

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE  
REPEALING, CONSOLIDATING RENUMBERING AND AMENDING, AND AMENDING  
A RULE**

**Office of the Commissioner of Insurance**

**Rule No.** Agency 145 – Ins 4.10 (3) (b), 4.10 (4) (a), 4.10 (4) (e), 4.10 (7) (g)

The Commissioner of Insurance proposes an order to amend Ins 4.10 (4) (a) and (7) (g); to repeal and recreate Ins 4.10 (3) (b); and to create Ins 4.10 (4) (e) and (13m) relating to the Wisconsin Insurance Plan (“WIP”) and affecting small business.

The statement of scope for this rule SS: 073-23, was approved by the Governor on September 28, 2023, published in Register No. 814A2, on October 9, 2023, and approved by the Commissioner on December 12, 2023.

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**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)**

**1. Statutes interpreted:**

Section 619.01 (1), Wis. Stats.

**2. Statutory authority:**

Sections 601.41 (3) and 619.01 (1), Wis. Stat.

**3. Explanation of OCI’s authority to promulgate the proposed rule under these statutes:**

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.

**4. Related statutes or rules:**

There are no existing statutes or rules that relate to this proposed rule.

**5. The plain language analysis and summary 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.

The proposed rule will add coverage for “farm risk” which is currently excluded under s. Ins 4.10, Wis. Adm. Code. The changes in the proposed rule are intended, and therefore drafted, to give WIP flexibility in determining the scope and limits of coverage for “farm risk.” A flexible, as opposed to prescribe, approach will allow WIP to develop a farm product more tailored to the needs of Wisconsin farmers without being mandated to provide unnecessary or complex coverages that would be costly and put a greater strain on WIP’s resources. This also provides a more effective and efficient update risks and limits before they become outdated. The specific revisions are as follows.

Under the current rule, “farm risk” is defined under s. Ins 4.10 (3) (b), Wis. Adm. Code, but the definition is for the purpose of excluding the coverage under s. Ins 4.10 (4) (a), Wis. Adm. Code. The proposed rule repeals the current definition and replaces it with a broader definition that defines “farm risk” as risks eligible to be written under the customary farm owners policy forms approved by the commissioner.” The broader definition is not meant to suggest or direct WIP to provide broad “farm risk” coverage, rather it is meant to provide WIP with the flexibility to determine what the scope of the coverage(s) within customary farm policy should be provide in WIP’s policy. While the purpose of this change is to provide basic farm property such as for building and equipment; WIP would also have the ability to add more complex risks such liability if appropriate in the future. Accordingly, the proposed rule also creates a new provision under s. Ins 4.10 (13m), Wis. Adm. Code, which permits but does not require WIP to offer liability coverage on “farm risk.”

Finally, the proposed rule creates a provision requiring WIP to determine maximum coverage limits and file them with the Commissioner for approval. The flexibility will allow WIP to both determine the appropriate limits and request changes to those limits when necessary. Other coverages provided by WIP have specific limits which take a long time to change and become outdated. Giving WIP the ability to determine and request changes is a sensible way to avoid this issue.

**6. Summary of 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 coverage for crop and livestock risks. The proposed rule is not intended to provide coverage for crop or livestock insurance, but WIP would have the flexibility to provide coverage for those risks in the future if necessary. 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.

**7. Summary of any public comments and feedback on the statement of scope of the proposed rule that the agency received at any preliminary public hearing and comment period held under s. 227.136, Stat., and a description of how and to what extent the agency took those comments and that feedback into account in drafting the proposed rule.**

The OCI received testimony from one person, Kate Cartagena, the manager of the Wisconsin Insurance Plan (“WIP”). She expressed concern regarding the timeframe for implementing the rule which could be difficult for WIP. She also noted concerns over the potential cost, scope of coverage, and policy limits. While these issues have not be

determined, it is understood they will factor into WIP's ability to implement and administer the coverage added by the proposed rule.

**8. Comparison of similar rules in adjacent states as found by OCI:**

**Illinois:** 215 ILCS 5/522 to 5/530a sets forth the Illinois FAIR Plan. The Plan does not generally provide coverage for "farm risk," to the extent coverage is provided it is fairly narrow.

**Iowa:** 191 IAC 20.41 to 20.60 sets forth the Iowa FAIR Plan. The Plan offers a farm property policy.

**Michigan:** MCLS § 500.2901 to § 500.2954 sets forth the Michigan FAIR Plan. The Plan does not appear to provide coverage for "farm risk".

**Minnesota:** Minn. Stat. § 65A.31 to § 65A.42 sets forth the Minnesota Fair Plan. The Plan provides a farm fire policy and additional coverages for farm personal property and other farm structures.

**9. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

The OCI reviewed coverages in the standard market and farm coverage offered by other FAIR Plans. In particular, OCI reviewed the farm coverage provided by Minnesota's FAIR Plan, which provided a Farm Fire Policy and additional coverages for farm buildings and personal property. The OCI is also considering input from various stakeholders.

**10. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

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 proposed rule suggests a narrower scope of coverage for the "farm risk" which will mitigate the financial impact. In addition, WIP will have a significant amount of discretion in developing the coverage which will allow members additional input. While the OCI cannot exempt certain insurers in this situation and assessments are already weighed; the flexibility WIP has in determining the scope of coverage should minimize the economic impact on all members.

**11. See the attached Private Sector Fiscal Analysis.**

**12. A description of the Effect on Small Business:**

See Section 10.

**13. Agency contact person:**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the web site at:

<https://oci.wi.gov/Pages/Regulation/RulesCurrentlyPending.aspx> or by contacting Karyn Culver at:

Phone: (608) 267-9586  
Email: [karyn.culver@wisconsin.gov](mailto:karyn.culver@wisconsin.gov)  
Address: 125 South Webster St – 2<sup>nd</sup> Floor, Madison WI 53703-3474  
Mail: PO Box 7873, Madison, WI 53707-7873

**14. Place where comments are to be submitted and deadline for submission:**

Persons wishing to testify or provide oral or written comments regarding the proposed administrative rule may appear during the hearing. Additionally, the rule may be reviewed and comments made at <https://docs.legis.wisconsin.gov/code> or sent to the following:

The deadline for submitting comments is 4:00 p.m. on the \_\_\_\_\_.

Written comments can be mailed or hand-delivered to:

Timothy Cornelius  
Legal Unit - OCI Rule Comment for Rule Ins 4.10  
Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53703-3474

Email address: [timothy.cornelius@wisconsin.gov](mailto:timothy.cornelius@wisconsin.gov)

For additional information please contact Timothy Cornelius at [timothy.cornelius@wisconsin.gov](mailto:timothy.cornelius@wisconsin.gov).

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**The proposed rule changes are:**

**SECTION 1. Ins 4.10 (3) (b) is repealed and recreated to read:**

(b) “Farm risks” means those risks eligible to be written under the customary farm owners policy forms approved by the commissioner.

**SECTION 2. Ins 4.10 (4) (a) is amended to read:**

(a) All risks at a fixed location shall be eligible for inspection and considered for insurance under the Plan except for motor vehicles, farm risks, and manufacturing risks as defined in sub. (3) ~~(b)~~, (f), and (g).

**SECTION 3. Ins 4.10 (4) (e) is created to read:**

(e) The Plan shall determine and file the maximum coverage limits for risks defined in sub. (3) (b). The Plan shall include information supporting its filing.

**SECTION 4. Ins 4.10 (7) (g) is amended to read:**

(g) The governing committee shall authorize the manager to file rates, coverage limits, surcharge schedules, and forms for prior approval by the commissioner.

**SECTION 5. Ins 4.10 (13m) is created to read:**

(13m) UNDERWRITING STANDARDS FOR FARM RISK LIABILITY COVERAGE. Notwithstanding sub. (13), liability insurance may be provided in the Plans farm risk insurance policy. The plan shall file with the commissioner the characteristics used in determining whether a risk is acceptable for liability insurance on a farm risk policy.

**SECTION 6. INITIAL APPLICABILITY.** These changes first apply to “farm risk” policies issued on or after August 1, 2025 or when the necessary forms and limits are filed by WIP, whichever comes first.

**SECTION 7. EFFECTIVE DATE.** A rule is effective on the first day of the month commencing after the date of publication.

Dated at Madison, Wisconsin, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Nathan Houdek  
Commissioner