

G. Actions Not Subject to Administrative Review. Adverse actions not described in this Subpart are not subject to administrative review. Adverse actions that are not subject to administrative review include, but are not limited to, the following:

1. the validity or appropriateness of the following:
 - a. LA WIC's vendor limiting criteria;
 - b. LA WIC's participant access criteria and LA WIC's participant access determinations;
 - c. LA WIC's prohibition of incentive items and LA WIC's denial of an A-50 vendor's request to provide an incentive item to customers;
 - d. vendor selection criteria for the following:
 - i. minimum variety and quantity of WIC approved food items ;
 - ii. business integrity;
 - iii. current SNAP disqualifications or CMP for hardship; or
 - iv. competitive price including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are A-50 vendors or comparable to A-50 vendors.
2. LA WIC's determination:
 - a. to include or exclude an infant formula supplier (manufacturer, wholesaler, distributor, or retailer) from the LA WIC infant formula supplier list; or
 - b. to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction.
3. denial of WIC authorization if LA WIC's vendor authorization is subject to the procurement procedures applicable to LA WIC;
4. The expiration of a vendor's agreement;
5. disputes regarding:
 - a. payments by LA WIC to vendors for WIC transactions;
 - b. vendor claims for reimbursement; or
 - c. claims and/or recoupment made by LA WIC against vendors (other than the opportunity to justify or correct a vendor overcharge or other error).
6. disqualification of a vendor as a result of disqualification from SNAP; or
7. any other circumstance, situation, or action not described in this Subpart.

H. A vendor who has been issued a CMP and is permitted to continue program operations while its appeal is in process must also continue to abide by all LA WIC vendor rules and regulations.

I. Participation as a vendor in LA WIC is a privilege. WIC authorization does not constitute a license or property interest. A vendor cannot claim and is not entitled to money for loss of WIC sales during the pendency of an appeal of an adverse action. If the vendor is reinstated following a successful administrative review of an adverse action taken by LA WIC, the vendor cannot claim and is not entitled to retroactive payments and/or compensation for revenues lost for the period of time the vendor was not on the program.

J. Unless otherwise noted, full and abbreviated administrative review decisions are the final action of LA WIC. LA WIC reserves the right to file additional motions

for reconsideration as well as motions for re-appeal. LA WIC is under no obligation to immediately reinstate the vendor during ongoing proceedings.

1. If the administrative review yields a decision in favor of LA WIC, the vendor may pursue judicial review of the decision.

2. If the administrative review yields a decision in favor of the vendor, the vendor will be reinstated provided all appeal rights have been exhausted and the vendor agreement has not expired during ongoing proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:340 (February 2017), LR 49:1408 (August 2023).

Stephen R. Russo, JD
Secretary

2308#039

RULE

Department of Insurance Office of the Commissioner

Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions (LAC 37:XIII.16101)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 112.

The purpose of the amendment to Regulation 112 is to identify and to incorporate by reference the current edition of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 161. Regulation Number 112—Adoption of NAIC Handbooks, Guidelines, Forms and Instructions

§16101. NAIC Handbooks, Guidelines, Forms and Instructions Incorporated by Reference

- A. ...
- B. The following NAIC handbooks, guidelines, forms, and instructions are hereby adopted and incorporated by reference:
 1. The Financial Condition Examiner's Handbook, 2022 edition;
 2. The Annual and Quarterly Statement Instructions, Property and Casualty, 2022 edition;
 3. The Annual and Quarterly Statement Instructions, Life, Accident, and Health, 2022 edition;
 4. The Annual and Quarterly Statement Instructions, Health, 2022 edition;
 5. The Annual and Quarterly Statement Instructions, Title, 2022 edition;

6. The Annual and Quarterly Statement Instructions, Fraternal, 2022 edition;
7. The Annual and Quarterly Statement Blanks, Property and Casualty, 2022 edition;
8. The Annual and Quarterly Statement Blanks, Life, Accident, and Health, 2022 edition;
9. The Annual and Quarterly Statement Blanks, Health, 2022 edition;
10. The Annual and Quarterly Statement Blanks, Title, 2022 edition;
11. The Annual and Quarterly Statement Blanks, Fraternal, 2022 edition;
12. The Accounting Practices and Procedures Manual, 2022 edition;
13. The Financial Analysis Handbook, 2022 edition;
14. The Own Risk and Solvency Assessment Guidance Manual, 2022 edition;
15. The Purposes and Procedures Manual of the NAIC Investment Analysis Office, 2022 edition;
16. The Risk-Based Capital Forecasting and Instructions, 2022 edition;
17. The Market Regulation Handbook, 2022 edition.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 619(B), 640(B), 675, 661(A), 691.11, 691.54, and 1804.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 45:1208 (September 2019), amended LR 46:993 (July 2020), amended LR 47:1328 (September 2021), LR 48:2299 (September 2022), amended LR 49:1410 (August 2023).

James J. Donelon
Commissioner

2308#007

RULE

Department of Insurance Office of the Commissioner

Regulation 128—Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds (LAC 37:XIII.Chapter 193)

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 promulgated *Regulation 128—Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds*. The Department of Insurance has promulgated *Regulation 128* to comply with Acts 2022, No. 598, § 1, of the Regular Session of the Louisiana Legislature, that enacted R.S. 3:4351.1 through 4351.16, authorizing the creation of the timber and agriculture transportation group self-insurance fund and giving the Department of Insurance regulatory authority over such fund. This Rule is hereby adopted on the day of promulgation.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 193. Regulation Number 128—Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds

§19301. Definitions

A. When used in this regulation, the following words or terms shall have the following meaning.

Contingent Liability—the amount that a group self-insurance fund may be obligated to pay in excess of a given fund year's normal premium collected or on hand.

Department—the Louisiana Department of Insurance.

Group Self-Insurance Fund or Fund—employers who enter into agreements to pool their automobile liabilities for timber transportation vehicles, agriculture transportation vehicles, or a combination of both types of vehicles in accordance with Louisiana Revised Statutes 3:4351.2.

Members Distribution Payable/Surplus—assets of a group self-insurance fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.

Surplus—assets of a group self-insurance fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.9(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:1411 (August 2023).

§19303. Excess Insurance or Reinsurance

A. All funds shall maintain specific excess insurance or reinsurance in the amount of at least \$2,000,000 per occurrence and aggregate excess insurance or reinsurance of at least \$2,000,000.

B. The maximum retention allowed for a fund's specific excess policy shall be approved by the department.

1. A fund shall submit a feasibility study prepared by a qualified actuary which analyzes the impact the specific retention on the fund.

2. No fund shall secure a retention which in the commissioner's opinion is not actuarially sound.

3. The commissioner shall deny the use of a retention if he finds that the higher retention will have a significant adverse effect on the financial condition of the fund.

C. The fund shall secure an aggregate limit of at least 20 percent of the annual premium of the fund for the term of the policy. The retention of the aggregate policy shall be subject to the approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4351.3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:1411 (August 2023).

§19305. Financial and Actuarial Reports

A. At inception, each fund shall either:

1. Provide evidence satisfactory to the commissioner that it possesses surplus in excess of \$1,000,000, or

2. Submit a current audited financial statement, audited by an independent certified public accountant, of at least two members showing, at the inception of the fund, a combined net worth of a minimum of \$1,000,000, current