



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

DATE: May 12, 2022

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary

SUBJECT: ATCP 52, Cover Crop Insurance Rebates

PRESENTED BY: Alex Elias, Program Policy Analyst, Division of Agricultural Resource Management

REQUESTED ACTION:

At the May 12, 2022, Board meeting, the department will request approval of the attached scope statement, regarding ch. ATCP 52 (providing crop insurance rebates for cover crops). In addition, the department will request approval to hold a preliminary hearing on the scope statement in the event the Joint Committee for Review of Administrative Rules requests a preliminary hearing on the scope.

SUMMARY:

The department proposes to amend ATCP 52 to provide crop insurance rebates for cover crops. As per 2021 Act 223, DATCP shall promulgate rules to implement s. 92.14 (17) Stats. S. 92.14 (17) Stats authorizes DATCP to provide a crop insurance premium rebate of \$5 for each acre that is planted with a cover crop. DATCP will consider how: 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. DATCP will also consider how to 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.

The Governor approved the scope statement on May 5, 2022. 2021 Act 223 includes a non-statutory provision that provides authority for the department to promulgate emergency rules to implement s. 92.14 (17), Stats., and the department is not required to provide a finding of emergency.

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STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection

Rule No.: ATCP 52

Relating to: Providing crop insurance rebates for cover crops

Rule Type: Emergency

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

As per 2021 Act 223, the department of agriculture, trade and consumer protection shall, using the procedure under s. 227.24, Stats., promulgate rules to implement s. 92.14 (17), Stats. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), Stats., the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

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

The department proposes to amend ATCP 52 to provide crop insurance rebates for cover crops. S. 92.14 (17), Stats., authorizes DATCP to provide a crop insurance premium rebate of \$5 for each acre that is planted with a cover crop. DATCP will consider how: 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. DATCP will also consider how to 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 3839aa-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.]

DATCP will consider how to verify that a recipient of a rebate is in compliance with program requirements and may consider what to do if a landowner is found not to be in compliance.

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:

ATCP 52 currently implements the producer led watershed protection grants program created under s. 93.59, Stats. The proposed cover crop insurance rebates would be a new program included in the rule.

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

Section 92.14 (17), Stats., creates the crop insurance premiums rebate for planting cover crops.

Section 92.14 (17), Stats., Crop insurance premium rebates for planting cover crops. (a) From the appropriation under s. 20.115 (7) (qf), Stats., the department may provide rebates in the amount of \$5 for each acre of a cover crop planted for crop insurance premiums paid on those acres. In providing crop insurance premium rebates under this subsection, the department may cooperate with the risk management agency of the U.S. department of agriculture, and may cooperate with any related federal agency, state agency, or agricultural organization.

In providing crop insurance premium rebates under this subsection, the department may promulgate the following rules:

1. Rules determining the cover crops for which crop insurance premium rebates are provided under this subsection.
2. Rules establishing procedures for verifying that a cover crop is planted on acres for which a crop insurance premium rebate is provided under this subsection.
3. Rules determining the maximum amount of acres for which an applicant may receive funding in a year, except that the department may impose such a maximum only in years in which the total amount of funding requested by eligible applicants exceeds the total funding available.
4. Rules establishing the application and award process, including the application deadline and grant award schedule.

2021 Act 223 includes a non-statutory provision that provides authority for the department to promulgate rules to implement s. 92.14 (17), Stats., and the department is not required to provide a finding of emergency.

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

The department estimates that it will take approximately 80 hours to develop this emergency rule. That calculation includes time required for investigation and analysis, drafting the emergency rule, preparing related documents, coordinating meetings, holding public hearings, and communicating with affected persons and groups. The department will use existing staff to develop this rule.

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

- Farmers: Farmers may submit an application after a cover crop is planted on the acres for which the person applies for a crop insurance premium rebate.
- Farm-Related Businesses: Farm supply organizations, nutrient management planners, soil testing laboratories, agricultural engineering practitioners, agricultural engineers, construction contractors and others who provide goods and services to farmers and other landowners may be affected.
- Users and Beneficiaries of Natural Resources: This program helps store more nutrients in soil and prevent pollutant leaching, which improves soil and water health.

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:

NA

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

The Department anticipates that the proposed rule will have minimal economic impact. It is not likely to have a significant economic impact on small businesses since the cover crop insurance rebate would provide funding to producers who purchase insurance for cover crops.

Contact Person: Alex Elias (608) 224-6338

Signed this 29th day of April, 2022

A handwritten signature in cursive script that reads "Randy Romanski". The signature is written in black ink and is positioned above a horizontal line.

Randy J. Romanski

Secretary

State of Wisconsin Department of Agriculture,
Trade and Consumer Protection