

# STATEMENT OF SCOPE

## Office of the Commissioner of Insurance

**Rule No.:** Section Ins 4.10, Wis. Adm. Code

**Relating to:** the Wisconsin Insurance Plan ("WIP")

**Rule Type:** Emergency and Permanent

### 1. Finding/nature of emergency:

The Wisconsin Insurance Plan (WIP) is a residual property insurer that was created to provide basic property insurance on certain properties rejected by other insurers for coverage and is governed by s. Ins 4.10, Wis. Adm. Code. In recent years, changing market conditions—including inflation, staff turnover, and the increased frequency and severity of catastrophic weather events—and the rehabilitation of the Wisconsin Reinsurance Corporation ("WRC") have caused significant disruption to Wisconsin's mutual insurance industry, which provides a large amount "farm coverage" to Wisconsin's farmers. The significant disruption to the mutual industry has raised concerns of a coverage gap in farm coverage that would likely hit small and medium sized farms the hardest.

Section Ins 4.10, Wis. Adm. Code, currently excludes "farm risk" from the coverages offered by WIP, which means farmers who lose coverage as a result of the current market disruption will not have a residual insurer to rely on if they cannot find replacement coverage in the standard market. An emergency rule is necessary in order to preserve the public welfare by mitigating the effects of a potential gap in "farm coverage" that would harm small and medium sized Wisconsin farms. The OCI believes immediate action is necessary as issues in the reinsurance market, particularly the WRC rehabilitation, will increase the likelihood of a coverage gap in 2024 and 2025. Note: a permanent rule will also be promulgated simultaneously with this emergency rule

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

The Wisconsin Insurance Plan (WIP) is a residual property insurer that was created to provide basic property insurance on certain properties rejected by other insurers for coverage and is governed by s. Ins 4.10, Wis. Adm. Code. In recent years, changing market conditions—including inflation, staff turnover, and the increased frequency and severity of catastrophic weather events—and the rehabilitation of the Wisconsin Reinsurance Corporation ("WRC") have caused the significant disruption to Wisconsin's mutual insurance industry, which provides a large amount "farm coverage" to Wisconsin's farmers. The significant disruption to the mutual industry has raised concerns of a coverage gap in farm policies that would likely hit small and medium sized farms the hardest.

Section Ins 4.10, Wis. Adm. Code, currently excludes "farm coverage" from the coverages offered by WIP. The proposed rule will make changes that include adding farm coverage and determining policy limits. The OCI intends to work closely with WIP and other stakeholders to determine the appropriate scope and levels of coverage, and whether any other changes to s. Ins 4.10, Wis. Adm. Code, are necessary in order to implement the addition of "farm coverage."

### 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:

Under the current rule, s. Ins 4.10 (3) (b), Wis. Adm. Code, provides a definition of "farm risk" and s. Ins 4.10 (4) (a), Wis. Adm. Code, excludes "farm risk" as an eligible coverage. The proposed rule will potentially amend the definition of "farm risk," remove the exclusion, and address policy limits for the added "farm risk" under s. Ins 4.10 (4), Wis. Adm. Code. As noted above, the OCI will rely on WIP's and Rev. 10.05.2022

stakeholder input in determining the definition of "farm risk," appropriate policy limits, and other changes necessary to implement these changes, such as specific underwriting provisions.

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

The Commissioner has the general authority to promulgate rules necessary to administer and enforce chs. 600 to 655, Wis. Stat., and as provided under ss. 227.11 (2) (a) and 601.41 (3), Wis. Stat. Further, s. 619.01 (1), Wis. Stat., specifically authorizes the Commissioner to establish procedures and requirements for a mandatory risk sharing facility for basic property insurance coverages.

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

100

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

The WIP and its members will be affected by this proposed rule. In general, WIP membership consists of all licensed insurers authorized to write Property and Casualty insurance in Wisconsin. These members are levied/assessed for losses and expenses incurred by WIP.

**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:**


The Federal Crop Insurance Corporation (FCIC) provides coverages for crop and livestock risks; however, our office believes that it is unlikely the "farm coverage" under the proposed rule will cover these risks, especially crop. To the extent the proposed rule would cover these risks, our Office will take the coverages provided by the FCIC into consideration to ensure there is no unnecessary overlap. Otherwise, our Office is unaware of any other proposed or existing federal regulation that is intended to address the activities to be regulated by this proposed rule.

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

This proposed rule is likely to have an economic impact on a small number of small insurers who are members of WIP. The proposed rule may result in a levy/assessment against all WIP members for expenses relating to implementing the new coverage and to ensure adequate reserves. The OCI intends to keep the coverage as narrow as possible while still providing adequate coverage. The OCI cannot exempt certain insurers in this situation and assessments are already weight; however, keeping the coverage narrow will lessen the economic impact on all members.

**Contact Person:** Timothy Cornelius

  
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Nathan Houdek, Wisconsin Insurance Commissioner  
Department Head or Authorized Signature

  
\_\_\_\_\_  
Date

9/20/23

\_\_\_\_\_  
Date Submitted



# Tony Evers

Office of the Governor | State of Wisconsin

September 28, 2023

By Electronic Mail Only

Dear Secretaries and Agency Heads:

On this day, I approved the following statements of scope pursuant to Wis. Stat. § 227.135(2):

- A statement emergency and permanent of scope by the Elections Commission, submitted September 15, 2023, relating to mandatory use of uniform instructions for absentee voting (Wis. Admin. Code ch. EL 6); and
- A statement of emergency and permanent scope by the Elections Commission, submitted September 15, 2023, relating to ballot access and election petition challenge procedure (Wis. Admin. Code ch. EL 2); and
- A statement of emergency and permanent scope by the Elections Commission, submitted September 15, 2023, relating to ballot access and election petition challenge procedure (Wis. Admin. Code ch. EL 2); and
- A statement of emergency and permanent scope by the Office of the Commissioner of Insurance, submitted September 19, 2023, relating to the Wisconsin Insurance Plan (Wis. Admin. Code ch. Ins 4).

On this day, I approved the following proposed administrative rule pursuant to Wis. Stat. § 227.185:

- A proposed rule by the Department of Safety and Professional Services, submitted September 22, 2023, relating to military medical personnel (Wis. Admin. Code ch. Med 26).

Please direct any questions about this letter to my policy director, Katie Domina.

Sincerely,

A handwritten signature in black ink that reads 'Tony Evers'.

Tony Evers  
Governor

cc: Mel Barnes, chief legal counsel ([mel.barnes@wisconsin.gov](mailto:mel.barnes@wisconsin.gov))  
Katie Domina, policy director ([katherine.dominal@wisconsin.gov](mailto:katherine.dominal@wisconsin.gov))  
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