

**Wisconsin Department of Natural Resources  
Natural Resources Board Agenda Item**

**SUBJECT:**

Request that the Board approve the statement of scope for Board Order WT-03-15 and conditionally approve the public hearing notice for Board Order WT-03-15 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse proposed rules affecting ch. NR 154 related to revision to best management practices and cost-share rates for agricultural and urban nonpoint source cost-share programs.

**FOR: June 2015 Board meeting**

**PRESENTER'S NAME AND TITLE:** Russ Rasmussen, Water Division Administrator

**SUMMARY:**

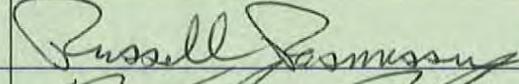
Chapter NR 154, Wisconsin Administrative Code, identifies the agricultural and urban best management practices (BMPs) that can be funded under the Notice of Discharge, Targeted Runoff Management, Urban Construction and Urban Planning grant programs as specified in chs. NR 153 and NR 155, Wis. Adm. Code. In addition, ch. NR 154 identifies cost share conditions for BMPs available for funding and the grant programs identified above. This rule is part of the state's nonpoint source abatement program that is jointly administered by the Department of Agriculture Trade and Consumer Protection (DATCP). For agricultural BMPs, ch. NR 154 directly cross-references ch. ATCP 50, Wis. Adm. Code that was recently updated and finalized in 2014. The primary purpose of the proposed rule change is to make ch. NR 154 consistent with the recent updates to ch. ATCP 50 for agricultural BMPs, cost-share rates, and other areas to ensure programmatic consistency. The Department may evaluate the need to reference additional technical standards that may have been updated since the ch. ATCP 50 revisions. In addition, the Department is proposing to review, update and add urban BMPs identified in ch. NR 154 for consistency with state technical standards. The Department, rather than DATCP, maintains technical standards associated with urban BMPs; and since September 2002 when ch. NR 154 became effective, a number of new technical standards have been developed and are now available to use but are not identified as cost-sharable practices in ch. NR 154. The Department plans to review and update other aspects of ch. NR 154 to ensure consistency with chs. NR 151, NR 153 and NR 155, all of which were recently updated and finalized in 2011, including: economic hardship determinations, cost-share caps for certain BMPs, and other eligibility requirements. Additional housekeeping changes may be made that are reasonably related to the issues specifically mentioned.

The statement of scope for Chapter 154, WT-03-15, was approved by the Governor on April 9, 2015 and published in Register #712-A3, Scope Statement number SS 040-15 on April 20, 2015. The economic impacts associated with implementing this rule are anticipated to be minimal (level 3).

**RECOMMENDATION:** That the Board approve the statement of scope and conditionally approve the public hearing notice for Board Order WT-03-15 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse.

**LIST OF ATTACHED MATERIALS:**

- Statement of scope
- Governor approval of statement of scope

Approved by	Signature	Date
Pam Biersach, Bureau Director		5-4-15
Russ Rasmussen, Administrator		5/5/15
Cathy Stepp, Secretary		6/2/15

cc: Laurie Ross - AD/8  
Mary Anne Lowndes - WT/3

Robin Nyffeler - LS/8

Linda Haddix - LS/8

Staff review – Natural Resources Board agenda item

**Reminder:**

Have the following questions been answered under the summary section of this form?

- Why is the rule needed?
- What are the significant changes?
- What are the key issues/controversies?
- What are the environmental impacts of the rule?
- What was the last action of the Board?
- Will the proposed rule have an economic impact on small business, and if so, will it be minimal (level 3), moderate (level 2), or significant (level 1)?

List of attached materials required for rule proposals:

Statement of scope	Hearing authorization	Final adoption
<ul style="list-style-type: none"> <li>• Statement of scope</li> <li>• Governor approval letter</li> </ul>	<ul style="list-style-type: none"> <li>• Background memo</li> <li>• Fiscal estimate and EIA form</li> <li>• Board order/rule</li> </ul>	<ul style="list-style-type: none"> <li>• Background memo</li> <li>• Response summary</li> <li>• Fiscal estimate and EIA form</li> <li>• Board order/rule</li> </ul>

Program and reviewer	Signature	Date	Comments
<b>Economist</b> Vacant Economist			
<b>Management and Budget</b> Paul Neumann	<i>Paul Neumann</i>	4/27/15	
<b>Legal Services</b> Robin Nyffeler Attorney	<i>Robin Nyffeler</i>	4/29/15	
<b>Rule Officer</b> Linda Haddix Rule Officer	<i>Linda Haddix</i>	4-29-15	
<b>Other reviewers</b> NA			



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

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April 9, 2015

Cathy Stepp  
Secretary  
Wisconsin Department of Natural Resources  
101 South Webster St.  
P.O. Box 7921  
Madison, WI 53707-7921

**RE: Scope Statement for NR 154 (WT-03-15) relating to revisions to NR 154 best management practices and cost share rates**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on January 13, 2015, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapter NR 154 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker  
Governor

# STATEMENT OF SCOPE

## Department of Natural Resources

Rule No.: WT-03-15

Relating to: Revisions to NR 154 Best Management Practices and Cost Share Rates

Rule Type: Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

This will be a permanent rule.

### 2. Detailed description of the objective of the proposed rule:

Chapter NR 154, Wisconsin Administrative Code, identifies the agricultural and urban best management practices (BMPs) that can be funded under the Notice of Discharge, Targeted Runoff Management, Urban Construction and Urban Planning grant programs as specified in chs. NR 153 and NR 155, Wis. Adm. Code. In addition, ch. NR 154 identifies cost share conditions for BMPs available for funding and the grant programs identified above. This rule is part of the state's nonpoint source abatement program that is jointly administered by the Department of Agriculture Trade and Consumer Protection (DATCP). For agricultural BMPs, ch. NR 154 directly cross-references ch. ATCP 50, Wis. Adm. Code, that was recently updated and finalized in 2014. The primary purpose of the proposed rule change is to make ch. NR 154 consistent with the recent updates to ch. ATCP 50 for agricultural BMPs, cost-share rates, and other areas to ensure programic consistency. The Department may evaluate the need to reference additional technical standards that may have been updated since the ch. ATCP 50 revisions. In addition, the Department is proposing to review, update and add urban BMPs identified in ch. NR 154 for consistency with state technical standards. The Department, rather than DATCP, maintains technical standards associated with urban BMPs; and since September 2002 when ch. NR 154 became effective, a number of new technical standards have been developed and are now available to use but are not identified as cost-sharable practices in ch. NR 154. The Department plans to review and update other aspects of ch. NR 154 to ensure consistency with chs. NR 151, NR 153 and NR 155, all of which were recently updated and finalized in 2011, including: economic hardship determinations, cost-share caps for certain BMPs, and other eligibility requirements. Additional housekeeping changes may be made that are reasonably related to the issues specifically mentioned.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The rule cross references ch. ATCP 50 for all agricultural BMPs that, in turn, are tied to USDA-Natural Resource Conservation Service technical standards for Wisconsin. In order to maintain consistency with the state's nonpoint source abatement programs outlined in chs. 92 and 281, Wis. Stats., these cross-references need to be updated.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

s. 281.65(1)(c), (4)(e), (8a), (8gm), (8n), (8o), Wis. Stats., provides authority for the department to promulgate rules regarding agricultural nonpoint source standards, specifications, and BMPs eligible for cost-sharing.

s. 281.66(4)(c), Wis. Stats., provides authority for the department to promulgate rules regarding urban nonpoint source and storm water management standards, specifications and BMPs eligible for cost-sharing.

s. 281.16(2)(b), Wis. Stats., states that the department shall promulgate rules that specify a process for the development and dissemination of technical standards to implement the urban performance standards.

s. 281.16(3)(e), Wis. Stats., states that the department shall promulgate criteria for determining whether cost sharing is available under Wis. Stat. s. 281.65.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

It is anticipated that the total staff time needed to revise ch. NR 154 would be approximately 500 hours including meetings, drafting documents, public hearings and other steps in the promulgation process.

**6. List with description of all entities that may be affected by the proposed rule:**

Revisions to ch. NR 154 may affect the following entities as it relates to participation in the department's agricultural and urban nonpoint source grant programs:

- Governmental units including, but not limited to, a county, city, village, town, metropolitan sewerage district, town sanitary district, public inland land protection and rehabilitation district, regional planning commission or drainage district. Rule revisions will provide clarity and consistency with ch. ATCP 50 and department programs for cost-sharing BMPs and eligibility conditions in accordance with applicable technical standards.
- Agricultural crop and livestock producers. Rule revisions will identify additional cost-shareable agricultural BMPs and technical standards and clarify eligibility conditions with the state agricultural performance standards and prohibitions outlined in ch. NR 151.
- Urban businesses and residents. Rule revisions will provide clarity and consistency with cost-shareable urban BMPs and clarify eligibility conditions with state urban performance standards outlined in ch. NR 151.
- Private consulting firms. Rule revisions will provide additional clarity and consistency regarding cost-shareable best management practices for application under the department's nonpoint source program grants.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There are no comparable existing or proposed federal regulations related to ch. NR 154.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

It is anticipated that the economic impacts of implementing this rule will be minor. Revisions to ch. NR 154 will assist the department in implementing the nonpoint source grant programs through which state cost-share funds are provided to grantees to implement BMPs.

**9. Anticipated number, month and locations of public hearings:**

The department anticipates holding one public hearing in the month of November 2015. Hearing cities will include Madison as the primary location with the ability to broadcast the hearing to satellite viewing locations in Eau Claire, Wausau, Green Bay and Milwaukee.

**Contact Person:**

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Department Head or Authorized Signature

1/12/15  
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Date Submitted