

**DELAWARE COUNTY SECONDARY ROAD DEPARTMENT
POLICY AND PROCEDURE MEMORANDUM**

SUBJECT: No Spray Areas in County Rights of Way

Problem: The County has a duty imposed by Chapter 317 of the Code of Iowa to control noxious weeds on public and private property. Chapter 319 of the Code of Iowa also imposes upon the county the duty to remove obstacles within the right of way. Many weeds growing in the right of way are on the state noxious weed list. Trees and brush in the right of way create obstacles to vision, and if allowed to grow large, create hazardous obstacles for errant vehicles. Spraying weeds and brush with herbicides is by far the most efficient manner of controlling the growth of noxious weeds and brush within county rights of way.

Discussion: In spite of care exercised by county employees conducting roadside spraying, occasionally spray vapor drifts onto adjacent properties where it may burn or kill flowers, ornamental plants or fruit trees close to the right of way line. Some landowners with children prefer that the county not spray near their yards. With the increasing number of organic farms starting in Iowa, roadside sprayers are asked to avoid spraying certain areas to avoid decertifying the farm's organic status, which takes three years of certified no-chemical use to earn.

The desire to have the county not spray certain areas of its right of way has led to the placement of multiple types of "No Spray" signs that may at times be screened by the very weeds the county seeks to destroy in response to its state code mandated duty, resulting in the county spraying areas that the landowner prefers to have no spray applied.

Whether spraying occurs or not, noxious weeds must still be destroyed. Brush, which often screens sight lines at intersections or driveways, must also be controlled. Due to the limited number of county employees, the elimination of noxious weeds and brush must be done efficiently to allow the county to maximize the impact a limited number of crew members makes on over 910 miles of county road rights of way which adds up to over 8000 acres of property to manage. Since county crews often cannot be freed from other tasks to attend to noxious weeds and brush using labor intensive hand cutting methods, if spraying is not allowed due to landowner preference, the landowner should bear the responsibility for destroying problem weeds and brush.

This policy addresses the permitting of no spray areas and sets up requirements for landowners who choose not to allow the county to spray weeds and brush in its rights of way adjacent to their land.

Policy: No Spray Program

Program: Landowners may request that road rights of way not be sprayed adjacent to their property. To join this program, landowners must request a permit to place no

spray signs at their property line where it joins county right of way. Upon approval of the no spray permit, the county will issue two signs saying "DO NOT SPRAY" which must be installed and maintained in place by the property owner. The property owner is required to supply the post and install the signs. If the signs are vandalized or destroyed, the landowner may obtain new signs. The county is not liable for spraying areas that are not marked in compliance with the terms of this policy.

The minimum height for these signs is 5 feet above the road shoulder elevation. This height is the same as required for road signs and places the signs where they will be above most weed growth. Signs, supplied by the county, will be posted at the right of way line oriented 45 degrees to the property line so that they are visible from the road. The signs should be mounted on a metal post at the right of way line or next to the fence in the area to be included in the program.

The county will annually place a press release in the official county newspapers opening applications for no spray areas. Permits will be approved immediately upon application by any Secondary Road Department management staff member. Landowners who do not obtain a permit will not be eligible to participate in this program. Signs not conforming to the county standard will not be allowed.

Weed and Brush destruction: By enrolling in this program, the landowner will agree to take responsibility for the destruction of weeds and brush within the no spray areas. If the landowner does not control weeds and brush within no spray areas, the county will send the landowner notice to destroy the brush or weeds with a stated 10 day period for destruction of the weeds. If the landowner fails to destroy the brush or weeds within the notice period, the county will destroy the weeds by spraying or any other method that the county engineer deems efficient without liability to the landowner.

The attached no spray policy is approved this _____ day of _____, 2003 by the Delaware County Board of Supervisors meeting in regular session.

FOR DELAWARE COUNTY BOARD OF SUPERVISORS:

Bill Skinner, Chairman-Delaware County Board of Supervisors

RECOMMENDED:

Mark J. Nahra, Delaware County Engineer

Attachment: No Spray Permit