

insurer is in a Risk Based Capital (RBC) action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.

Note B: All insurers with less than \$500,000,000 in prior year direct written and assumed premiums are encouraged to structure their audit committees with at least a supermajority of independent audit committee members.

Note C: Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

10. An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and the Federal Flood Program, of less than \$500,000,000 may make application to the commissioner for a waiver from the §13727 requirements based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from §13727 with the states that it is licensed in or doing business in and with the NAIC. If the non-domestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1 et seq., the "Audited Financial Reports Law" R.S. 22:671 et seq., more particularly R.S. 22:675 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 35:2459 (November 2009), amended LR 46:36 (January 2020).

§13728. Internal Audit Function Requirements

A. Exemption. An insurer is exempt from the requirements of this section if:

1. the insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000; and

2. if the insurer is a member of a group of insurers, the group has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1,000,000,000.

NOTE: An insurer or group of insurers exempt from the requirements of this Section is encouraged, but not required, to conduct a review of the insurer business type, sources of capital, and other risk factors to determine whether an internal audit function is warranted. The potential benefits of an internal audit function should be assessed and compared against the estimated costs.

B. Function. The insurer or group of insurers shall establish an internal audit function providing independent, objective and reasonable assurance to the audit committee and insurer management regarding the insurer's governance, risk management and internal controls. This assurance shall be provided by performing general and specific audits, reviews and tests and by employing other techniques deemed necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations.

C. Independence. In order to ensure that internal auditors remain objective, the internal audit function must be organizationally independent. Specifically, the internal audit function will not defer ultimate judgment on audit matters to

others, and shall appoint an individual to head the internal audit function who will have direct and unrestricted access to the board of directors. Organizational independence does not preclude dual-reporting relationships.

D. Reporting. The head of the internal Audit function shall report to the audit committee regularly, but no less than annually, on the periodic audit plan, factors that may adversely impact the internal audit function's independence or effectiveness, material findings from completed audits and the appropriateness of corrective actions implemented by management as a result of audit findings.

E. Additional Requirements. If an insurer is a member of an insurance holding company system or included in a group of insurers, the insurer may satisfy the internal audit function requirements set forth in this section at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1 et seq., the "Audited Financial Reports Law" R.S. 22:671 et seq., more particularly R.S. 22:675 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:37 (January 2020).

James J. Donelon
Commissioner

2001#022

RULE

Department of Insurance Office of the Commissioner

Regulation 114—Claims Adjuster Pre-Licensing
Education Program (LAC 37:XIII.Chapter 165)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance has adopted Regulation 114—Claims Adjuster Pre-Licensing Education Program. The Department of Insurance has amended Regulation 114 to establish the requirements and the procedure for approving claims adjuster pre-licensing education programs, the providers and the examination of candidates for licensure by the Department of Insurance pursuant to R.S. 22:1668. This Rule is hereby amended on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 165. Regulation Number 114—Claims Adjuster Pre-Licensing Education Program

§16501. Purpose

A. The purpose of Regulation 114 is:

1. to provide for the submission of approved programs to be listed on the web page of the Louisiana Department of Insurance;

2. to establish the requirements and set forth the procedure for approval of programs by the commissioner;

3. to establish the requirements and set forth the procedure for approval of providers of the programs by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:37 (January 2020).

§16503. Applicability and Scope

A. Regulation 114 shall apply to programs and the providers, instructors and supervisory instructors of those programs as defined herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:38 (January 2020).

§16505. Authority

A. Regulation 114 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, 22:821, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:38 (January 2020).

§16507. Definitions

A. For the purposes of Regulation 114 the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Candidate—an individual seeking a claims adjuster license.

Claims Adjuster—an individual who investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of:

- a. an adjustment bureau;
- b. an association;
- c. a property and casualty producer;
- d. an independent contractor;
- e. an insurer; or
- f. a managing general agent.

Commissioner—the Commissioner of Insurance for the state of Louisiana.

Instructor—a subject matter expert presenting course activities or information in a classroom setting, whether in person or via the internet.

Person—an individual or a business entity.

Program—a program of education designed to instruct individuals in the duties and responsibilities of claims adjusters and the insurance laws and regulations of this state which meets the requirements of this regulation and is approved by the commissioner.

Provider—an entity presenting a claims adjuster pre-licensing education program.

Self-Study Program—an internet, CD-ROM, DVD or other computer-based presentation or a correspondence course.

Supervisory Instructor—an instructor responsible for the conduct of any other instructors or guest instructors and responsible for assuring the quality of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46: 38 (January 2020).

§16509. Claims Adjuster Pre-Licensing Education Program Optional

A. Nothing in this regulation shall be construed to require participation in such program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46: 38 (January 2020).

§16511. Posting of Information for Claims Adjuster Pre-Licensing Education

A. The commissioner shall make available on the website of the Louisiana Department of Insurance the following information:

1. the name and contact information for all providers of programs approved pursuant to this regulation;
2. the line or lines for which each program is approved;
3. the annual pass/fail ratio for each approved program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:38 (January 2020).

§16513. Program Approval Requirements

A. An application submitted by a provider for approval of a program shall be submitted to the commissioner a minimum of 30 days prior to the actual use of the program. Each application shall be on the form and in the format required by the commissioner and shall include:

1. the full legal name and Federal Employer Identification Number (FEIN) of the provider of the program;
2. a statement designating the line or lines of insurance for which the provider is seeking approval of the program;
3. an outline of the program including a list of resource material to be used, a copy of the textbook to be used, a description of the training aids to be used, a detailed description of the program, a schedule of the program which clearly indicates the time spent on each subject and the cost of the program to each candidate;
4. a statement of the method used to determine whether there has been a positive achievement of education on the part of the candidate taking the program; such method may be a written examination, a written report by the candidate, certification by the provider of the attendance or completion of the program by the candidate, or any other method approved by the commissioner as appropriate for the subject;
5. if the program is not a self-study program, a schedule of locations (including physical address including room or suite number) where the program will be offered and a schedule of times and dates when the program will be offered; any change in the schedule of locations, dates or time of program presentation or additional presentations of the program shall be filed with the commissioner not less

than three days prior to the scheduled beginning date of the program presentation; all facilities shall meet the requirements as set forth in this regulation;

6. a description of the measures used by the provider to verify the identity of the candidates;

7. if the program is a self-study program, a description of the technical support available to candidates including the business hours of the support and the proposed length of time for response by the provider to any inquiries;

8. if the program is a self-study program, a user ID and log-in credentials to permit viewing of the program that will be presented to the candidates.

B. Any assertion for program material to be deemed confidential, proprietary or trade secrets must be made pursuant to R.S. 44:3.2.

C. In order for a program to be approved, the program content shall, at a minimum, directly correlate to the topics included in the current examination content outlines. Programs may be approved for the following lines and shall provide the indicated minimum number of credit hours for each line for which it is approved:

1. automobile—8 credit hours;
2. commercial lines—20 credit hours;
3. crop—8 credit hours;
4. personal lines—20 credit hours;
5. property and casualty—30 credit hours;
6. workers' compensation—8 credit hours.

D. A provider shall notify the commissioner of any material change in the information submitted with an application for approval a minimum of 30 days prior to the scheduled beginning date of the program presentation. A material change shall include any of the following:

1. change(s) to the instructors or the supervisory instructor of the program;
2. change(s) to the facility where the program will be presented;
3. change(s) to the text books, resource material or training materials to be used in the program.

E. If a provider utilizes published program materials, including text books, outlines or other similar materials, each candidate must be provided with a complete original copy of the material as part of the fee for the course. This material shall be retained by the candidates. The provider may not require the candidates to return or resell this material to the provider. No substitute text books, outlines, summaries or copyright infringement is permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:38 (January 2020).

§16515. Program Expiration

A. Approval of a program shall expire three years from the date of the commissioner's initial approval. A provider may request renewal of the approval by submitting all information required by this regulation to the commissioner a minimum of 60 days prior to the expiration of the approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:39 (January 2020).

§16517. Provider Approval Requirements

A. A provider for a program shall be one of the following:

1. an insurance trade association;
2. an insurance company admitted to do business in Louisiana;
3. an accredited public or private college or university;
4. a person otherwise certified by the commissioner.

B. A person seeking approval as a provider for a program from the commissioner shall submit an application to the commissioner on the forms required. The application shall include:

1. the full, legal name and Federal Employer Identification number (FEIN) of the person making application;
2. the names and addresses of every officer, director, partner or member of the provider;
3. the names and addresses of every person owning, directly or indirectly, 10 percent or more of the provider;
4. the name, address and a description of the professional qualifications of each instructor and the supervisory instructor of the provider;
5. the principal place of business of the provider;
6. certification from the provider that all instructors and the supervisory instructor presenting the program meet the requirements as set forth in this regulation;
7. a general description of the types of programs presented by the provider;
8. a description of the qualifications and experience of the persons responsible for the creation of the programs;
9. the fee required by R.S. 22:821(29);
10. such other information as the commissioner may require to confirm compliance with this regulation.

C. Every provider shall maintain a signed statement from each instructor and the supervisory instructor describing the basis for his/her qualification and affirmation that he/she shall comply with the requirements of this regulation.

D. Every approved provider shall notify the commissioner of any material change in the information submitted with the application within 30 days of the effective date of the change. Every such notice shall include the same information as was required with the initial application. A material change shall include, but not be limited to:

1. a change of the name of the provider;
2. a change in the address of the provider;
3. a change of officer, director, partner or member of the provider;
4. the merger of the approved provider;
5. a change in ownership of 10 percent or more of the provider;
6. a change in an instructor or the supervisory instructor of the provider.

E. If the provider is a natural person, that natural person shall notify the commissioner of:

1. any administrative action taken against the provider for insurance related practices by any regulatory or governmental agency;
2. any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, or conviction of any

misdemeanor involving moral turpitude or public corruption on the part of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:39 (January 2020).

§16519. Provider Approval Expiration

A. Every approval of a provider shall expire three years from the date of issuance of the commissioner's approval and may be renewed by filing a renewal application as required by the commissioner a minimum of 90 days prior to expiration.

B. Upon expiration of the commissioner's approval of a provider, the commissioner's approvals of the programs presented by that provider shall be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:40 (January 2020).

§16521. Instructor Qualifications

A. Every provider of a program shall designate an individual as a supervisory instructor. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the program. Every supervisory instructor shall have a minimum of five years of insurance experience, and/or graduate level or professional education satisfactory to the commissioner.

B. All instructors shall meet at least one of the following criteria:

1. a minimum of three years of experience as an insurance instructor with experience in the subject area being taught;

2. have been licensed for at least five years as a producer, claims adjuster, or insurance consultant in this state or another;

3. hold a national designation directly related to the subject matter being taught;

4. be in a profession pertinent to the subject matter being taught.

C. Special consideration may be granted by the commissioner where it is determined that the specific background of the instructor or the supervisory instructor warrants such consideration.

D. Every instructor and supervisory instructor shall notify the provider and the commissioner of:

1. any administrative action taken against the instructor/supervisory instructor for insurance related practices by any regulatory or governmental agency;

2. any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge or conviction of any misdemeanor involving moral turpitude or public corruption on the part of the instructor/supervisory instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:40 (January 2020).

§16523. Training Facilities Requirements

A. At a minimum, all training facilities shall:

1. provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting and proper furnishing;

2. be easily accessible and secure for the safety of the candidates;

3. be dedicated for the exclusive use of the program while in session;

4. provide ready access to restrooms and other facilities of human needs to the candidates;

5. provide a proper layout so as to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:40 (January 2020).

§16525. Program Oversight

A. The commissioner or his designee shall have the authority to visit a training facility for the purpose of oversight and review at any time. Oversight visits may include the review of curriculum records, review of attendance records, observation of instructional sessions in progress, and any other aspects of the program deemed necessary by the commissioner to comply with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22: 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:40 (January 2020).

§16527. Program Completion

A. Every provider shall submit a report to the commissioner a minimum of 30 days from the program completion date of a candidate. The report shall be in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance and successful completion information. The report shall contain the identification number assigned to the program by the commissioner, the name and such distinct information as necessary to clearly identify all candidates who successfully completed the program, and the date of completion.

B. Every provider shall present a certificate of successful completion to each candidate who successfully completes the program. This certificate shall be on a form acceptable to the commissioner and shall include the name of the candidate, the date of completion and the identification number assigned to the program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:40 (January 2020).

§16529. Fees

A. All applications submitted to the commissioner seeking approval of a program or approval to become a provider shall be accompanied by the fee set forth in R.S. 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1668, 22:1678, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:40 (January 2020).

§16531. Complaints

A. The commissioner shall review all complaints lodged against a program, a provider, an instructor or the supervisory instructor of a program. Every provider shall respond to an inquiry from the commissioner regarding a complaint no later than 30 days from receipt of such inquiry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:41 (January 2020).

§16533. Violations

A. The commissioner may deny, suspend, or rescind the approval of a provider or a program should he find the program, provider, an instructor, or the supervisory instructor of the program has violated any provision of this regulation or any applicable provisions of the Louisiana Insurance Code, or that continued operation of the program is not in the best interest of the citizens of this state or the insurance buying public.

B. An aggrieved party affected by the commissioner’s decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678, 22:2191 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:41 (January 2020).

§16535. Effective Date

A. Regulation 114 shall become effective upon final publication in the *Louisiana Register* and shall apply to any act or practice committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:41 (January 2020).

§16537. Severability

A. If any section or provision of Regulation 114 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Regulation 114 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Regulation 114 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:41 (January 2020).

James J. Donelon
Commissioner

2001#014

RULE

**Department of Natural Resources
Office of Conservation**

**Oilfield Site Restoration
(LAC 43:I.2301 and 2303)**

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The current Rule reflects the law at the time the Rule was first promulgated in 1995. Since then, the law has been changed multiple times, but the regulations have not been amended to reflect those changes. The amended Rule changes will make the regulations consistent with the law by incorporating the applicable law by reference. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Subpart 2. Oilfield Site Restoration

Chapter 23. Oilfield Site Restoration Fund

§2301. Establishment of the Fund

A. The Oilfield Site Restoration Fund is in the custody of the state treasurer and shall be a special custodial trust fund administered by the secretary in accordance with R.S. 30:86.

B. The fund shall be and remain the property of the commission.

C. The monies in the fund shall be used solely for the purposes of this Part.

D. The secretary shall make certifications to the secretary of the Department of Revenue as required by R.S. 30:86.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:398 (April 1995), repromulgated LR 21:471 (May 1995), amended LR 46:41 (January 2020).

§2303. Assessment of Fees

A. Fees shall be assessed in the amounts set forth in and as provided for in R.S. 30:87.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:398 (April 1995), repromulgated LR 21:472 (May 1995), amended LR 46:41 (January 2020).

Thomas Harris
Secretary

2001#011