation with their property, a permit will not be required.

(* blend: to be uniform with)

6. **Normal Policy:** Deviations from the provisions of this chapter represent exceptions to policy and must comply with section K of this policy.

B. Outcomes

The expected outcomes of mowing are:

1. **Safety:** To establish and maintain clear vision areas at intersections and on the inside of curves, to provide a safe pulloff area along the shoulder, and to establish and maintain a clear zone on the sides of the roadway.
2. **Aesthetics:** To provide vegetation of an intermediate height in order to effect a smooth transition from the roadway to the taller unmowed vegetation beyond, to eliminate rank growth near the shoulder, and to provide for the motorist's pleasure.
3. **Preservation and Regeneration:** To preserve native vegetation and to encourage its regeneration.
4. **Wildlife:** To provide habitat for wildlife beyond the clear zone.
5. **Consistency of Appearance:** To mow in such a way that it is not apparent that a county or district line has been crossed.

C. Shoulder Cut

When: As often as necessary. Mow after the general plant height reaches 12 inches.

Height: Minimum mowing height is 6 inches.

Width (measured from the shoulder point, defined as that point where the shoulder slope changes):

1. Divided Highways

Outside shoulders - Fifteen (15) feet maximum or to the bottom of the ditch, whichever is less.

Inside shoulders (medians) - Five (5) feet maximum desirable or one pass with a single unit mower. If the remaining vegetation width is ten feet or less, the entire median should be mowed.

Ramps - Five (5) feet maximum desirable or one pass with a single unit mower on each side of the ramp.

2. Two-lane highways

Fifteen (15) feet maximum or to the bottom of the ditch, whichever is less.

NOTE: Do not mow up the backslope (beyond the bottom of the ditch).

D. Vision Areas

When: When vegetation obstructs vision. Use judgment --- do not mow when vegetation will remain below the line of sight.

Height: Minimum mowing height is 6 inches.

How Far:

1. Vision triangles

The area bounded by a triangle, the two legs of which may be up to 300 feet long measured from the point where the two roadways intersect.

2. Insides of curves

Only enough to provide the desirable sight distance.

E. Guard Rails

Mow in front of guard rails mounted parallel with and at the edge of the shoulder. Pre and post emergent herbicides may be used in lieu of mowing in front of guardrails.

Do not mow, trim, or use herbicides in front of that portion of a guard rail which is mounted in a normally unmowed turf area unless vegetation negatively impacts safety, e.g., obscures the guard rail. If vegetation control is necessary for safety reasons, it should be a maximum of 3 feet in front of and/or behind the guard rail.

Do not mow, trim, or use herbicides behind guard rails or between posts unless the vegetation negatively impacts safety, e.g., hangs over the rail and blocks the reflectors. If vegetation control is necessary for safety reasons, it should be a maximum of 3 feet behind the guard rail.

F. Delineator Posts and Sign Posts

Within normally mowed areas mow around delineator posts and sign posts with standard mowing equipment. Do not trim or use herbicides unless the vegetation negatively impacts safety.

Outside of normally mowed areas do not mow, trim, or use herbicides unless the vegetation

negatively impacts safety.

G. Woody Plant Control

When: July 15 through April 1

Where: Only in areas where the number of woody plants exceeds one tree per 100 square feet. Shrubs (such as sumac) are not objectionable unless they are reasonably expected to exceed four inches in diameter. If mowing is not appropriate, woody plants (such as black locust, poplar species) shall be eliminated by manual methods or by herbicides.

How Wide: To the clear zone limits established in Section 74.40 of this manual. Deviations prescribed by special management plans or the Facilities Development Manual shall be treated as exceptions to the policy in accordance with Section K of this chapter.

The use of a map showing woody plant control limits, widths, and cycles, as well as all deviations from the policy, is strongly recommended.

How Often: When appropriate and necessary, but typically every three years. Intervals may be as often as every other year where fast growing tree species such as aspen or willow are the problem.

H. Newly Seeded Areas

On new construction projects, seeded areas may be mowed during the first two growing seasons to decrease the competition from weeds. Mowing height should be a minimum of 6 inches.

I. Areas with Mowing Limitations

1. **Noxious Weeds:** Herbicides shall be used to control noxious weeds. Mowing of dense patches may be permitted as an exception to the policy to resolve a complaint, provided the adjacent landowner is eradicating the noxious weeds on his property. Mowing may also be permitted as an exception to the policy if the weed specie has matured to a point where it has exceeded its normal window for maximum herbicide uptake and the untreated areas are being prepared for Fall spraying. Consultation with the central office vegetation managers is recommended.
2. **Slopes:** Out of concern for operator safety and to prevent scalping and rutting of the turf areas, mowing equipment shall not be run on slopes greater than three to one (3:1). Fragile slopes on sandy soils shall not be mowed if equipment causes scalping, rutting, or other damage.

3. **Wet Areas:** To prevent rutting and erosion problems mowing operations will not be permitted in wet areas.

J. Urban Areas

The provisions of this chapter apply equally to rural and urban areas. Apply the same mowing widths, heights, limitations, etc. Do not mow fenceline to fenceline.

When considering making an exception, the district should review the vegetation management policies of the impacted urban communities. Such local policies may clearly support the decision for more extensive mowing.

The central office landscape architects are available to assist in evaluating potential exceptions.

K. Exceptions to the Policy

Exceptions to this mowing policy will be limited in number and scope. While the district may approve exceptions where it deems appropriate, all such exceptions must be reported in writing to the central office vegetation manager. This report must include justification for the exception as well as a plan for completing the work. The plan to be developed as part of each exception approval will be reviewed annually for necessary revisions.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3656/1

ARG:.....

rs + jld

2001 BILL

D-Note

Gen

1 AN ACT ...; relating to: mowing highway rights-of-way and granting
2 rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, the department of transportation (DOT) is authorized to conduct maintenance activities within the right-of-way of any highway under its jurisdiction (highway right-of-way). These maintenance activities include mowing grass and weeds within the right-of-way. ^{highway}

This bill imposes certain limitations on DOT's authority to mow grass and weeds in highway rights-of-way. The bill permits DOT to mow highway rights-of-way only from July 1 until September 15 of each year. DOT may not mow highway rights-of-way to a height of less than ^{six} inches. DOT also may not mow ^{*} highway rights-of-way beyond the closer of ~~twelve~~ ^{six} feet from the outer edge of the shoulder of the roadway or the bottom of any ditch adjacent to the shoulder of the roadway, except that DOT may mow grass and weeds that obstruct the vision of a driver or that otherwise pose a risk to the safety of persons using the highway. The bill further requires DOT to conduct mowing operations in a manner that, to the greatest extent possible, avoids causing damage to turf and desirable vegetation. The bill also contains exceptions to the foregoing limitations on DOT mowing authority for: areas to be used in connection with the establishment or maintenance of permanent vegetative cover or a native plant community; newly seeded grassy areas; areas designated by rule by DOT as having specific vegetation management plans; and, as established by rule, noxious weeds and nuisance weeds. The bill further provides that DOT must establish by rule procedures for mowing grass and weeds in highway rights-of-way. 12

BILL

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 86.035^X of the statutes is created to read:

2 **86.035 Mowing highway rights-of-way.** (1) The department may mow[✓]
3 grass and weeds located in the right-of-way of any highway under its jurisdiction
4 only from July 1 until September 15 of each year. The department may not mow the
5 right-of-way on any such highway to a height of less than 6[✓] inches.

6 (2) The department shall conduct all mowing operations in the right-of-way
7 of any highway under its jurisdiction in a manner that, to the greatest extent
8 possible, avoids causing damage to turf and desirable vegetation.

9 (3) (a) Subject to par. (b),[✓] the department may not mow grass or weeds in the
10 right-of-way of any highway under its jurisdiction beyond the closer of:

11 1. Twelve feet from the outer edge of the shoulder of the roadway, or if no
12 shoulder exists, from the outer edge of the roadway.

13 2. The bottom of any ditch adjacent to the shoulder of the roadway, or if no
14 shoulder exists, adjacent to the roadway.

15 (b) The department may mow grass and weeds that obstruct the vision of an
16 operator of a motor vehicle for a distance along the highway or to an intersection, not
17 to exceed 300 feet, or that otherwise pose a risk to the safety of persons using the
18 highway.

19 (4) Notwithstanding subs. (1) and (3),[✓] the department may do any of the
20 following:

BILL

1 (a) Mow, at any time, to any height, and in any manner, areas within the
2 right-of-way of any highway under its jurisdiction to be used in connection with the
3 establishment or maintenance of permanent vegetative cover or a native plant
4 community.

5 (b) Mow newly seeded grassy areas within the right-of-way of any highway
6 under its jurisdiction at any time during the grassy area's first ² ~~two~~ growing seasons.

7 (c) Designate by rule areas within the right-of-way of any highway under its
8 jurisdiction that have specific vegetation management plans and provide for mowing
9 of those areas in accordance with those plans.

10 (d) Subject to s. 66.0407, ✓ establish by rule methods for controlling noxious
11 weeds and nuisance weeds located in the right-of-way of any highway under its
12 jurisdiction, which methods may include mowing at any time, to any height, and in
13 any manner.

14 (5) The department shall establish by rule procedures for mowing grass and
15 weeds located in the rights-of-way of highways under its jurisdiction.

SECTION 2. Initial applicability.

16 (1) This act first applies to mowing activities in highway rights-of-way
17 commenced on July 1, 2002.
18

19 (END)

D - Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3656/1dn

ARG.....

rs + jld

Date

The mowing procedures of the department of transportation (DOT) are contained in its maintenance manual. As requested, the attached draft codifies certain portions of the maintenance manual. For the most part, the attached draft requires DOT to promulgate rules setting forth its mowing procedures. While establishing mowing procedures by DOT rule may be considered a "step down" in formality from codifying such procedures, it is also a "step up" from the current format of establishing such procedures in an administrative manual, as agency rules must go through a legislative review process coordinated by the Joint Legislative Council. See ss. 227.14 and 227.15. Do you want to establish a deadline by which DOT must submit to the Joint Legislative Council its proposed rules on mowing?

The attached draft does not include an express prohibition against DOT mowing up a backslope, i.e. beyond the bottom of a ditch, because the draft's prohibition against mowing beyond a ditch necessarily includes mowing up a backslope.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3656/1dn
ARG:rs&jld:jf

October 17, 2001

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Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Barman, Mike

From: Gary, Aaron
Sent: Monday, February 04, 2002 10:22 AM
To: Barman, Mike
Subject: FW: LRB 3656/ Mowing on rights of way

Mike,
Could you please jacket this draft?. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Anderson, John
Sent: Monday, February 04, 2002 10:13 AM
To: Gary, Aaron
Subject: LRB 3656/ Mowing on rights of way

Gary,

Please jacket LRB 3656 for introduction. Thank you.

John Anderson
Office of Sen. Kimberly Plache
266-1832