



Highway Maintenance Manual

Bureau of Highway Maintenance

Chapter 07 Roadside Management

July 2015

Section 25 Use of Highway Right of Way By Others

Subject 20 Farming

1.0 Authority

[s. 86.021 Wis. Stats.](#), Highways, cultivation of; injury by farm machinery, provides that “No person shall, within the limits of any public highway, plow, cultivate or otherwise work any lands in such manner as to interfere with or obstruct the drainage in any public highway ditch, nor shall any person operate any farm or other machinery on, over, along or across any public highway in such manner as to materially damage the said highway.”

[s. 86.04 Wis. Stats.](#), Highway encroachments, gives authority to highway departments to remove encroachments from highway rights of way.

2.0 General Policy

Agricultural crops encroaching on the right of way should be removed in accordance with HMM 07-25-45, Encroachments and Restricted Activities.

3.0 Exceptions

1. [s. 85.15 Wis. Stats.](#), Property management, permits the lease of any property acquired for highway, airport or any other transportation purpose until the property is actually needed for any such purpose. Such leases are normally handled by the Bureau of Technical Services - Real Estate.
2. The department has allowed harvesting hay from the right of way in the past when the Governor has declared a drought emergency. Typically, there has not been much response from farmers to gubernatorial drought declarations because the topography within the right of way is not conducive to the use of farm machinery and the amount of debris on the right of way baled with the hay makes it potentially hazardous to livestock. When the Governor declares a drought emergency, a form DT1812 [Application/Permit to Work on Highway Right of Way](#) may be issued to farmers for the purpose of harvesting hay under [s. 66.1037\(1\) Wis. Stats.](#), Beautification and protection. Special Permit Provision number 8 of form DT1812, should be checked. Permits should not be issued for areas that have steep slopes, are erodible or have abundant native plants such as prairie grasses and wildflowers.