

RULES OF SAFETY FIRE COMMISSIONER

CHAPTER 120-3-16

RULES AND REGULATIONS FOR LIQUEFIED PETROLEUM GASES

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120-2-40-.01 Statutory authority

This regulation is made and promulgated by the Commissioner of Insurance, pursuant to the authority set forth in O.C.G.A. Sections 20-2-2016 and 36-85-16.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.02 Purpose

- (1) To provide for the establishment and regulation of county, municipality or school board self-insurance programs.
- (2) To provide for an alternative mechanism by which general liability, motor vehicle liability and property damage insurance protection can be provided for qualified counties, municipalities or school boards.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.03 Definitions

- (1) "Interlocal Risk Management Agency" or "Agency" means an association formed exclusively among counties or municipalities or boards of education by the execution of an intergovernmental contract for the development and administration of an interlocal risk management program and one or more group self-insurance funds as approved and as granted a certificate of authority under applicable Georgia statutes and this Chapter.
- (2) "Commissioner" means the Commissioner of Insurance of the State of Georgia.
- (3) "Group Self-Insurance Fund" or "Fund" means any entity that may be established by an Interlocal Risk Management Agency, the creation of which shall be authorized in writing by the Commissioner in order to pool the separate insurance risks of either accident, disability, general liability, motor vehicle liability, property damage, or supplemental medical risk or any combination of such risks.
- (4) "Member" means a county or municipality or board of education that has qualified to participate in an authorized Fund established by an Interlocal Risk Management Agency. Counties, municipalities and boards of education shall be deemed to constitute separate classes and no member of any one such class shall join with a member of another class for the purpose of creating an Interlocal Risk Management Agency.
- (5) All other terms as defined in O.C.G.A. Section 20-2-2001 and Section 36-85-1 which are used in this Regulation shall have the same meaning as in those Sections.

Authority.- Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.04 Application for certificate of authority; renewal

- (1) Each application for an original certificate of authority shall be made on Form RMA-1, entitled "Application for Original Certificate of Authority for Risk Management Agency," attached hereto and incorporated herein as "Exhibit A" of this Regulation. It shall be accompanied by all required documents. The application and related documents are subject to review and written approval by the Commissioner.

- (2) Each request for renewal of a certificate of authority shall be made on or before the first (1st) day of March of each year. Such request shall be accompanied by all required documents. The certificate of authority, issued pursuant to this Chapter, shall continue in full force and effect until specifically refused or revoked by the Commissioner.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.05 Application to serve as administrator; officer, director or trustee

- (1) Each Agency shall submit to the Commissioner, for any prospective Administrator, a completed application on form RMA-2, entitled "Application to Serve as Administrator of Public Self-Insurance Fund," attached hereto and incorporated herein as "Exhibit B" of this Regulation.
- (2) Each Agency shall submit to the Commissioner, for any prospective Officer, Director or Trustee, a completed application on Form RMA-3, entitled "Application to Serve as Officer, Director or Trustee of Risk Management Agency," attached hereto and incorporated herein as "Exhibit C" of this Regulation.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.06 Request for additional information

- (1) The Commissioner may, in connection with any application which pertains to the licensing of an agency, any letter of request to renew an Agency's certificate of authority, any financial information, any request to terminate or other documentation required by this Regulation, obtain such additional information as is requested in writing of that Agency or applicant.
- (2) No application for a certificate of authority nor any request to renew an Agency's certificate of authority shall be deemed complete until all information requested, whether of any member, trustee, administrator or of any proposed Agency, is provided to the Commissioner.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.07 Financial reporting; annual statement; quarterly statements

- (1) Each Agency shall annually, on or before the first day of March, file with the Commissioner a completed annual statement on forms as prescribed and provided by the

Commissioner which relates the financial condition of the Agency and its authorized Funds as of December 31 of the preceding year, certified by at least two (2) principal officers. The Commissioner may, for good cause, grant an extension of up to sixty (60) days for filing the annual statement required under this paragraph.

(2) Each Agency shall, within forty-five (45) days after the close of the calendar quarter which ends the last day of March, June and September of each year, file with the Commissioner a completed quarterly statement on forms prescribed and provided by the Commissioner which relates the financial condition of the Agency and its authorized Funds. The requirements of this paragraph may be waived upon written request of the Commissioner.
Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.08 Books and records; examination

- (1) Each Agency shall maintain separate records for each individual Fund as to members, administrative expenses, claim payments, claim reserves, premiums, premium reserves, surplus and any other items as the Board of Trustees or the Commissioner may deem necessary which will produce accurate financial statements and management reports.
- (2) The Commissioner, or his representative, may, either before granting a certificate of authority or at any time thereafter, but at least once every five (5) years, examine the Agency or any of its authorized Funds. The examination will include all affairs that relate to the business operated by an Agency or any of its authorized Funds. All related accounts, books, publications, records and vouchers of any Agency or any of its authorized Funds shall be held for a term of at least seven (7) years and maintained at the principal address shown on its certificate of authority, except that Fund's records currently in use by the Administrator may be maintained at the Administrator's office. All materials pertaining to an active claim for which benefits are being paid shall be maintained until the claim is settled or otherwise terminated and then held for one year after the file is closed or until such file has been subject to a quinquennial Insurance Department examination, whichever period is longer.
- (3) For the purpose of ascertaining their compliance with O.C.G.A. Chapter 20-2 or 36-85 and this Chapter, when he deems it necessary in the public interest, the Commissioner may examine the affairs, accounts, documents and transactions of an Agency or any of its authorized Funds. He may employ such experts or personnel as necessary at the expense of the certificate of authority holder to rewrite, post, complete or correct such documents or records within sixty (60) days after the Commissioner has given the licensee written notice to do so. If warranted by the examination's findings, the Commissioner shall require changes in the reserving, accounting and recordkeeping practices. These examinations are in addition to the Commissioner's authority to examine an Agency or any of its authorized Funds as authorized in O.C.G.A. Section 20-2-2014 and Section 36-85-14, and as related in this Rule.

- (4) The Commissioner, or his representative, shall have free access to all Agency or Fund accounts, records, books, publications and vouchers. The administrators, officers, trustees, employees and representatives of the Agency or Fund shall aid the Commissioner, or his representative, as far as it is in their power in making the examination.
- (5) The costs of any examination performed by the Commissioner, or his designated representative, under this Section shall be borne by the Agency or Fund being examined in accordance with O.C.G.A. Section 33-2-15.
- (6) The examination report shall be processed in accordance with O.C.G.A. Section 33-2-14.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

§ 120-2-40-.09 Membership

- (1) Membership in an Agency is available to political subdivisions and boards of education as authorized in O.C.G.A. Chapters 20-2 and 36-85. An Agency may establish other nondiscriminatory criteria for membership.
- (2) New members must be admitted according to the standards and procedures specified in the Agency's bylaws. Membership is not effective until the applicant has signed a membership agreement (provided by the Agency) affirming its commitment to comply with the Agency's bylaws, O.C.G.A. Chapter 20-2 or 36-85, as applicable, and this Regulation, including joint and several liability. The membership agreement must disclose that under the rules governing the Agency, the board of trustees or the Commissioner may order that an assessment be levied against the members, if necessary, to maintain the Agency's or any of its Funds' sound financial condition.
- (3) The membership agreement must state all conditions and procedures necessary for a member to voluntarily terminate its membership in an Agency or any of its Funds. A member must notify the Agency of its desire to terminate not less than ninety (90) days before the date upon which it desires to effectuate such termination. If the Fund has approved termination criteria in place, the member may submit a written notice terminating its participation in accordance with that criteria. If the board determines that the termination would cause the Agency or any of its Funds to be in violation of the minimum annual premium requirement or would compromise the Agency's or any of its Funds' financial integrity, the Agency shall promptly notify the Commissioner. Voluntary termination is prohibited and void unless:
 - (a) the member has participated in the Fund continuously for a minimum period of two complete Fund years, or such longer period as the Agency may require; and
 - (b) all outstanding premiums and assessments owed by the member have been paid.
- (4)(a) The Agency Board of Trustees may terminate the membership of any member who fails to abide by the Agency bylaws, the membership agreement, or any agreement to participate in a specific Fund, O.C.G.A. Chapter 20-2, O.C.G.A. Chapter 36-85 or these Regulations.
 - (b) A member may be involuntarily terminated for failure to pay its proportionate share or any premiums or installments thereof due to the Agency or any of its authorized Funds or for failure otherwise to discharge its obligations to the Agency or any of its authorized Funds when due. Written notice stating the time when the

termination will be effective, which shall not be less than fifteen (15) days from the date of the notice or such other longer period as may be provided in the Agency bylaws or by statute, may be delivered in person or by registered mail to the last address such member has on file with the Agency. Such notice may or may not be accompanied by a tender of the unearned premium paid by the member, calculated on a pro rata basis. If such tender is not made simultaneously with such notice, it shall be made within fifteen (15) days of notice of termination, unless an audit or rate investigation is required, in which case such tender shall be made as soon as practicable.

- (c) Other reasons for involuntary termination require forty-five (45) days written notice from the Agency to the member. Such notice shall be delivered in person to the affected member or be sent by registered mail to the last address such member has on file with the Agency.
- (d) The Commissioner shall be sent, via registered mail, a copy of each and every involuntary termination notice sent by the Agency to any of its members. Such notice to the member and to the Commissioner shall be mailed at the same time.
- (e) Annually, an Agency must compare the status and experience of each Fund member with the criteria for expulsion as related in the Agency bylaws. Such review shall occur at least annually or as required by the board of trustees.
 - (5) Any member who either voluntarily terminates its membership or is involuntarily terminated from membership in an Agency or any of its Funds, shall remain jointly and severally liable for all obligations of the Agency of any of its Funds to which that member belonged as of the date of such termination.
 - (6) An updated membership listing shall be enclosed with each Fund's quarterly and annual financial statement.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.10 Specific and aggregate excess insurance

1. The Agency shall maintain for each of its authorized Funds a specific and aggregate excess loss funding program acceptable to the Commissioner. If a Fund assumes no risk and is fully insured with an insurer licensed in Georgia or upon approval by the Commissioner with an eligible surplus lines insurer, the Commissioner may waive this requirement of a Fund operating for purposes of [jointly purchasing group accident, disability or supplemental medical insurance coverage for the benefit of the Fund's Members.](#)
2. The individual Fund retention for specific and aggregate excess coverage shall be as specified by the Agency Board of Trustees.
3. The specific excess coverage limit for each Fund shall be at least \$1,000,000.
4. The aggregate excess coverage limit for each Fund shall be at least \$1,000,000. At the discretion of the Commissioner, this requirement may be satisfied through alternative funding techniques including pledging of a Fund's unobligated surplus, spread loss programs or other programs which shall not unduly jeopardize the Fund's stability.
5. The Commissioner may require an Agency to maintain such higher limits for specific and

aggregate excess coverage as he deems necessary to afford adequate protection to the Fund members. Upon application, the Commissioner may approve such lower limits as he may determine would not endanger the stability of a Fund.

6. Any policy written in accordance with this Rule shall be for a term of at least one year and shall contain provisions that: (a) cancellation or termination of the policy is not effective except upon sixty (60) days written notice by registered mail to the other party to the policy and to the Commissioner; and (b) the policy is automatically renewable at the expiration of the policy period except upon sixty (60) days written notice by registered mail by the party not renewing the policy, to the other party to the policy and to the Commissioner.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.11 Surplus

An Agency shall possess and thereafter maintain a minimum surplus of not less than \$150,000 in cash or cash equivalent per class of insurance. The Commissioner may, for the protection of the members, require higher amounts of surplus in relationship to a Fund's premium volume or liability. Such surplus may be met by a surety bond written by an insurer authorized to transact surety insurance in Georgia or upon approval by the Commissioner by an eligible surplus lines insurer. The bond must be submitted on Form RMA-4 entitled "Risk Management Agency Bond," attached hereto and incorporated herein as "Exhibit D" of this Regulation. A surety bond must be replaced by cash or cash equivalent within sixty (60) months of the date said bond was submitted to the Commissioner to satisfy the requirements of this Rule. At the Commissioner's sole discretion, the minimum surplus requirement may be waived for any Fund operating for the purpose of jointly purchasing group insurance coverage from an insurer licensed in Georgia or surplus lines insurer for the benefit of the Fund's members.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.12 Administrator's bond and insurance

- (1) Each administrator shall have and maintain a fidelity bond in the amount of \$100,000 written by an insurer authorized to transact insurance in this State and submitted on Form RMA-5 entitled "Administrator's Fidelity Bond for Public Self-Insurance Fund," attached hereto and incorporated herein as "Exhibit E" of this Regulation.
- (2) Each administrator shall obtain errors and omissions insurance coverage or other appropriate liability insurance written by an insurer authorized to transact insurance in this State, in an amount of at least \$100,000.
- (3) Any policy written in accordance with paragraph (2) of this Rule shall be for a term of at least one year and shall contain provisions that: (a) cancellation or termination of the policy is not effective except upon sixty (60) days written notice by registered mail to the other party to the policy and to the Commissioner and; (b) the policy is

automatically renewable at the expiration of the policy period except upon sixty (60) days written notice by registered mail by the party not renewing the policy to the other party to the policy and to the Commissioner.

- (4) Compliance by the administrator with paragraphs (1) and (2) of this Rule is a prerequisite to approval of its application by the Commissioner.
- (5) Upon approval by the Commissioner, bonds or policies may be written by an eligible surplus lines insurer.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.13 Compensation of administrator or trustee

(1) Each Agency shall submit to the Commissioner, at least thirty (30) days prior to their use, a copy of any proposed agreement or contract or amendment thereto, entitling any administrator or any trustee or officer of an Agency to direct or indirect compensation from the Agency or any of its Funds for services performed or sales or purchases made to or for the Agency or any of its Funds.

(2) The Commissioner shall determine whether the compensation is reasonable and equitable under the circumstances and consistent with the provisions of the laws of Georgia and this Regulation. The Commissioner may accept, modify or reject the proposed contract. If the Commissioner modifies the proposed contract the trustee, officer or administrator may withdraw the application prior to its effective date.

(3) Any form of direct or indirect compensation to a trustee, officer or administrator or to a corporation or firm in which a trustee, officer or administrator is in any way financially interested, other than that provided by this Regulation or the Georgia Insurance Code, shall be a violation of the trustee's, officer's or administrator's fiduciary responsibility. In such event, the Commissioner may, in addition, suspend, revoke or refuse to renew the certificate of authority of the Agency.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.14 Premiums

(1) Each member of the Agency or applicable Fund shall pay into a designated depository within this State, a minimum of thirty-five percent (35%) of the member's estimated annual Fund premium or such higher amount as may be specified in the Agency bylaws. Proof of compliance with this paragraph is a prerequisite to approval by the Commissioner of the Agency's application for a certificate of authority.

(2) Each member shall pay the balance of the member's first year estimated Fund premium within six (6) months after the commencement of operation of the

applicable Fund, via regular equal monthly or quarterly payments, or sooner if authorized by the Agency bylaws.

- (3) For each subsequent year of operation of a Fund, each Fund member shall pay at least twenty-five percent (25%) of the member's annual Fund premium within thirty (30) days of the beginning of the Fund year and shall pay the balance of the premium within the first six (6) months of the insurance year, via regular equal monthly or quarterly payments, or sooner if authorized by the Agency bylaws.
- (4) The Agency shall not allow advance premium discounts.
- (5) Funds operating for purposes of jointly purchasing group accident, disability and/or supplemental medical insurance coverage from an insurer licensed in Georgia or upon approval by the Commissioner from an eligible surplus lines insurer for the benefit of the Funds' Members and where the Fund assumes no risk, premium payments collected from Members and remitted to the insurer shall be in accordance with instructions from the insurer. For Funds providing accident, disability, or supplemental medical insurance coverage and meeting minimum surplus requirements as established by the Commissioner, Fund Members may pay on installment schedules established by the Agency board of trustees or the Administrator.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.15 Reserves

An Agency shall establish reserves for each of its Funds to cover all incurred losses, both reported and unreported, and for unearned premiums. If the loss experience shows that a Fund's loss reserves are inadequate, the Commissioner shall require the Agency to increase such loss reserves as are needed to make them adequate. All reserves shall be maintained in accordance with the requirements of O.C.G.A. Chapter 33-10.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.16 Rate filings

Agencies shall file with the Commissioner rates, rating systems and rules for approval prior to their use pursuant to O.C.G.A. 20-2-2005(c)(13) or O.C.G.A. 36-85-5(c)(13). Such rates, rating systems and rules shall be determined by a qualified rating organization as defined in O.C.G.A. 39-9-2(3) or by a qualified casualty actuary, a person who is a member in good standing of the American Academy of Actuaries or by a person approved by the Commissioner who has sufficient expertise in that particular class or line of insurance.

Funds operating for purposes of jointly purchasing group accident, disability, or supplemental

medical insurance coverage from an insurer licensed in Georgia for the benefit of the Funds' Members, shall apply rates filed by the licensed insurer with the Commissioner and shall not be required to make a separate rate filing. Such Funds may bill additional fees as necessary to cover operating expenses and maintain minimum surplus requirements.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

§§ 120-2-40-.17 to 120-2-40.19 Reserved.

120-2-40-.20 Penalties

The Commissioner shall have the authority to, in addition to suspension or revocation of a certificate of authority, after a hearing held under O.C.G.A. Chapter 33-2, place any Agency or Administrator on probation for a period of time not to exceed one year for each act or violation of O.C.G.A. Chapter 20-2 or 36-85, or this Chapter or any order of the Commissioner issued pursuant thereto.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.

120-2-40-.21 Severability

If any provision of this Regulation or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the Regulation or the applicability of such provision to other persons or circumstances shall not be affected.

Authority.-Ga. L. 1960, p. 289; Ga. L. 1986, pp. 1172, 1496.

History.-Filed 4-10-87, eff. 4-30-87.