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# Wisconsin Legislative Council

## ACT MEMO

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### 2021 Wisconsin Act 223 [2021 Assembly Bill 727]

### Nitrogen Optimization Pilot, Crop Insurance Rebates, and Hydrogeologist Position

2021 Wisconsin Act 223 requires the establishment of a commercial nitrogen optimization pilot program, authorizes crop insurance premium rebates for cover crops, and requires the creation of a hydrogeologist project position.

## NITROGEN OPTIMIZATION PILOT

Act 223 establishes a commercial nitrogen optimization pilot program administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). Under the program, an agricultural producer may apply for a grant to implement a project, for at least two growing seasons, that optimizes the application of commercial nitrogen.

An agricultural producer receiving a grant must collaborate with a University of Wisconsin System (UWS) institution, which would monitor the grant project on-site. The UWS institution may also receive a grant to implement that monitoring. The total grant to an agricultural producer and a collaborating UWS institution may not exceed \$50,000. Of that amount, up to 20 percent may be awarded to the UWS institution.

In making a grant, DATCP must: (1) collaborate with the agricultural producer and the UWS institution; (2) seek to provide grants to agricultural producers in different parts of the state and for projects in areas that have different soil types or geologic characteristics; (3) prioritize projects that are innovative and not currently funded by other state or federal programs; and (4) prioritize agricultural producers that plan to implement projects for longer periods.

A grant recipient may not be held civilly liable and may not be subject to any remedial, administrative, or enforcement action by DATCP or by the Department of Natural Resources for any discharge of environmental pollution from the land involved in a project, if actions were taken in good faith by the recipient and conformed to project specifications proposed in the grant application.

## CROP INSURANCE REBATES

Act 223 authorizes DATCP to provide a crop insurance premium rebate of \$5 for each acre that is planted with a cover crop. DATCP may promulgate rules to establish the application and award process, to determine eligible cover crops, and to establish procedures to verify that a cover crop is planted on an acre for which a rebate is provided. The rules may determine the maximum amount of acres for which an applicant may receive funding in a year, except that DATCP may impose such a maximum only in years in which the total amount of funding requested by eligible applicants exceeds the total funding available.

DATCP may not provide a rebate for the planting of a cover crop on an acre for which funding for planting a cover crop is provided from a federal or state grant or incentive program, including any of the following:

- The federal Environmental Quality Incentives Program. [16 U.S.C. ss. 3839aa to 3839-8.]
- The federal Conservation Stewardship Program. [16 U.S.C. ss. 3839aa-21 to 3839aa-25.]
- A producer-led watershed protection grant. [s. 93.59, Stats.]
- The Soil and Water Resource Management Program. [s. 92.14, Stats.]
- A lake management planning grant. [s. 281.68, Stats.]
- A lake management grant. [s. 281.69, Stats.]
- A river protection grant. [s. 281.70, Stats.]

A person may apply for a rebate after a cover crop is planted on the acres for which the rebate is sought, and DATCP may conduct inspections to verify that a recipient of a rebate is in compliance with program requirements.

## **HYDROGEOLOGIST POSITION**

Act 223 requires the UWS Board of Regents to create one full-time hydrogeologist project position, expiring on June 30, 2025, for the geological and natural history survey. The position must focus on developing groundwater resource information primarily at county or local scales and assisting state and local governments, industries, and the public in interpreting and using this information.

## **FUNDING AND RULEMAKING**

Act 223 authorizes the Joint Committee on Finance, in the 2021-22 and 2022-23 fiscal years, to supplement DATCP's soil and water management appropriation with sufficient funds to implement the nitrogen optimization pilot and the crop insurance rebates, upon DATCP's request.

The act gives emergency rulemaking authority to DATCP to implement the nitrogen optimization pilot and the crop insurance rebates, in each case without DATCP having to make a finding of emergency. DATCP must promulgate the emergency rules for the nitrogen optimization pilot within 90 days of the act's effective date.

**Effective date:** April 10, 2022

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